

## Comparison of the Consumer Protection Bill, 2018 with the Consumer Protection Act, 1986

The Consumer Protection Bill, 2018 was introduced in Lok Sabha on January 5, 2018 by the Minister of Consumer Affairs, Food and Public Distribution, Mr. Ram Vilas Paswan.<sup>1</sup> The Bill replaces the Consumer Protection Act, 1986.<sup>2</sup> The Bill introduces provisions related to product liability and unfair contracts. It also creates a regulatory body called the Central Consumer Protection Authority and permits mediation for settlement of consumer complaints. Previously in August 2015, the Consumer Protection Bill, 2015 was introduced in Lok Sabha to replace the 1986 Act.<sup>3</sup> The Bill was referred to the Standing Committee on Food, Consumer Affairs, and Public Distribution. The Standing Committee submitted its report on April 26, 2016.<sup>4</sup> The 2018 Bill includes several recommendations made by the Standing Committee. At the time of introduction of the 2018 Bill, the 2015 Bill was withdrawn. The table below compares the provisions of the 1986 Act, the 2015 Bill, the Standing Committee report and the 2018 Bill.

**Table 1: Comparison of the Consumer Protection Act, 1986, the Consumer Protection Bill 2015, the Standing Committee Report on the Consumer Protection Bill, 2015 and the Consumer Protection Bill, 2018**

| Provision                      | 1986 Act  | 2015 Bill  | Standing Committee Report  | 2018 Bill   |
|--------------------------------|---|--|--|---|
| <b>Consumer Rights</b>         | <ul style="list-style-type: none"> <li>Recognizes six distinct consumer rights.</li> </ul>  | <ul style="list-style-type: none"> <li>Recognizes six distinct consumer rights.</li> </ul>   | <ul style="list-style-type: none"> <li>The right to terminate a contract on the grounds of quality of goods or services received should be included under consumer rights.</li> </ul>  | <ul style="list-style-type: none"> <li>Recommendation not accepted.</li> <li>Same as 2015 Bill.</li> </ul>  |
| <b>Unfair trade practices*</b> | <ul style="list-style-type: none"> <li>Includes six types of such practices, like false representation, misleading advertisements.</li> </ul> | <ul style="list-style-type: none"> <li>Adds three types of practices to the list, namely: (i) failure to issue a bill or receipt; (ii) refusal to accept a good returned within 30 days; and (iii) disclosure of personal information given in confidence, unless required by law or in public interest.</li> </ul>  | <ul style="list-style-type: none"> <li>The Bill unreasonably classifies all contests for the promotion of a product/ service as unfair trade practice. Service providers should specify conditions/ guidelines for conducting the contests/lotteries including the criteria for judging the competition.</li> </ul>  | <ul style="list-style-type: none"> <li>Retains the three types of practices added in the 2015 Bill.</li> <li>Amends 30 days to time period specified in cash memo or 30 days if no time period mentioned.</li> <li>For disclosure of personal information, removes reference to public interest exception.</li> <li>Removes those contests/ lotteries from the ambit of unfair trade practice that may be prescribed.</li> </ul>                    |
| <b>Product Liability</b>       | <ul style="list-style-type: none"> <li>No provision.</li> </ul>   | <ul style="list-style-type: none"> <li>The responsibility of the manufacturer if a defect in a good has caused physical damage, injury or death.</li> <li>Claimant is required to prove that manufacturer knew or should have known that harm would be caused.</li> <li>Product seller is liable for negligence for three specified conditions.</li> </ul> | <ul style="list-style-type: none"> <li>The consumer should be required to prove one condition to claim product liability from a manufacturer in case of a defective good.</li> <li>Conditions for establishing deficiency in services must also be specified to claim compensation for deficiency in services rendered by the service provider.</li> <li>Liability provisions should be applied to all parties involved in the production chain (manufacturer to retailer).</li> </ul> | <ul style="list-style-type: none"> <li>Product liability for service providers included.</li> <li>Removes following conditions of liability for manufacturer: (i) defendant is the manufacturer; and (ii) dangerous aspect of product was proximate cause of harm with regard to the product manufacturer.</li> <li>Removes the condition regarding manufacturer's knowledge.</li> <li>Reference to negligence not included in the Bill.</li> </ul> |

