

CLASS- B.A.LL.B. IX SEMESTER

**SUBJECT- CONSUMER PROTECTION LAWS AND COMPETITION
LAWS**

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CENTRAL CONSUMER PROTECTION AUTHORITY

The objective of the Central Consumer Protection Authority (CCPA) is to promote, protect and enforce the rights of consumers as a class. It will be empowered to conduct investigations into violation of consumer rights and institute complaints / prosecution, order recall of unsafe goods and services, order discontinuation of unfair trade practices and misleading advertisements, impose penalties on manufacturers/endorsers/publishers of misleading advertisements, DG¹.

In **Brahm Dutt v. Union of India**² the Supreme Court, held that

“...if an expert body is to be created as submitted on behalf of the Union of India consistent with what is said to be the international practice, it might be appropriate for the respondents (Central Government) to consider the creation of two separate bodies, one with expertise that is advisory and regulatory and the other adjudicatory. This followed up by an appellate body as contemplated by the proposed amendment, can go a long way, in meeting the challenge sought to be raised in this Writ Petition based on the doctrine of separation of powers recognized by the Constitution.”

When we see Consumer Protection Act, 2019 in light of Brahm Dutt case, it has created the two separate bodies’ one advisory and one regulatory by following the principle of separation of power.

Constitution of CCPA: The Central Authority would consist of a Chief Commissioner and such number of other Commissioners as may be prescribed, to be appointed by the Central Government³.

¹ <https://pib.gov.in/PressReleasePage.aspx?PRID=1642422> visited on 28/9/2020, time- 10:50

² (2005) 2 SCC 431

Headquarters: It will be headquartered in the National Capital Region of Delhi but the central government may set up regional offices in other parts of the country⁴.

Procedure of Central Authority: The Central Authority shall regulate the procedure for transaction of its business and allocation of its business amongst the Chief Commissioner and Commissioners as may be specified by regulations⁵.

The Chief Commissioner shall have the powers of general superintendence, direction and control in respect of all administrative matters of the Central Authority⁶.

Provided that the Chief Commissioner may delegate such of his powers relating to administrative matters of the Central Authority, as he may think fit, to any Commissioner (including Commissioner of a regional office) or any other officer of the Central Authority.

Investigation Wing: There will be an investigation wing of CCPA which is headed by director general for the purpose of conducting inquiry or investigation. The Central Government may appoint a Director-General and such number of Additional Director-General, Director, Joint Director, Deputy Director and Assistant Director, from amongst persons who have experience in investigation and possess such qualifications, in such manner, as may be prescribed⁷.

Every Additional Director-General, Director, Joint Director, Deputy Director and Assistant Director shall exercise his powers, and discharge his functions under the control, supervision and direction of the Director-General⁸. DG has also has power to delegates his power for the inquiry. After all the investigation and inquiry DG is liable to submit his report to the Central Government.

Power of District Collector: The District Collector (by whatever name called) may, on a complaint or on a reference made to him by the Central Authority or the Commissioner of a regional office, inquire into or investigate complaints regarding violation of rights of consumers as a class, on matters relating to violations of consumer rights, unfair trade practices and false or

³ Section 10(2), Consumer Protection Act, 2019.

⁴ Section 10(3), Consumer Protection Act, 2019.

⁵ Section 14 (1), Consumer Protection Act, 2019.

⁶ Section 14 (2), Consumer Protection Act, 2019

⁷ Section 15(2), Consumer Protection Act, 2019

⁸ Section 15(3), Consumer Protection Act, 2019

misleading advertisements, within his jurisdiction and submit his report to the Central Authority or to the Commissioner of a regional office, as the case may be⁹.

A complaint may be forwarded to District Collector or the Commissioner of regional office or the Central Authority in writing or in electronic mode for the violation of consumer rights or unfair trade practices or false or misleading advertisements which are prejudicial to the interests of consumers as a class¹⁰.

Functions of CCPA (Section 18 (1))

The Central Authority shall—

- (a) Protect, promote and enforce the rights of consumers as a class, and prevent violation of consumers rights under this Act;
- (b) Prevent unfair trade practices and ensure that no person engages himself in unfair trade practices;
- (c) Ensure that no false or misleading advertisement is made of any goods or services which contravenes the provisions of this Act or the rules or regulations made there under;
- (d) Ensure that no person takes part in the publication of any advertisement which is false or misleading.

