



LEGISLATIVE UPDATE: CONSUMER PROTECTION BILL, 2015

If you have questions or would like additional information on the material covered in this Newsletter, please contact the authors:

-Seema Jhingan, Partner
(sjhingan@lexcounsel.in);

-Rupal Bhatia, Senior Associate
(rbhatia@lexcounsel.in);

-Vishal Ranjan, Associate
(vranjan@lexcounsel.in)

KEEPING PACE WITH CHANGING TIMES

The continued logjam on the effective working of the Parliament and the conflicting self-interest of political parties (at the cost of the nation) ensures that the legislature is unable to perform its key function of legislating new enactments to meet the needs of the changing times. One such important legislation awaiting enactment is the new Consumer Protection Bill, 2015 (“**Bill**”) in place of the extant The Consumer Protection Act, 1986 (“**Consumer Protection Act**”), which was introduced on the floors of the Lok Sabha in 2015 by the Minister of Consumer Affairs, Food and Public Distribution, Mr. Ram Vilas Paswan.

The three decades old Consumer Protection Act (in its present form) is an inefficient piece of legislation not keeping pace with the new market dynamics, multi-layered delivery chains, innovative (and many times misleading) advertising and marketing machinery. It was in this backdrop that the new Bill has been introduced to equip the consumers to protect their rights against unfair trade practices. The new Bill intends to narrow some of the gaps with regard to protection of consumer rights including the time taken in settling disputes, an ability to reach to the manufactures for product liability (to cover situations such as the recent Maggi fiasco), curbing misleading advertisements etc. Some of the key highlights of the Bill are discussed hereunder:

- **Investigating Body:** The Bill proposes to establish an investigating, prosecuting, reviewing and recommending body namely, the Central Consumer Protection Authority (“**Central Authority**”) headed by a Commissioner. One of the key features is the right of the Central Authority to launch inquiry, either *suo motu* or on a complaint or direction from the Government, into violations of consumer rights and to launch prosecution in an appropriate court.

LexCounsel, Law Offices C-10,
Gulmohar Park New Delhi 110 049,
INDIA. Tel.:+91.11.4166.2861
Fax:+91.11.4166.2862

Recommended by:



- **Stick to the Time:** The new Bill requires the Commissions to dispose of the complaint within three months from the date of receipt of notice by the opposite party and within five months where the commodity requires any testing/analysis. The Commissions are required to ordinarily decide the complaint on the basis of affidavits and documentary evidence filed before it and an oral hearing is only allowed when a special cause is shown to exist and the reasons for allowing such request are to be recorded in writing. Considering the inordinate delays in concluding consumer complaints, this is a step in the right direction to protect the harassed consumers.
- **Product Liability:** The Bill has introduced a much needed concept of affixing liability on a manufacturer or producer and even a product seller in certain specified circumstances for any personal injury, death or property damage caused to a consumer resulting from defects in manufacture, construction, design, formula, preparation, assembly, testing, service, warning, instruction, marketing, packaging, or labelling of any product.
- **Jurisdiction for filing a Complaint:** One of the most consumer friendly change is with regard to the filing of the consumer complaint where there are more than one opposite parties. In such cases, the complainant can file the complaint in any of the Commissions where one of the opposite party resides or before the Commission where the complainant himself resides or personally works for gain.
- **Pre-Pay the Decree Amount:** One of the interesting new additions in order to minimize frivolous litigation is the requirement to deposit fifty per cent of the total amount that the defendant has been asked to pay in terms of the appealable order in case he intends to prefer an appeal to an appellate Commission.
- **Penalty for Frivolous Complaint:** The penalty for filing a frivolous complaint has also been proposed to be enhanced from Rs. 10,000/- to Rs. 50,000/- to minimize baseless and false complaints.
- **Mediation:** The Bill also explores the avenue of mediation on the very first day of hearing, if it appears to the Commission that there exists possibility of settlement on terms acceptable to both the parties.
- **Service of Notice for Electronic Intermediaries:** Taking into account the rise in the number of electronic service providers, electronic retailers and electronic intermediaries and also the absence of any personal connect with such providers, the Bill requires the electronic intermediary to furnish an address for service of the notice(s) on the electronic platform from where it provides services and also to designate a grievance officer authorizing him to access and process such notice(s) and furnish such information, documents or records as may be required under the notice. However, the Bill does not prescribes any process to ensure its compliance and neither contains any kind of detriment, in case such directions have not been met with.

- **Reaching out to an Expert:** Considering the increasing technological complexities, the National Commission/State Commission can direct any individual/organization or an expert to assist it in the ongoing matters.
- **Enforceability of the Order:** Unlike the Consumer Protection Act, the Bill makes any and every order passed by the District Commission, State Commission and National Commission enforceable as if it were a decree passed by a court in a suit pending before it.
- **Power of Review:** The District Commission and the State Commission are given power to review their own orders in case there is an error apparent on the face of it.
- **Higher Pecuniary Jurisdiction:** Pecuniary jurisdiction of the District, State as well as National Commission has been proposed to be enhanced to Rupees Fifty Lacs or up to thrice the limit of such value as may be prescribed (from the current Rupees Twenty Lacs), Rupees Ten Crores or up to thrice the limit of such value as may be prescribed (from the current up to Rupees One Crore) and Rupees Ten Crore and or up to thrice the limit of such value as may be prescribed (from the current Rupees above One Crore), respectively.

Conclusion:

The Bill seeks to extend the reach of the Commissions, widen its ambit, bring ease of accessibility, expedite disposal of cases and create a more conscious and pro-active executive regime to vanguard the consumer rights. While the Bill acknowledges the radical changes that the consumer market has undergone, the important issue remains whether the new Bill will see the light of the day and if yes, will it be enforced in all earnestness to bring the much needed relief to consumers.

Feedback

Disclaimer: LexCounsel provides this e-update on a complimentary basis solely for informational purposes. It is not intended to constitute, and should not be taken as, legal advice, or a communication intended to solicit or establish any attorney-client relationship between LexCounsel and the reader(s). LexCounsel shall not have any obligations or liabilities towards any acts or omission of any reader(s) consequent to any information contained in this e-newsletter. The readers are advised to consult competent professionals in their own judgment before acting on the basis of any information provided hereby.