

# Dispute Resolution Hotline

August 27, 2019

## NEW CONSUMER PROTECTION LAW IN INDIA : BROADENING THE HORIZON

### Key Highlights:

- Insertion of 'Product liability' provision to deter manufacturers and service providers from delivering defective products or deficient services;
- E-commerce included within the ambit of Consumer Protection Act.
- Establishment of Central Consumer Protection Authority (CCPA);
- Simplified dispute resolution process with substantial increase in pecuniary jurisdiction of consumer protection commissions;
- Introduction of new additional grounds to file complaints and imposition of higher penalties to keep in check misleading advertisements and adulteration of products;

### INTRODUCTION

The Consumer Protection Act, 2019 (New Act) received the assent of the President of India and was published in the official gazette on 9 August 2019. The New Act will come into force on such date as the Central Government may so notify.

This hotline aims to provide an insight into newly introduced provisions, dissect the scope, reach and impact of newly introduced provisions and provide a comparative analysis of some of the key provisions of CPA 2019 vis-a-vis CPA 1986. Please click here to find our detailed analysis on the key provisions of CPA 2019.

### SALIENT FEATURES OF CPA 2019:

#### • Broadening the definition of "consumer"

The definition of "consumer" has been expanded to include persons who engage in *offline or online transactions through electronic means or by tele-shopping or direct selling or multi-level marketing*.<sup>1</sup> In our transactions concluded in all media in any case covered by CPA 1986.

The definition now provides consumers with a remedy in case of multi-level marketing. Thus, the seller at each level of multi-level marketing can be exposed to liability under CPA 2019 and not restricted to only the manufacturer of the product but all entities involved at various stages of production and marketing.

When services are provided for free, the person availing the service will not be considered as a consumer. Whether or not the service being provided is free is a question of fact and will have to be evaluated on case to case basis.

#### • E-commerce

E-commerce has been defined as buying or selling of goods or services including digital products over digital or electronic network.<sup>2</sup> The central government has been authorized to take measures and make rules to prevent unfair trade practices in e-commerce.<sup>3</sup> In case of products being sold through online platforms, without charging any fees separately amounts to providing services needs to be ascertained. It is not clear whether off-shore e-commerce would also get covered and eventual enforcement of CPA 2019 qua such entities.

#### • New grounds to file complaints

While the provisions of CPA 1986 prescribed six (6) major grounds to file complaints<sup>4</sup>, CPA 2019 has increased the count to seven (7)<sup>5</sup>, and also substantially modified one of the existing grounds to file complaints as provided under Section 2(c)(i) of CPA 1986. The two key changes are:

##### 1. Introduction of Unfair Contracts & expansion of Unfair Trade Practices

In the previous legislation, a complaint could be filed only if *an unfair trade practice or a restrictive trade practice was adopted by any trader or service provider*.<sup>6</sup> Now "*unfair contract*" has also been added which further broadens the ground to file complaints and allows consumers to challenge contracts which are unfair, unilateral and unreasonable.<sup>7</sup> Unfair contract has been defined to include contracts between a manufacturer or trader or service provider on one hand, and a consumer on the other, having such terms which cause significant change in the rights of such consumer, including the following, namely:—

- requiring manifestly excessive security deposits to be given by a consumer for the performance of contractual obligations; or*

## Research Papers

### Structuring Platform Investments in India For Foreign Investors

March 31, 2025

### India's Oil & Gas Sector— at a Glance?

March 27, 2025

### Artificial Intelligence in Healthcare

March 27, 2025

## Research Articles

### 2025 Watchlist: Life Sciences Sector India

April 04, 2025

### Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

### INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

## Audio

### CCI's Deal Value Test

February 22, 2025

### Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

### Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

Click here to view Hotline archives.

## Video

Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia | NewsX

- ii. *imposing any penalty on the consumer, for the breach of contract thereof which is wholly disproportionate to the loss occurred due to such breach to the other party to the contract; or*
- iii. *refusing to accept early repayment of debts on payment of applicable penalty; or entitling a party to the contract to terminate such contract unilaterally, without reasonable cause; or*
- iv. *permitting or has the effect of permitting one party to assign the contract to the detriment of the other party who is a consumer, without his consent; or*
- v. *imposing on the consumer any unreasonable charge, obligation or condition which puts such consumer to disadvantage.*

The above provisions would directly impact the financial institutions such as banks, as the apex court has already stated that the Banks also get covered under the Act.<sup>8</sup> This would specifically take into account contracts entered with banks, e-commerce platforms where parties are not left with any option but to agree to the standard terms to avail the services. With such a broad subjective definition, it remains to be seen how courts would interpret in case of online contracts.

