

LAWBY WRITES

DECODING THE ACT SERIES



THE CONSUMER PROTECTION ACT, 2019

**Volume I: Guarding Against Misleading
Advertisements & Unfair Trade Practices**

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WHY SHOULD WE STUDY THE ACT?

The Indian market has experienced exponential growth in consumer transactions across both offline and online markets through e-commerce channels. **Along with the growth has increased the number of grievances pertaining to defective products, misleading promotions, and unfair trade practices.** The Act of Consumer Protection of 2019 was passed to achieve quick redressal and to bestow consumers with more substantial protections in the contemporary era of a technology-driven market.

The Act lays down six basic rights of consumers: the right to safety, to be informed, to choose, to be heard, to seek redressal, and to consumer education. These are a safeguard against exploitation and negligence by corporate bodies. Unfair trade practices under the Act (Section 2(47)) include false representation, misleading advertising, hoarding, and price manipulation. What is noteworthy is that the law is not only against manufacturers and sellers but also against product endorsers. The intention of the provision is to bring a complete stop to the free-for-all practice of celebrities endorsing products that may turn out to be harmful or misleading.

One of the milestone from the Act is the establishment of the **Central Consumer Protection Authority (CCPA) under Section 10 has given a statutory body the power to inquire, order the recall of harmful goods, impose fines, and order withdrawal of misleading advertisements.** The Act also secures provisions under e-commerce with the requirement of the online media to disclose seller information, keep grievance redressal mechanisms in operation and not resort to unfair methods such as the payment of cancellation fees on consumers and exempting them.

Even with the reforms of the Consumer Protection Act, 2019, challenges remain. Pendency in consumer commissions continues to strain the system, and frivolous complaints often add to the burden. Limited awareness, especially in rural and semi-urban areas, also prevents many consumers from exercising their rights. **Strengthening digital grievance platforms, improving the functioning of mediation cells, and expanding consumer education will be crucial for ensuring that the Act delivers tangible benefits.** Regulators, the legal fraternity, and consumer organizations together have a key role in making consumer protection more effective and accessible.

According to data from the Ministry of Consumer Affairs (PIB dated 05 FEB 2019):

- **2016:** 1,72,417 cases filed | 1,41,675 disposed
- **2017:** 1,67,653 filed | 1,39,313 disposed
- **2018:** 1,57,423 filed | 1,25,832 disposed
- **2019 (till reporting):** 11,308 filed | 8,655 disposed

This shows steady progress but also highlights the persistent backlog across forums.

👉 If you want to learn more about the **Consumer Protection Act, its rules, and provisions**, you can explore the detailed newsletter.





CONSUMER PROTECTION ACT, 2019

Who is a Consumer? [Section 2(7)]

According to the Consumer Protection Act, 2019, a **consumer** is any person who buys goods or avails of any service for a consideration that has been paid. It does **not** include any person who obtains such goods or services for **resale** or any **commercial purpose**.

Consumer Rights: [Section 2(9)]

The Consumer Protection Act, 2019 guarantees 6 fundamental rights to consumers.

- **Right to Safety [Section 2(9)(i)]:** Protection against sale of goods or provision of services that are dangerous to life or property.
- **Right to Information: [Section 2(9)(ii)]:** Accuracy in labelling, pricing and disclosures so that consumers can make informed decisions.
- **Right to Choose: [Section 2(9)(iii)]:** Access to a variety of goods or services at competitive prices.
- **Right to Be Heard: [Section 2(9)(iv)]:** Consumer interests will be considered in appropriate forums.
- **Right to Redressal: [Section 2(9)(v)]:** Ability to seek legal or other remedies for unfair practices or deficiencies in products/services.
- **Right to Consumer Education: [Section 2(9)(vi)]:** Spreading awareness of one's rights and educating about responsibilities as a consumer.

UNFAIR TRADE PRACTICE

Unfair Trade Practice: [Section 2(47)]

An unfair trade practice means using any deceptive or unfair method to promote the sale, use, or supply of goods or for the provision of services. This includes

- False or misleading advertising [Section 2(47)(i)]
- Selling old products as new [Section 2(47)(i)(c)]
- False claims about necessity [Section 2(47)(i)(f)]
- Offering warranties or guarantees not based on facts [Section 2(47)(i)(h)]
- Misleading about price or discounts [Section 2(47)(i)(i)]
- Disparaging other products [Section 2(47)(i)(j)]

Role of Central Consumer Protection Authority: [Section 10]

The Central Authority acts as a governing body for this act, which regulates the matters relating to the **violation of consumer's rights, unfair trade practice, false or misleading advertisements** which are detrimental to the interest of the public.