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| <b>Unfair contracts</b>                            | <ul style="list-style-type: none"> <li>No provision.</li> </ul>  | <ul style="list-style-type: none"> <li>Lists six contract terms which may be held as unfair.</li> </ul>   | <ul style="list-style-type: none"> <li>A provision should be inserted in the Bill laying down principles which would determine whether a contract is fair or unfair.</li> </ul>   | <ul style="list-style-type: none"> <li>Changes definition to include terms which can cause significant change in consumer rights.</li> <li>Complaints against unfair contracts can be filed with only the State and National Commission.</li> </ul>  |
| <b>Advisory body</b>                               | <ul style="list-style-type: none"> <li>Consumer Protection Councils (CPCs) to protect rights of consumers</li> </ul>   | <ul style="list-style-type: none"> <li>Retains CPCs at the district, state and national level.</li> </ul>   | <ul style="list-style-type: none"> <li>No recommendation.</li> </ul>  | <ul style="list-style-type: none"> <li>Makes CPCs advisory bodies at the district, state and national level.</li> </ul>  |
| <b>Regulator</b>                                   | <ul style="list-style-type: none"> <li>No provision.</li> </ul>  | <ul style="list-style-type: none"> <li>Establishes the Central Consumer Protection Authority (CCPA) to enforce consumer rights.</li> <li>CCPA can pass orders regarding recall of products, unfair contracts, and misleading advertisements.</li> <li>CCPA can declare unfair contract terms as null and void.</li> <li>CCPA can impose penalties for violation of consumer rights and misleading advertisement.</li> </ul> | <ul style="list-style-type: none"> <li>CCPA should not have judicial powers.</li> <li>CCPA should have an investigation wing.</li> <li>CCPA should have the power to return products and refund money for such products.</li> </ul>                                     | <ul style="list-style-type: none"> <li>Judicial powers of CCPA remain unchanged.</li> <li>Investigation wing set up under CCPA.</li> <li>Recommendation not accepted with regard to the power to return products and refund money for such products.</li> <li>CCPA cannot declare unfair contract terms as null and void.</li> <li>CCPA can impose penalties on endorsers of misleading advertisements.</li> </ul> |
| <b>Pecuniary jurisdiction of adjudicatory body</b> | <ul style="list-style-type: none"> <li>District: Up to Rs 20 lakh.</li> <li>State: Between Rs 20 lakh and up to Rs one crore.</li> <li>National: Above Rs one crore.</li> </ul>  | <ul style="list-style-type: none"> <li>District: Up to Rs 50 lakh.</li> <li>State: Between Rs 50 lakh and up to Rs 10 crore.</li> <li>National: Above Rs 10 crore.</li> </ul>   | <ul style="list-style-type: none"> <li>District: Increase jurisdiction from proposed Rs 50 lakh to up to Rs one crore.</li> </ul>   | <ul style="list-style-type: none"> <li>Recommendation accepted. District: Up to Rs one crore.</li> <li>State: Between Rs one crore and up to Rs 10 crore.</li> <li>National: Above Rs 10 crore.</li> </ul>   |
| <b>Composition of adjudicatory body</b>            | <ul style="list-style-type: none"> <li>District: Headed by current or former District Judge and two members.</li> <li>State: Headed by a current or former High Court Judge and at least two members.</li> <li>National: Headed by a current or former Supreme Court Judge and at least four members.</li> </ul> | <ul style="list-style-type: none"> <li>District: Headed by a person qualified to be a District Judge or a District Magistrate, and at least two members.</li> <li>State: Headed by a current or former High Court Judge and at least four other members.</li> <li>National: Headed by a current or former Supreme Court Judge and at least 15 other members.</li> </ul>   | <ul style="list-style-type: none"> <li>No recommendation.</li> </ul>  | <ul style="list-style-type: none"> <li>District: Headed by a President and at least two members.</li> <li>State: Headed by a President and at least four members.</li> <li>National: Headed by a President and at least four members.</li> </ul>   |
| <b>Penalties</b>                                   | <ul style="list-style-type: none"> <li>Failure to comply with an order of the district, state or national Commissions will attract imprisonment of up to three years, or fine of up to Rs 10,000, or both.</li> </ul>  | <ul style="list-style-type: none"> <li>In case of Commissions, fine increased to a maximum of Rs 50,000.</li> <li>Failure to follow CCPA order - imprisonment of up to six months or fine of up to Rs 20 lakh, or both.</li> </ul>  | <ul style="list-style-type: none"> <li>No recommendation.</li> <li>For adulterated products - first time offence, imprisonment of two years with a fine of Rs 10 lakh and suspension of license for a period of two years; for second time offence, rigorous</li> </ul> | <ul style="list-style-type: none"> <li>In case of Commissions, fine increased to a maximum of Rs one lakh.</li> <li>Failure to follow CCPA order – same as 2015 Bill.</li> <li>Graded penalties for adulterated products and spurious goods.</li> </ul>  |