## 2. Expanding definition of "unfair trade practice"<sup>9</sup>

While CPA 1986 had listed six (6) types of unfair trade practices<sup>10</sup>, three (3) types of additional unfair trade practices have now been added to the list which are as follows:

- i. *failure or non-issuance of a bill or a cash memo;*
- ii. *refusal to take back or withdraw defective goods or withdrawal or discontinuance of deficient services or refusal to refund the consideration amount paid within the period as stipulated in the bill or cash memo or receipt or in the absence of such stipulation, refusal to withdraw or refund goods or services within thirty (30) days; and*

Before ascertaining whether it amounts to unfair trade practice, it become relevant to determine whether the goods or deficient services have been provided. The section as drafted in its current form pre-determines existence of defective product or deficient service. Separately, even if withdrawn or discontinued, companies could still be held liable under 'product liability' or for 'deficiency of services'.

- iii. *disclosure of consumer's personal information to any other person unless such disclosure is made in accordance with the provisions of any law for the time being in force or in public interest.*

The provision fails to give any clarity whether information can be shared if consent is taken from the consumers. The reliance will have to be placed on prevalent data protection law. The current data protection law in India does not require any specific compliance for data sharing in case the information is not in the nature of sensitive information i.e. relating to (i) passwords; (ii) financial information; (iii) physical, physiological and mental health conditions; (iv) sexual orientation; (v) medical records and history; (vi) biometric information; (vii) any detail relating to the above, as provided to a body corporate for providing services; and (viii) any of the information received under the above by a body corporate, for processing or storing data under lawful contract, or otherwise.

## • Product Liability<sup>11</sup>

There was no separate legislation governing 'product liability' in India, though it was addressed under CPA 1986, if parties were included within the ambit of '*consumer*'. Insertion of "*Product Liability*" as a separate chapter in CPA 2019 and a new ground for filing a complaint has been one of the most significant additions to the act

Section 2(35) of CPA 2019 allows a person to make a claim of product liability against such manufacturer, seller or service provider for such defective products. Product liability means the responsibility of a product manufacturer or product seller, of any product or service, related to the product to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services relating to the product.<sup>12</sup>

### *Who can be made liable:*

CPA 2019 has gone a step forward and defined a product manufacturer<sup>13</sup>, product seller<sup>14</sup> and product service provider<sup>15</sup> to provide clarity on who can be made liable for an action under Chapter VI of CPA 2019.

### *Ingredients to initiate product liability action:*

1. Product manufacturer will be liable if product contains a manufacturing defect, or defective in design; or there is a deviation from manufacturing specifications; or does not conform to the express warranty; or fails to contain adequate instructions of correct usage to prevent any harm or any warning regarding improper or incorrect usage. Absence of negligence or fraud in making express warranty of a product cannot be pleaded as a defence.<sup>16</sup>
2. Product seller who is not a product manufacturer may be held liable if (a) he has exercised substantial control over the designing, testing, manufacturing, packaging or labelling of a product that caused harm; or (b) he has altered or modified the product and such alteration or modification was the substantial factor in causing the harm; or (c) he has made an express warranty of a product independent of any express warranty made by a manufacturer and such product failed to conform to the express warranty made by the product seller which caused the harm; or (d) the product has been sold by him and the identity of product manufacturer of such product is not known, or if known, the service of notice or process or warrant cannot be effected on him or he is not subject to the law which is in force in India or the order, if any, passed or to be passed cannot be enforced against him; or (e) he failed to exercise reasonable care in assembling, inspecting or maintaining such product or he did not pass on the warnings or instructions of the product manufacturer regarding the dangers involved or proper usage of the product.<sup>17</sup>
3. Product service provider may be liable if (a) the service provided was faulty or imperfect or deficient or inadequate in quality, nature or manner of performance which is required to be provided by or under any law for the time being in force, or pursuant to any contract or otherwise; or (b) there was an act of omission or

commission or negligence or conscious withholding any information which caused harm; or (c) the service provider did not issue adequate instructions or warnings to prevent any harm; or (d) the service did not conform to express warranty or the terms and conditions of the contract.<sup>18</sup>

CPA 2019 while defining a 'product'<sup>19</sup> has specifically excluded human tissues, blood, blood products and organs. CPA 2019 also lists down certain exceptions<sup>20</sup> to "*product liability*" action, in circumstances where the products have been misused, or if the product being purchased by the employer for use at the workplace did not adhere to installation warnings or instructions, or if the nature of the product is such that the user should have known the associated dangers, etc.