Complaints to Authorities: [Section 17]

The Consumer can file a complaint relating to the unfair trade practice to the District, State or National Consumer Commissions which can either be in writing or in electronic mode. It plays a vital role in ensuring consumers have access to redressal for their grievances.

Powers and Functions of CCPA: [Section 18]

The CCPA (central consumer protection authority) has a role to **protect the rights of consumers and prevent unfair trade practices**. The CCPA can investigate violations, file complaints and can also intervene in consumer disputes. It can **issue guidelines to stop deceptive business conduct and false advertisements**. It also promotes consumer awareness and supports research in consumer protection.

Power of Central Authority to issue direction and penalty: [Section 21]

After investigation of the complaint, if the central authority finds that the advertisement is false or misleading, then the CCPA can order to modify or stop spreading such advertisement and shall impose penalties up to **Rs. 10 lakh** for the first offense and **Rs. 50 lakh** for the subsequent offenses. If the CCPA concludes that the endorser was negligent, the CCPA may also prohibit endorsement of an advertisement for a period of up to **3 years**.

Relief available to the consumers: [Section 39]

If the Commission is satisfied that the **goods have defects**, the Commission can provide a number of remedies to the complainant. The remedies include the **removal of the defect, supplying to the consumer new goods to replace the defective goods**, refunding the **price of the item** returned along with costs related to any loss or injury taken as a result of the defect on the goods. If warranted, the Commission may also assess **punitive damages** in appropriate circumstances to deter similar conduct in the future.

Activities not covered under UTP: [Rule 4 of the Consumer Protection (General) Rules, 2020]

The following activities, when carried out to **promote the sale, use, or supply of any product or business interest**, shall not be considered unfair trade practices:

- (a) **Lotteries** permitted under the Lotteries (Regulation) Act, 1998; and
- (b) Games of **chance or skill** that are not banned under the **Public Gambling Act, 1867**, provided they are not considered **gambling** and involve a significant degree of skill rather than chance.

Prohibition of UTP by E-Commerce Platforms: [Rule 4(3) of the Consumer Protection (E-commerce) Rules, 2020]

E-commerce entities or platforms must **not engage in unfair trade practices**. They are required to operate in a transparent and fair manner, in full compliance with consumer protection laws. They must not mislead consumers through **false advertisements, deceptive discounts, or hidden terms and conditions**.





PROCEDURE FOR COMPLAINT

Jurisdiction to District Commission: [Section 34]

The District Commission shall have the jurisdiction to entertain complaints where the value of the goods or services paid as consideration does not exceed **Rs. 1 Crore**.

Complaints are filed to the Consumer Commissions in District: [Section 34(2)]

The opposite party resides or has a branch/office/business, cause of action arose (where the issue happened) or the complainant (consumer) resides or works (added for convenience).

Manner in which the complaint shall be made: [Section 35]

Who can file: Any consumer, recognized consumer association, group of consumers or the Central/State Government.

How: Written complaint, in person, by post, or electronic mode (online).

Electronic Filing - e-Daakhil: [Section 35(1)]

Explicitly allows filing of complaints “in electronic form in such manner as may be prescribed.”

The e-Daakhil portal (<https://edaakhil.nic.in>) was launched under this section.

Jurisdiction of State Commission: [Section 47]

The state commission shall have the jurisdiction to entertain complaints for the value of goods and services paid as consideration that exceeds **Rs.1 Crore** but does not exceed **Rs.10 Crore**.

Jurisdiction of National Commission: [Section 58]

The National commission shall have the jurisdiction to entertain complaints for the value of goods and services paid as consideration that exceeds **Rs. 10 Crore**

In **Vodafone Idea Ltd. v. Ajay Kumar Agarwal (Civil Appeal No. 923 of 2017)** the NCDRC held that telecom companies must **compensate customers for poor network service**. In short, **the law empowers you with remedies (refund, replacement, compensation, etc.)** and the consumer forums and **e-Daakhil system** are there to help you get a fair hearing.





