

# Disabled Friendly Consumer Protection

*Proposed Amendments to the Indian  
Consumer Rights Framework*

March 2024

**V | D | H |** Centre for  
Legal Policy

**This report is  
an independent, non-  
commissioned piece of  
work by  
the Vidhi Centre  
for Legal Policy,  
an independent think-  
tank doing legal  
research to help make  
better laws.**

## **About the Authors**

Rahul Bajaj is a Senior Associate Fellow at the Vidhi Centre for Legal Policy.

Somya Jain is a Research Fellow at the Vidhi Centre for Legal Policy.

Husain Anis Khan was a Research Fellow at the Vidhi Centre for Legal Policy.

## Acknowledgments

This report is the product of the contribution of many individuals. We are grateful to Eve Hill, Dipendra Minocha, Archit Verma and Subhash Vashisht for having semi-structured conversations with us that helped us understand the challenges faced by persons with disabilities in accessing consumer goods and services and in strengthening the argument for creating a disability-respecting consumer rights framework in India.

We are grateful to the participants in the informal convening on realizing the right to digital accessibility for persons with disabilities conducted in June, 2022 and in particular to Debanshu Mukherjee who came up with the idea for this report. Further, we are grateful to Amar Jain for reviewing this report and to Sunetra Ravindran for reviewing an earlier iteration of the report.

We are also grateful to many people who, in conversations spanning multiple years, have provided us useful insights on the ideas that form the subject matter of this report: Justice A.K. Sikri, Amar Jain, Turab Chimthanawala, and Ketan Kothari. Most of all, we are grateful to Damini Ghosh for rigorously reviewing the report, holding us accountable and pushing us to do our best and ensuring that the report is its best self.

We also want to thank the interns who worked with Vidhi for the duration of this project for their contributions in shaping this paper: Rihaan Shareef, Saurish Mukherjee, Arushi Verma, Devina Taimni, Ritu Ranjan and Divya Dhanuka.

Thank you all.

# Table of Contents

Section 1: Introduction .....	1
Section 2: Applicable Legal Framework for Consumers with Disabilities .....	3
1. Constitution of India .....	3
2. International Commitments .....	3
3. Consumer Protection Act, 2019 .....	4
4. Rights of Persons with Disabilities Act, 2016 .....	4
Section 3: Key Issues Experienced by Consumers with Disabilities .....	6
1. Inaccessible goods and services .....	6
2. Inadequate complaint/grievance redressal mechanism .....	8
Section 4: Inadequacy of the Existing Legal Framework .....	10
1. Consumer Protection Act, 2019 .....	10
2. Rights of Persons with Disabilities Act, 2016 .....	11
Section 5: Recommendations & Conclusion .....	13
ANNEXURE A: .....	15

## Section 1: Introduction

With the world's largest population, India is also home to the second-largest consumer class<sup>1</sup> in the world, comprising around 47 crore people.<sup>2</sup> The economic reforms of the last three decades have ushered in a sea of change, leading to an exponential increase in the options available for goods and services for consumers in the market.<sup>3</sup> According to a 2019 report of the World Economic Forum, India is currently positioned as one of the fastest growing economies, and is set to attain the status of the third-largest consumer market based on expenditure by 2030.<sup>4</sup> As India is gearing towards tremendous economic and consumer market growth, it is imperative that high priority is accorded to the protection and promotion of the interests of the country's extensive and diverse consumers base.

Consumers play a key role in India's economic landscape. However, they often find themselves at a disadvantaged position stemming from, among others, a lack of awareness, market malpractices and the relentless pursuit of profit by a large number of manufacturers, sellers and service providers (collectively termed as 'businesses').<sup>5</sup> This dynamic places businesses in a dominant position vis-à-vis consumers.<sup>6</sup> To protect consumers from exploitation at the hands of businesses, there are several laws and government led initiatives in place (further elaborated in detail later in the report). Despite these measures, certain segments of consumers find it challenging to access these protections due to factors that place them at an additional disadvantage. This report specifically focuses on one such group - persons with disabilities ('PwDs'), in their roles as consumers, termed as consumers with disabilities ('CwDs').

The United Nations Conference on Trade and Development ('UNCTAD') also recognizes the skewed power dynamics between businesses and consumers, resulting in violations of the rights of consumers.<sup>7</sup> However, the impact of these imbalances is even more pronounced for PwDs as they experience a dual disempowerment: *Firstly*, like any other consumers, they possess lower bargaining power vis-à-vis businesses. *Secondly*, they face both visible and invisible barriers (outlined subsequently in this report) that impede their effective participation in accessing their rights as consumers. Regrettably, there is a dearth of literature that specifically addresses the needs, requirements, challenges and protection of CwDs in India.