#### • Introduction of Central Consumer Protection Authority as the new regulator

Section 10 of CPA 2019 seeks to establish a central authority, the Central Consumer Protection Authority ("**CCPA**") to promote, protect, and enforce the rights of consumers qua misleading advertisements and unfair trade practices as a class. One of the primary reasons for establishing CCPA is to fill an institutional void in the existing regulatory regime.<sup>21</sup> An investigative wing is envisaged to be formed under the aegis of CCPA, which shall carry out inquiries and investigations in matters relating to consumer rights, unfair trade practices and misleading advertisements.<sup>22</sup>

Under the provisions of CPA 2019, CCPA is mandated to carry out the following functions<sup>23</sup>:

- i. inquiring into violations of consumer rights, investigating and launching prosecution at the appropriate forum;
- ii. passing orders to recall goods or withdraw services that are hazardous, reimbursement of the price paid, and discontinuation of the unfair trade practices, as defined under the relevant provisions of CPA 2019;
- iii. issuance of directions to the concerned trader/ manufacturer/ endorser/ advertiser/ publisher to either discontinue a false or misleading advertisement, or modify it;
- iv. imposition of penalties, and;
- v. issuance of safety notices to consumers against unsafe goods and services and guidelines to prevent unfair trade practices
- vi. spread and promote awareness and research on consumer rights and
- vii. recommend adoption of international covenants and best international practices on consumer rights to ensure effective enforcement of consumer rights

The district collectors have also been empowered to conduct such investigations that affect interests of consumer as a class under CPA 2019.<sup>24</sup> They can investigate or inquire at the instance of a complaint or on a reference made by CCPA. The district collectors have also been provided powers akin to CCPA's but unlike CCPA they cannot initiate action *suo moto*. The establishment of a central authority and initiating action as a class comes as an additional mode of relief which can be exercised along with individual consumers filing complaints to address their grievances thereby having two parallel proceedings.

#### • False or misleading advertisements

CCPA has also been empowered to take actions against false or misleading advertisements. CCPA can impose a penalty of up to INR1 million, and up to INR 5 million for every subsequent violations. It is important to note that such penalty can be imposed on endorsers too, thereby bringing actors/actresses in the scope of penalty. However, the endorser would be exempted from any liability if s/he establishes that they undertook due diligence to verify the veracity of the claims before endorsing the same. Therefore, endorsers/actors/celebrities will also have to conduct a thorough due diligence/ research before signing up for any advertisements.

#### • Deletion of Healthcare from definition of services

The CPA 2019 in its current form does not explicitly specify healthcare in the list of services listed in the definition of 'service', even though the earlier version of the consumer protection bill as passed by the Lok Sabha had included it. An amendment was recently introduced in the Parliament to remove healthcare from the list of services ("**Healthcare Amendment**") following stiff opposition from the medical fraternity which expressed apprehension that the CPA 2019 would be misused against them.

Due to the Healthcare Amendment, it is unclear whether healthcare as a service is included in the ambit of the CPA 2019. On the one hand, the Government has reportedly stated that the Healthcare Amendment will not exempt healthcare services from the purview of the CPA 2019.<sup>25</sup> On the other hand, if healthcare is not excluded from the list of services covered by the CPA 2019, there was no need to remove it from the definition of services. The Supreme Court in case of *Indian Medical Association v. VP Shantha* ("**VP Shantha Case**"),<sup>26</sup> had read healthcare into the definition of services under the CPA 1986. As a result, under the current consumer protection framework, a claim can be brought against doctors in case of deficiency of service.

However, it is unclear whether the VP Shantha Case will continue to apply once the CPA 2019 comes into force. The Parliament certainly has the power to overturn a judgement by passing a law that alters the basis of the judgment, as long as such law is applied with prospective effect.<sup>27</sup> Once such a law is passed, the judgement ceases to apply in all future cases. The confusion arises with respect to whether the CPA 2019 takes away the basis of the judgement in VP Shantha Case. The Supreme Court in the VP Shantha case held that patients are consumers as long as they are making some form of payment for the medical service rendered. The CPA 2019 does not contradict this finding of the Supreme Court, but has consciously excluded healthcare from the definition of services. Nonetheless, it is yet to be seen which way the courts will decide in the event they are asked to consider the question of whether a healthcare services are covered by the CPA 2019 and whether the intent of the Parliament in explicitly removing healthcare from the list of services under the CPA 2019 will have any bearing on their decision.