MEDIATION

Reference to Mediation: [Section 37]

The District Commission, regardless of whether it is the first hearing after the admission of a complaint or at a later stage, may, if **it sees a possibility of settlement, direct the parties to provide written consent for mediation within five days**. If both parties give consent, then the commission will refer the dispute to mediation.

Establishment of Consumer Mediation Cell: [Section 74]

The State and the Central Commission are under an obligation to set up a mediation cell which is to be **attached to every District, State and National Commissions respectively**. The mediation cells are responsible for mediation in disputes for **consumers, retaining appropriate lists of registered mediators and cases and maintaining records**, and reporting the mediation cells activities to the commissions as necessary. This will allow mediation to be **easily accessible and organized** at all three levels of the consumer forum.

Procedure for Mediation: [Section 79]

When a consumer dispute is referred to mediation under Section 37, the mediator nominated by the referring Commission must take into account the rights and obligations of both parties, prevailing trade practices, relevant circumstances, and act in accordance with the principles of natural justice.

As per **Regulation 11(2) of the Consumer Protection (Mediation) Regulations, 2020**, the mediation process must be completed within **three months** from the date of the first appearance before the mediator. This period may be extended only with the permission of the Consumer Commission, ensuring the timely and efficient resolution of consumer disputes through mediation.

Settlement through Mediation: [Section 80]

In a consumer dispute, if the parties reach an agreement on all or some of the issues, the terms of the settlement must be documented in writing and signed by all parties or their authorised representatives. The mediator then **prepares a settlement report** and submits it, along with the signed agreement, to the appropriate Consumer Commission. If a settlement is not reached within the prescribed timeframe, or if the mediator is of the opinion that a settlement is not possible, a report to that effect must also be submitted to the Commission.

Recording settlement and passing of order: (Section 81)

If a settlement is reached, the District, State, or National Commission must, **within seven days** of receiving the settlement report, pass an appropriate order to record the settlement and dispose of the matter. If only some of the issues are settled, the Commission shall record the settlement in respect of those issues and continue the proceedings for the remaining ones. **If no settlement is reached, the Commission will proceed to hear and decide all unresolved issues in the consumer dispute.**

The Consumer Protection (Mediation) Rules, 2020:

Matters not to be referred to mediation: (Rule 4)

Certain matters relating to proceedings of **medical negligence** resulting in **grievous injury or death**, matters relating to **defaults or offences** for which applications for **compounding of offences** have been made by one or more parties, cases involving **serious and specific allegations of fraud, fabrication of documents, forgery, impersonation, coercion**, cases relating to **prosecution for criminal and non-compoundable offences** and cases which involve **public interest** shall not be referred to mediation. The Commission may choose not to refer a case to mediation if it finds that there are **no elements suitable for settlement or if mediation** is deemed inappropriate based on the **circumstances and the positions of the parties.**

The Consumer Protection (E-commerce) Rules, 2020:

Grievance Redressal Mechanism (Rule 4(4))

The rule mandates E-commerce entities to have a grievance redressal mechanism and they should also appoint a grievance officer for handling the complaints relating to the issues which affect the interest of the consumer. The grievance officer details, including their name, designation and contact information must be available on the e-commerce platform.





HOW THE COURTS HAVE INTERPRETED & ADJUDICATED?

1. Case insight: Deficiency in service and inflated compensation claims

Case title: Ajay Kumar vs Flipkart Internet Private Limited [2018 SCC OnLine NCDRC 380]

Relevant provisions: Section 21(a) of the Consumer Protection Act, 2019

Legal question: Whether Flipkart Internet Pvt. Ltd. demonstrated a deficiency in service by allegedly failing to deliver a Voltas 1.5 Ton air-conditioner and neglecting to respond to the complainant's inquiries, and whether the complainant's extensive claims for compensation, totalling over two crore rupees, were legitimate and proportionally justified for establishing the Commission's pecuniary jurisdiction?