Powers of CCPA (Section 18 (2))

The Central Authority enjoys sweeping and wide-ranging powers under the Act and can discharge functions which are regulatory, investigative or adjudicatory in nature. These include the power to:

- a) inquire or cause an inquiry into violations of consumer rights or unfair trade practices, either *suo moto* or on a complaint or on directions from the Central Government [Section 18(2)].
- b) file complaints before the District Commission, the State Commission or the National Commission, as the case may be, under this Act;

⁹ Section 16, Consumer Protection Act, 2019.

¹⁰ Section 17, Consumer Protection Act, 2019.

- c) intervene in any proceedings before the District Commission or the State Commission or the National Commission, as the case may be, in respect of any allegation of violation of consumer rights or unfair trade practices;
- d) review the matters relating to, and the factors inhibiting enjoyment of, consumer rights, including safeguards provided for the protection of consumers under any other law for the time being in force and recommend appropriate remedial measures for their effective implementation;
- e) recommend adoption of international covenants and best international practices on consumer rights to ensure effective enforcement of consumer rights;
- f) undertake and promote research in the field of consumer rights;
- g) spread and promote awareness on consumer rights;
- h) encourage non-Governmental organisations and other institutions working in the field of consumer rights to co-operate and work with consumer protection agencies;
- i) mandate the use of unique and universal goods identifiers in such goods, as may be necessary, to prevent unfair trade practices and to protect consumers' interest;
- j) issue safety notices to alert consumers against dangerous or hazardous or unsafe goods or services;
- k) advise the Ministries and Departments of the Central and State Governments on consumer welfare measures;
- l) issue necessary guidelines to prevent unfair trade practices and protect consumers' interest.

Power of Central Authority to refer matter for investigation or to other regulators:

After receiving any information or complaint or directions from the Central Government or of its own motion, Central authority conduct or cause to be conducted a preliminary inquiry to see whether there exists a prima facie case of violation of consumer rights or any unfair trade practice or any false or misleading advertisement, by any person, which is prejudicial to the public interest or to the interests of consumers and if it is satisfied that there exists a prima facie case than Central authority shall direct to the Director- General or by the District Collector for

investigation¹¹. Moreover, if the Central authority is satisfied after the preliminary inquiry that this particular Matter is dealt with the other regulators establish under the other Act refer such matter to the concerned regulator along with his report¹².

Some other powers of Central Authority

1. recall goods or withdraw services which are dangerous, hazardous or unsafe, or direct reimbursement of the prices of goods or services so recalled or discontinuation of unfair practices after giving the target person an opportunity of being heard [Section 20].
2. issue directions, after investigation, to a trader or manufacturer or endorser or advertiser or publisher to discontinue false or misleading advertisements prejudicial to consumers, and to impose monetary penalties up to Rupees ten lakhs [Section 21].
3. restrain the endorser of a false or misleading advertisement from making endorsement of any product or service for a period up to one year, or in case of subsequent contravention up to three years [Section 21(3)]
4. In case of misleading advertisement Central authority may impose penalty of ten lakh rupees. [Section 21(4)]
5. No endorser shall be liable to penalty under section 21 if he/she exercised the due diligence for verify the facts. [Section 21(5)]
6. Call upon a person found *prima facie* to be involved in violation of consumer rights or any unfair trade practice or any false or misleading advertisement as described above and also to direct him to produce any document or record in his possession. Additionally, the Director General or the District Collector would have powers of search and seizure under the Code of Criminal Procedure, 1973 and also the power to direct production of any document or record [Section 22].

Appeal: Any aggrieved person from the order passed by the Central Authority under sections 20 and 21 may file an appeal to the National Commission within a period of thirty days from the date of receipt of such order¹³.

¹¹ Section 19(1), Consumer Protection Act, 2019

¹² Section 19(2), Consumer Protection Act, 2019

¹³ Section 24 Consumer Protection Act, 2019

Annual Report: The Central Authority shall prepare an annual report giving full account of its activities during the previous year and such other reports and returns, as may be directed, and forwarded that copies to the Central Government. Annual report shall be presented before the each House of Parliament¹⁴.

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¹⁴ Section 27, Consumer Protection Act, 2019