#### • Increase in the pecuniary jurisdiction of the commissions

The pecuniary jurisdiction of all three commissions have been raised under CPA 2019. The changes are reflected in the table below:

Sr. No.	Commissions	CPA 1986	CPA 2019
1.	District	Upto USD 28,000	Upto USD 1,40,000
2.	State	USD 28000-1,40,000	USD 1,40,000- USD 14,00,000
3.	Central	USD 1,40,000 or more	Above USD 14,00,000 – 14,00,00,00

The increase in the pecuniary jurisdiction of all three commissions is an encouraging step as it should attract lesser number of claims in appellate commissions to an extent, thereby ensuring swifter disposal of cases,

#### • Mediation

The CPA 2019 now provides for settlement of disputes by way of mediation in case there is a possibility of settlement at the stage of admission of complaint or at any later stage, if acceptable to both parties. A mediation cell will be attached to each district, state and National Commission and its regional Benches for quick resolution.<sup>28</sup>

#### • Penalties

The quantum of monetary penalty, in case of defiance of any order of commissions, have also been raised under the provisions of CPA 2019.<sup>29</sup> The commissions can now impose fines ranging from USD 350 to USD 1400, whereas earlier they could have only imposed fines in the range of USD 28- USD 140.<sup>30</sup>

#### • Miscellaneous Provisions

Apart from the afore-mentioned changes, CPA 2019 has introduced ADR mechanisms to resolve the disputes.

Mediation cells have been attached to all the three commissions.<sup>31</sup> Matters shall be referred to mediation cells if the parties' consent to it. In event of failure to settle the dispute, the respective commissions shall continue to adjudicate the dispute.<sup>32</sup>

CPA 2019 now allows consumers to file complaints in the district commission where they *reside or work for gain*.<sup>33</sup> Consumers also have the option to file complaints electronically.<sup>34</sup> However, procedure of the same shall be notified by the government in future.<sup>35</sup> There was no embargo on proceedings against foreign parties under CPA 1986 and the position continues to be the same till date. Therefore, it remains to be seen whether offshore online platforms providing services could also be included within the ambit of CPA 2019, by virtue of e-commerce now being specifically included under the legislation.

A comparative chart of the substantive changes in the provisions of CPA 1986 and CPA 2019<sup>36</sup> are listed below:

S. No.	Consumer Protection Act, 1986	Consumer Protection Act, 2019
1	No separate regulator	CCPA to be formed.
2	Complaint could be filed in a consumer court basis the site of the defendant/seller's office.	Complaint can be filed in a consumer court where the complainant either resides or works
3	No specific provision of product liability existed earlier.	Consumer can now seek compensation for harm caused by a defective product or a deficient service.
4	Jurisdiction  District: up to INR 2 million  State: INR 2 million to INR 10 million  National: above INR 10 million	Jurisdiction  District: up to INR 10 million  State: INR 10 million to INR 100 million  National: above INR 100 million
5	No legal provisions for mediation existed earlier	Courts can now refer settlement through mediation.

#### CONCLUSION

As is evident, CPA 2019 has made several changes to the erstwhile CPA 1986. CPA 2019 has widened the reach of consumer protection regime in India. The changes made vide CPA 2019 seem to further empower consumers by leveraging responsibilities not only on their counterparts, i.e., the sellers, manufacturers, service providers, but also the endorers of such products. It also attempts to address the issues that were not comprehensively touched upon by CPA 1986, such interests of consumers as a class, etc.

CPA 2019 has also attempted to ease and fasten the process of consumer disputes resolution by increasing the pecuniary jurisdiction of the commissions, attaching mediation cells, increasing the members of the commissions, imposing higher penalties etc.

The ramifications of CPA 2019 cannot be precisely gauged beforehand, as many new concepts have been introduced. However, what can definitely be said is that everyone involved in a transaction, other than the consumer, will have to be more careful, and cautious than ever before.

