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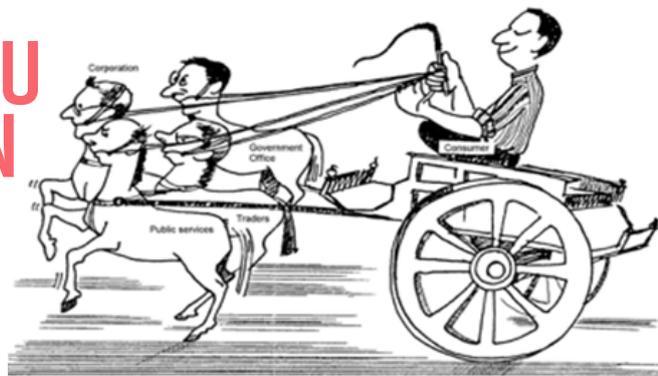
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BIDDING ADIEU TO THE INDIAN CONSUMER PROTECTION ACT, 1986



Is it ever possible?
Why not, if the consumers arise and awake!



GGLA

On August 9, 2019, the new Consumer Protection Bill received the assent of the President of India and became law by replacing the erstwhile Consumer protection Act of 1986. The new Act may be called the Consumer Protection Act, 2019. Every person is a consumer in one way or the other and the enactment of this new Consumer Protection Act has numerous repercussions on the buyer-seller relationships in India. In the Act, a consumer is defined as a person who buys any good or avails a service for a consideration. It does not include a person who obtains a good for resale or a good or service for commercial purpose. The new Act is definitely a boon for the consumers as it has replaced a three decade old Act which failed to address the changing nuances of the Indian commerce including the advancements of E-commerce. The enactment seems like a watertight compartment by including all modes of commercial transactions conducted directly or by online, teleshopping and multi-level marketing or through any other electronic means. But the effectiveness of the enactment

in protecting the rights of consumers engaged in the above mentioned transactions can only be tested in the long run as the Act is in its early infancy. The 2019 Act puts forth a number of changes to the existing rules regarding consumer protection to further safeguard the interests of the consumers. Such crucial changes include the establishment of Central Consumer Protection Authority (CCPA), strict penalties against false or misleading advertisements and the measures to be taken by the Central Government to prevent unfair trade practices in e-commerce and direct selling. In furtherance to this power under the 2019 Act, Central Government issued draft Guidelines on e-commerce for consumer protection on September 16, 2019. These guidelines mandates the e-commerce entities such as Amazon, Flipkart, Myntra etc. to declare and display in their websites the details about the sellers supplying the goods and services, including identity of their business, legal name, principal geographic address, name of website, e-mail address, contact details, including clarification of their business identity,



The beginning
of knowledge is
the discovery of
something we do
not understand
- Frank Herbert



the products they sell, and how they can be contacted by customers. The guidelines also impose liabilities on e-commerce entities and the sellers on various grounds. The Central Consumer Protection Authority (CCPA) is established as per the new Act to promote, protect and enforce the rights of consumers and the authority will be empowered to investigate, recall, refund and impose penalties. It will regulate matters related to violation of consumer rights, unfair trade practices, and misleading advertisements. The authority will have power to impose a penalty on a manufacturer or an endorser of up to 10 lakh rupees and imprisonment for up to two years for a false or misleading advertisement. Another breakthrough change brought in the new enactment is the right of consumers to file a complaint from anywhere in India through electronic means and the hearing or examination of parties can be conducted in person or through video conferencing. There is also a provision for class action law suit for

ensuring that rights of consumers are not infringed whereby a complaint relating to violation of consumer rights or unfair trade practices or false or misleading advertisements which are prejudicial to the interests of consumers as a class, may be forwarded either in writing or in electronic mode, to the District Collector or the Commissioner of regional office or the Central Authority. Moreover the pecuniary jurisdictions of District, State and National Commissions have been enhanced. Accordingly the District Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration does not exceed 1 Crore Rupees and the State Commission have jurisdiction for complaints exceeding 1 Crore to 10 Crore Rupees and the National Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration exceeds 10 Crore Rupees. The new enactment also makes room for product liability action

which may be brought by a consumer against a product manufacturer or a product service provider or a product seller for any harm caused to him on account of a defective product. Mediation as an alternative dispute resolution has been provided under the 2019 Act to expedite the process of dispute resolution. Thus the State Government shall establish a consumer mediation cell to be attached to each of the District Commissions and the State Commissions of that State to mediate and resolve the consumer disputes more amicably and quickly. Thus the Consumer Protection Act 2019, along with the existing rights, proposes many innovative measures to safeguard the interests of the consumers. The E-commerce reign in India will now be regulated by the legal shackles under the new Act whereby the online consumers will be equally protected as the traditional consumers. So long live the new enactment in upholding the rights of consumers who is the king and shall always remain a king in the market place.