Context:

The complaint was filed by Ajay Kumar against Flipkart Internet Private Limited, the sole Opposite Party, alleging a deficiency in service. The core of the complaint stemmed from Flipkart's failure to supply a Voltas 1.5 Ton, 5 Star, Split Air-conditioner, which cost ₹26,999/-. Additionally, the complainant alleged that Flipkart failed to respond to his complaints over time. On account of this alleged deficiency, the complainant sought an extensive list of compensation, total of Rs. 2,88,16,804 (Two Crore Eighty Eight Lakhs Sixteen Thousand Eight Hundred Four only). This included the return of the AC amount, installation and fixture costs, significant sums for "waiting time lose value," "mentally disturbance value," "air travel fair," "local transportation fair," "stationery material, printing Xerox, file purchasing and cost of filing cash," "time wastage against fighting this case in court," "Health/Physical Harassment," "current work affecting," "communication bill," "Bank DD," and substantial amounts for unresponded calls and the alleged lack of various agreements (MOUs) and engineer ID proofs. The complaint was brought before the National Consumer Disputes Redressal Commission in New Delhi.

Final verdict:

The National Consumer Disputes Redressal Commission, after hearing the complainant in person, held that the compensation claim of Rs. 2.88 crore made against Flipkart Internet Pvt. Ltd. was **highly exaggerated, speculative, and without substantiation**. The Commission observed that such a claim appeared to have been made only to bring the matter within its jurisdiction.

Accordingly, the complaint was dismissed in limine, without the merits of the case being examined. However, the complainant was granted liberty to file a fresh complaint before the appropriate forum, if so advised, in accordance with law. In the circumstances, and considering that the complainant had appeared in person, no order as to costs was made.

2.Case insight: Manufacturer's Liability for Defective goods sale

Case Title: Tata motors ltd. Vs. Antonio Paulo Vaz and Anr. [2021 INSC 103]

Relevant Provisions: Sections 2(1)(g), 2(1)(o), 2(1)(r), 2(d)(i), 14(1)(f), 15 of the **Consumer Protection Act 2019**

Legal Question: Whether a manufacturer can be held liable for deficiency in service or unfair trade practice committed by its dealer in selling a defective or misrepresented vehicle, when the dealership agreement establishes a principal-to-principal relationship and there is no evidence of the manufacturer's direct involvement or knowledge?

Context:

Antonio Paulo Vaz (Vaz) purchased a car in 2011 from a dealer, Vistar Goa (P) Ltd., expecting a new 2011 model. He discovered it was a 2009 model that had already travelled 622 km and had defects like a corrugated undercarriage and scratches. Vaz refused delivery and sought a refund or replacement. The District Forum, State Commission, and National Commission held both the dealer and the manufacturer, Tata Motors Ltd., **jointly and severally liable for "deficiency in service" and "unfair trade practice,"** ordering replacement or refund with interest, and imposing additional costs on the manufacturer. Tata Motors Ltd. appealed to the Supreme Court.

Final Verdict:

The Supreme Court **allowed the appeal, setting aside the findings of the National Commission and the lower forums against Tata Motors Ltd..** The Court found an **"absolute dearth of pleadings" and proof** regarding the manufacturer's specific role or special knowledge concerning the dealer's misrepresentations or the car's condition at the time of sale to Vaz.

Crucially, the Court determined that the relationship between the manufacturer and the dealer was on a **"principal-to-principal basis,"** as evidenced by the dealership agreement. Therefore, the manufacturer could not be held liable for the dealer's actions without proof of direct involvement or a different contractual relationship. The Court directed the refund of amounts deposited by the appellant and affirmed Vaz's entitlement to execute the alternative relief of refund with interest from the District Forum.

3.Case insight: Consumer Forum's Jurisdiction in Unfair Trade Practice Cases

Case Title: Society of Catalysts vs Vodafone Essar Mobile Services Limited [2008 12 SCC 497 : AIR 2008 SC 2096]

Relevant Provisions: Sections 2(1)(r), 2(1)(r)(3)(a), 2(1)(r)(3)(b), 12(1)(b), 12(1)(c), 14(1)(d), 14(1)(f), and 14(1)(hb) of the **Consumer Protection Act, 1986**, Sections 11 and 12 of the **Telecom Regulatory Authority of India Act, 1997**, Section 36-A of the **Monopolies and Restrictive Trade Practices Act, 1969**.