– Darren Punnen, Rahul Rishi, Payel Chatterjee & Gowree Gokhale

You can direct your queries or comments to the authors

<sup>1</sup> A new explanation has been added to the definition of "Consumer" in section 2(7) of CPA 2019. Section 2(d) of CPA 1986 contained the earlier definition of "consumer".

<sup>2</sup> Section 2(16) of CPA 2019

<sup>3</sup> Sections 94 & 101(2)(zg) of CPA 2019

<sup>4</sup> Per Section 2(c) of CPA 1986, the six grounds were:

(i) an unfair trade practice or a restrictive trade practice has been adopted by any trader or service provider

(ii) the goods bought by him or agreed to be bought by him suffer from one or more defects;

(iii) the services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect; (iv) a trader or the

service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price in excess of the price— (a) fixed by or under any law for the time being in force; (b) displayed on the goods or any package containing such goods; (c) displayed on the price list exhibited by him by or under any law for the time being in force; (d) agreed between the parties; (v) goods which will be hazardous to life and safety when used are being offered for sale to the public,— (a) in contravention of any standards relating to safety of such goods as required to be complied with, by or under any law for the time being in force; (b) if the trader could have known with due diligence that the goods so offered are unsafe to the public; (vi) services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by the service provider which such person could have known with due diligence to be injurious to life and safety;]

<sup>5</sup> Section 2(6) of CPA 2019

<sup>6</sup> Section 2(c)(i) of CPA 1986

<sup>7</sup> Section 2(6)(i) of CPA 2019

<sup>8</sup>[https://mail.nishithdesai.com/owa/#\\_ftnref8](https://mail.nishithdesai.com/owa/#_ftnref8) Vimal Chandra Grover v Bank of India, AIR 2000 SC 2181.

<sup>9</sup> Section 2(47) of CPA 2019

<sup>10</sup> Section 2(r) of CPA 1986 lists the six types of practices:

(1) the practice of making any statement, whether orally or in writing or by visible representation which,— (i) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model; (ii) falsely represents that the services are of a particular standard, quality or grade; (iii) falsely represents any re-built, second-hand, renovated, reconditioned or old goods as new goods; (iv) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have; (v) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have; (vi) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services; (vii) gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereof:

Provided that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence; (viii) makes to the public a representation in a form that purports to be— (i) a warranty or guarantee of a product or of any goods or services; or (ii) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result, if such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such warranty, guarantee or promise will be carried out; (ix) materially misleads the public concerning the price at which a product or like products or goods or services, have been or are, ordinarily sold or provided, and, for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made; (x) gives false or misleading facts disparaging the goods, services or trade of another person. Explanation.—For the purposes of clause (1), a statement that is— (a) expressed on an article offered or displayed for sale, or on its wrapper or container; or (b) expressed on anything attached to, inserted in, or accompanying, an article offered or displayed for sale, or on anything on which the article is mounted for display or sale; or (c) contained in or on anything that is sold, sent, delivered, transmitted or in any other manner whatsoever made available to a member of the public, shall be deemed to be a statement made to the public by, and only by, the person who had caused the statement to be so expressed, made or contained;

(2) permits the publication of any advertisement whether in any newspaper or otherwise, for the sale or supply at a bargain price, of goods or services that are not intended to be offered for sale or supply at the bargain price, or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement. Explanation.—For the purpose of clause (2), "bargaining price" means— (a) a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise, or (b) a price that a person who reads, hears or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold;

(3) permits— (a) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction as a whole; (b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest;

(3A) withholding from the participants of any scheme offering gifts, prizes or other items free of charge, on its closure the information about final results of the scheme. Explanation.—For the purposes of this sub-clause, the participants of a scheme shall be deemed to have been informed of the final results of the scheme where such results are within a reasonable time published, prominently in the same newspapers in which the scheme was originally advertised;

(4) permits the sale or supply of goods intended to be used, or are of a kind likely to be used, by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by competent authority relating to performance, composition contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods;

(5) permits the hoarding or destruction of goods, or refuses to sell the goods or to make them available for sale or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services

(6) manufacture of spurious goods or offering such goods for sale or adopting deceptive practices in the provision of services.]