DG SHIPPING BANS SINGLE USE PLASTICS



On 16th October 2019, Directorate General of Shipping, India had passed a resolution to ban “single use plastics” both in Indian vessels as well as in foreign vessels when such ships are at a port or place in India, including Indian waters vide DGS order No.5 of 2019. This measure should have been adopted by the Indian

authorities’ long time ago, but it’s always better than never.

On 29th August stake holders meeting was convened at Directorate headed by the chairmanship of Director General of Shipping and Additional Secretary to Government of India. The meeting was attended by representatives of

Indian National Ship Owner Association, Indian Coastal Shipping Association and Recognised Organizations. In the meeting, it was decided that with effect from 2nd October 2019 all possible effort will be made by the Indian shipping to contribute towards achieving the goal of making India and Indian waters free from Single use plastics.

The following are the single use plastic items which are prohibited, to be used on board Indian ships and foreign ships when such ships are at a port or place in India, as indicated in the DGS Order:

Items to be banned with immediate effect

1. Cutlery, plates and cups;
2. Up to 10 litres bottles for water and other drinks;
3. Garbage and shopping bags, and
4. Dispensing containers for cleaning fluids which are less than 10 liter's volume.

Items to be banned with effect from 01.01.2020

1. Bags, trays, containers, food packaging film;
2. Milk bottles, freezer bags, shampoo bottles, ice cream containers;
3. Bottles for water and other drinks, dispensing containers for cleaning fluids, biscuit trays;
4. Hot drink cups, insulated food packaging, protective packaging for fragile items;
5. Microwave dishes, Ice cream tubs, potato chip bags, bottle caps.

Verification of compliance to the above requirement to ensure that Single use plastics are not used/stored on board any Indian ship will be done during surveys, inspections and audits of the Indian ships. A foreign ship intending to enter an Indian port (as defined in



Article 11 of UNCLOS), is required to make a log entry identifying the "Single Use Plastic Items" on board the ship and stating the time, latitude and longitude "when" along with the location of the store where these items are stored prior entering Indian territorial waters.

The measures are taken to ensure safe, secure, environmentally sound, sustainable shipping and in public interest. The DG Shipping also notified that the same proceedings will come into effect immediately, a fine move made by the DG Shipping in devolving sustainable shipping in India



HOT NEWS

SHIPPING CONTAINER PRICES TUMBLE ON INVENTORY GLUT

Prices for new and second hand shipping containers as well as lease rates fell in 3Q19 as factory stocks continued to build up and prospects for container shipping cooled. Container shipping remains



challenged by rising geopolitical uncertainty and a slowdown in the global economy. In response Drewry recently cut its forecast for global container port throughput in 2019 from 3% to 2.6%. Add to this the growing number of boxes stockpiled in depots around China, estimated to be over one million TEU, and it's no surprise that the container manufacturing and leasing sectors posted disappointing results in 3Q19.

Dry box prices fell 5.5% over the quarter while reefer values remained stable. Drewry's Dry Shipping Container Newbuild Price Index, which tracks values of new 40ft high cube containers, dropped four points in the quarter to a value of 82, representing an annual decline of 20%. But the reefer price index, based on the prevailing value of new 40ft high cube reefer containers was unchanged at 89, having declined just 3% over the year. However, container resale prices remained broadly stable.

The falling market affected leasing

rates which were lower for all container types, both compared with the previous quarter and year-on-year. The fall in per diem rates was most severe in the dry box sector with average LTLs 26% lower year-on-year. Drewry does not think per diem rates for all containers will return to their 2018 or even 2017 levels in 2019.

It meant that lease rates lost some ground against newbuild prices and this could result in lessors ordering fewer boxes in the future. This situation may have already started as lessors reduced their purchases by as much as 60% compared to 2Q19, while transport operators were more active, accounted for 59% of newbuild purchases in the quarter. Over the past year leasing sector acquisitions have fallen 22%. In contrast, transport operators were more active and accounted for 59% of newbuild purchases in the quarter.

For the second quarter in succession transport operators purchased more reefers than lessors with Ocean

Network Express and Hapag-Lloyd among those carriers taking delivery of a substantial amount of new equipment. Both lines are expanding their reefer services and needed the additional boxes to satisfy expected demand in 4Q19 and early 2020. However, over the medium term Drewry still expects lessors to increase their share of the global container pool as shipping lines' priorities lie elsewhere, notably in upgrading their IT systems and door-to-door service offering.

The decrease in box prices heaped further pressure on container manufacturers, which despite cutting costs, are barely breaking even in the current trading environment. This year has already seen Singamas withdraw from the dry box building business and further rationalisation of capacity cannot be ruled out.

A glut of newbuild dry box containers and falling values forced manufacturers to slash output which fell over 50% in the quarter, although reefer production remained stable.

Source: Drewry

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