Legal Question: Whether Vodafone Essar Mobile Services Limited's scheme, which incentivised subscribers to make calls exceeding 20 minutes daily to become eligible for prizes, constitutes an unfair trade practice under Section 2(1)(r)(3)(a) and (b) of the Consumer Protection Act, 1986, and whether the Consumer Forum possesses the jurisdiction to adjudicate such a complaint, despite contentions regarding the applicability of the TRAI Act, 1997 ?

Context:

The case originated from a complaint filed by the Society of Catalysts against Vodafone Essar Mobile Services Limited before the State Consumer Disputes Redressal Commission, Delhi, on 16th May 2008. The complaint alleged that Vodaphone, a telecom company, engaged in unethical, unfair, and deceptive trade practices by launching a scheme titled "Baaton se banaiye sona, bees minute mein" (Earn gold through talk time of 20 minutes). This scheme offered prizes such as gold coins and a Maruti SX4 car, contingent upon subscribers making calls for more than 20 minutes per day to be eligible for participation. The Complainant-Society argued that this scheme was an unfair trade practice under Section 2(1)(r)(3) of the Consumer Protection Act, 1986, as it created a false impression of free participation while the costs were ultimately covered by the transaction, and its primary motive was to promote business interests by inducing consumers to make unnecessary calls, thereby increasing revenue. Vodaphone, the Opposite Party, refuted these claims, asserting that the scheme was intended for the benefit of high-end users and to honour their loyalty, with no direct or indirect promotion of business interests or imposition of extra charges on subscribers. Additionally, a significant point of contention was the locus standi of the complainant and the jurisdiction of the Consumer Forum, given the provisions of the TRAI Act.

Final Verdict:

The National Consumer Disputes Redressal Commission found that Vodafone Essar Mobile Services Ltd. had conducted a promotional scheme or contest **inviting subscribers who talked for over 20 minutes per day to win prizes, including gold coins and a Maruti SX4 car**. The Commission held that the **contest constituted an unfair trade practice**, as it gave consumers a misleading impression of benefit or free participation, while substantially promoting the company's commercial interests. Therefore, the Commission ruled that the scheme was **deceptive and unfair under consumer protection laws**.



Case Title & Citation	Legal Question	Final Verdict	Relevant Provisions
Ajay Kumar vs Flipkart Internet Pvt. Ltd. [2018 SCC OnLine NCDRC 380]	Whether Flipkart demonstrated deficiency in service by failing to deliver an AC and neglecting inquiries, and whether the complainant's inflated compensation claim (₹2.88 crore) was legitimate to invoke jurisdiction?	The NCDRC held the claim was highly exaggerated, speculative, and made only to invoke its jurisdiction. The complaint was dismissed in limine without examining merits, but liberty was granted to refile before the appropriate forum. No costs were imposed.	Section 21(a) of the Consumer Protection Act, 2019
Tata Motors Ltd. vs Antonio Paulo Vaz & Anr. [2021 INSC 103]	Whether a manufacturer can be held liable for deficiency in service or unfair trade practice committed by its dealer in selling a defective/misrepresented car when the dealership agreement is principal-to-principal?	The Supreme Court allowed Tata Motors' appeal. It held that the manufacturer was not liable as there were no pleadings or proof of its involvement; the dealer operated on a principal-to-principal basis. Refund with interest was confirmed against the dealer.	Sections 2(1)(g), 2(1)(o), 2(1)(r), 2(d)(i), 14(1)(f), 15 of the Consumer Protection Act, 2019
Society of Catalysts vs Vodafone Essar Mobile Services Ltd. [2008 12 SCC 497 : AIR 2008 SC 2096]	Whether Vodafone's scheme requiring subscribers to talk for over 20 minutes daily to win prizes was an unfair trade practice under CPA, 1986, and whether Consumer Fora had jurisdiction despite TRAI's regulatory role?	The NCDRC held the scheme was deceptive, created a false impression of free participation, and constituted an unfair trade practice. The Consumer Forum had jurisdiction. Appropriate relief and corrective directions were issued.	Sections 2(1)(r), 2(1)(r)(3)(a), 2(1)(r)(3)(b), 12(1)(b), 12(1)(c), 14(1)(d), 14(1)(f), 14(1)(hb) of the Consumer Protection Act, 1986; Sections 11 & 12 of the TRAI Act, 1997; Section 36-A of the MRTP Act, 1969

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We value your input! Feel free to contact us at support@lawby26.com with any questions, topic suggestions, or feedback.
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