<sup>11</sup> Sections 82-87 of CPA 2019, Chapter VI

<sup>12</sup> Section 2 (34) of CPA 2019

<sup>13</sup> Section 2 (36) of CPA 2019- "product manufacturer" means a person who—

(i) makes any product or parts thereof; or

(ii) assembles parts thereof made by others; or

(iii) puts or causes to be put his own mark on any products made by any other person; or

(iv) makes a product and sells, distributes, leases, installs, prepares, packages, labels, markets, repairs, maintains such product or is otherwise involved in placing such product for commercial purpose; or

(v) designs, produces, fabricates, constructs or re-manufactures any product before its sale; or

(vi) being a product seller of a product, is also a manufacturer of such product;

<sup>14</sup> Section 2 (37) of CPA2019- "product seller", in relation to a product, means a person who, in the course of business, imports, sells, distributes, leases, installs, prepares, packages, labels, markets, repairs, maintains, or otherwise is involved in placing such product for commercial purpose and includes—

(i) a manufacturer who is also a product seller; or (ii) a service provider, but does not include—

(a) a seller of immovable property, unless such person is engaged in the sale of constructed house or in the construction of homes or flats;

(b) a provider of professional services in any transaction in which, the sale or use of a product is only incidental thereto, but furnishing of opinion, skill or services being the essence of such transaction;

(c) a person who— (I) acts only in a financial capacity with respect to the sale of the product;

(II) is not a manufacturer, wholesaler, distributor, retailer, direct seller or an electronic service provider;

(III) leases a product, without having a reasonable opportunity to inspect and discover defects in the product, under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor;

<sup>15</sup>[https://mail.nishithdesai.com/owa/#\\_ftnref15](https://mail.nishithdesai.com/owa/#_ftnref15) Section 2 (38) of CPA 2019- product service provider", in relation to a product, means a person who provides any service in respect of such product.

<sup>16</sup> Section 85 of CPA 2019

<sup>17</sup>[https://mail.nishithdesai.com/owa/#\\_ftnref17](https://mail.nishithdesai.com/owa/#_ftnref17) Section 86 of CPA 2019

<sup>18</sup> Section 85 of CPA 2019

<sup>19</sup> Section 2(33) of CPA 2019- "product" means any article or goods or substance or raw material or any extended cycle of such product, which may be in gaseous, liquid, or solid state possessing intrinsic value which is capable of delivery either as wholly assembled or as a component part and is produced for introduction to trade or commerce, but does not include human tissues, blood, blood products and organs.

<sup>20</sup>[https://mail.nishithdesai.com/owa/#\\_ftnref20](https://mail.nishithdesai.com/owa/#_ftnref20) Section 87 of CPA 2019.

<sup>21</sup> Statement of Objects and Reasons of the Consumer Protection Bill, 2019.

<sup>22</sup> Section 15 of CPA 2019.

<sup>23</sup>[https://mail.nishithdesai.com/owa/#\\_ftnref23](https://mail.nishithdesai.com/owa/#_ftnref23) Section 18 of CPA 2019.

<sup>24</sup>[https://mail.nishithdesai.com/owa/#\\_ftnref24](https://mail.nishithdesai.com/owa/#_ftnref24) Section 16 of CPA 2019.

<sup>25</sup> <https://timesofindia.indiatimes.com/india/consumer-bill-draft-removes-healthcare-from-services/articleshow/69935129.cms>

<sup>26</sup>[https://mail.nishithdesai.com/owa/#\\_ftnref26](https://mail.nishithdesai.com/owa/#_ftnref26) Indian Medical Association v. VP Shantha & Ors. 1996 AIR 550

<sup>27</sup> State of Kamataka v. Kamataka Pawn Brokers Association, SLP(C) Nos. 8652-8656 of 2012.

<sup>28</sup>[https://mail.nishithdesai.com/owa/#\\_ftnref28](https://mail.nishithdesai.com/owa/#_ftnref28) Section 74-81 of CPA 2019 (Chapter V)

<sup>29</sup>[https://mail.nishithdesai.com/owa/#\\_ftnref29](https://mail.nishithdesai.com/owa/#_ftnref29) Section 72 of CPA 2019

<sup>30</sup> Section 27 of CPA 1986 vis-a-vs Section 72 f CPA 2019

<sup>31</sup> Section 74 of CPA 2019

<sup>32</sup> Section 81 of CPA 2019

<sup>33</sup>[https://mail.nishithdesai.com/owa/#\\_ftnref33](https://mail.nishithdesai.com/owa/#_ftnref33) Section 34(2)(d) of CPA 2019

<sup>34</sup> Section 35(1) of CPA 2019

## DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.