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|                                  |  | <ul style="list-style-type: none"> <li>Penalty for publishing a false advertisement of food - fine of up to Rs 10 lakh.</li> <li>Penalty for manufacture, sale etc., of adulterated food - fine of up to Rs one lakh.</li> </ul>                | imprisonment of five years with a fine of Rs 50 lakh and cancellation of license.  |  |
| <b>Misleading advertisements</b> | <ul style="list-style-type: none"> <li>The District Forum can ask the party to issue a corrective advertisement to neutralize the effect of the misleading advertisement.</li> </ul> | <ul style="list-style-type: none"> <li>The CCPA can order withdrawal or discontinuation or modification of false and misleading advertisements.</li> <li>CCPA/District Commission will direct issuance of corrective advertisements.</li> </ul> | <ul style="list-style-type: none"> <li>For first time offence by endorsers, a fine of Rs 10 lakhs and imprisonment up to two years or both. For second time offence, a fine of Rs 50 lakhs and imprisonment up to five years.</li> </ul> | <ul style="list-style-type: none"> <li>The CCPA can issue direction to discontinue false advertisements, or modify it.</li> <li>For false and misleading advertisements, a penalty of up to Rs 10 lakh may be imposed on a manufacturer or an endorser. For a subsequent offence, the fine may extend to Rs 50 lakh. The manufacturer can also be punished with imprisonment of up to two years, which may extend to five years in case of every subsequent offence.</li> <li>The CCPA can also prohibit the endorser of a misleading advertisement from endorsing any particular product or service for a period of up to one year. For every subsequent offence, the period of prohibition may extend to three years. There are certain exceptions when an endorser will not be held liable.</li> <li>Penalties also specified for adulterated products and spurious goods.</li> </ul> |
| <b>E-commerce</b>                | <ul style="list-style-type: none"> <li>No provision.</li> </ul>  | <ul style="list-style-type: none"> <li>Defines electronic intermediary.</li> </ul>  | <ul style="list-style-type: none"> <li>The Department of Consumer Affairs may be vested with powers to make regulations on e-commerce, direct selling, and multi-level marketing.</li> </ul>   | <ul style="list-style-type: none"> <li>Direct selling, e-commerce and electronic service provider defined.</li> <li>The central government may prescribe rules for preventing unfair trade practices in e-commerce and direct selling.</li> </ul>  |

Note: \*Defined as deceptive practices to promote the sale, use or supply of a good or service.

Sources: Consumer Protection Act, 1986; Consumer Protection Bill, 2015; 9<sup>th</sup> Standing Committee Report on Food, Consumer Affairs and Public Distribution; Consumer Protection Bill, 2018; PRS.

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<sup>1</sup> The Consumer Protection Bill, 2018, Ministry of Consumer Affairs, Food and Public Distribution, <http://www.prsindia.org/uploads/media/Consumer%20Protection,%202018/Consumer%20Protection%20Bill,%202018.pdf>.

<sup>2</sup> The Consumer Protection Act, 1986, [http://www.ncdr.nic.in/1\\_1.html](http://www.ncdr.nic.in/1_1.html).

<sup>3</sup> The Consumer Protection Bill, 2015, Ministry of Consumer Affairs, Food and Public Distribution, <http://www.prsindia.org/uploads/media/Consumer/Consumer%20Protection%20bill,%202015.pdf>.

<sup>4</sup> Report no. 9 on The Consumer Protection Bill, 2015, Standing Committee on Consumer Affairs, Food and Public Distribution, Lok Sabha, April 26, 2016, <http://www.prsindia.org/uploads/media/Consumer/SCR-%20Consumer%20Protection.pdf>.