According to Census 2011, PwDs constitute approximately 2.21% of India's population.<sup>8</sup> However, it's important to note that this figure may be significantly underestimated.<sup>9</sup> Alternatively, the World Bank

---

<sup>1</sup> The World Data Lab defines the consumer class as those spending at least \$12 per day < <https://worlddata.io/external-how-the-world-consumer-class-will-grow-from-4-billion-to-5-billion-people-by-2031/>> accessed 7th February, 2024.

<sup>2</sup> Juan Caballero and Marco Fengler, *China and India: The future of the global consumer market* <<https://www.brookings.edu/articles/china-and-india-the-future-of-the-global-consumer-market/>> accessed 7th February, 2024.

<sup>3</sup> Katharina Buchholz, *Asia's consumer class is growing. This chart shows how* <<https://www.weforum.org/agenda/2021/10/growth-consumers-asia-indonesia-bangladesh-pakistan-philippines/>> accessed 7th February, 2024.

<sup>4</sup> World Economic Forum, *Future of Consumption in Fast-Growth Consumer Markets: INDIA* <<https://www.weforum.org/press/2019/01/challenges-and-opportunities-emerge-as-india-becomes-third-largest-consumer-market-by-2030/>> accessed 7th February, 2024.

<sup>5</sup> Department of Consumer Affairs, *Consumer Guide: Need of Consumer Protection* <[https://consumeraffairs.nic.in/sites/default/files/file-uploads/consumer\\_information/Consumer%20Handbook.pdf](https://consumeraffairs.nic.in/sites/default/files/file-uploads/consumer_information/Consumer%20Handbook.pdf)> accessed 7th February, 2024.

<sup>6</sup> Ibid.

<sup>7</sup> United Nations Conference on Trade and Development, *Objectives, United Nations Guidelines for Consumer Protection* <[https://unctad.org/system/files/official-document/ditceplpmisc2016d1\\_en.pdf](https://unctad.org/system/files/official-document/ditceplpmisc2016d1_en.pdf)> accessed 7th February, 2024.

<sup>8</sup> Office of Chief Commissioner for Persons with Disabilities, *Disability in India* <<http://www.ccdisabilities.nic.in/resources/disability-india#:~:text=The%20Census%202011%20showed%20that,and%200.24%25%20is%20houseless%20households.>>> accessed 7th February, 2024.

<sup>9</sup> This data was collected at a time when the 1995 Persons with Disabilities (PWD) Act was in force, and may not have fully captured the diverse range of disabilities.

estimates that PwDs comprise 5-8% of the country population.<sup>10</sup> When considering the vast size of the Indian population, the disabled population makes one of the largest combined minority groups in the country.<sup>11</sup> The potential market size for assistive technology designed for PwDs in India alone is estimated to be Rs 4,500 crore<sup>12</sup>, underscoring the economic potential of this category of consumers. According to the World Bank, the exclusion of PwDs from the economy is tantamount to forgoing 5-7% of a country's gross domestic product.<sup>13</sup> Neglecting the needs of this significant demographic means that businesses might overlook a substantial customer base and potentially be violating the anti-discrimination laws protecting the interests of CwDs, as elaborated in the next section.

In this context, this report seeks to contribute to the limited literature on consumer protection for PwDs in India and focuses on the need for enhanced safeguards for CwDs. The report attempts to address the following research questions:

1. Does the current legal system adequately protect the rights of CwDs?
2. What would an ideal framework for consumer protection for PwDs entail?
3. What are the optimal pathways for enhancing consumer protection for PwDs?

The research for this report adopts a doctrinal approach. The report works with existing primary materials, chiefly legislation, case law and published research, in the field of study i.e. disability rights law and consumer rights law. It focuses on modes of reasoning adopted by the legal profession, and its primary audience is participants within the system (judges, practitioners and law students). Additionally, a stakeholder consultation was conducted in June, 2022, titled '*An informal convening on realizing the right to digital accessibility for PwDs*' that provided a foundation for this report.

The report has been divided into five sections. Section 1 (this section) contains the introduction to this report as well as lays down the research questions, methodology and structure of the report. Section 2 provides a broad overview of the prominent legal frameworks that govern the rights of CwDs. Section 3 delves into the challenges faced by CwDs and Section 4 analyses the current legal landscape and its effectiveness in safeguarding the rights of CwDs. Finally, building on the insights from Sections 3 and 4, Section 5 of the report provides recommendations aimed at addressing the key challenges culled out in previous sections of the report and enhancing the overall inclusivity and accessibility of the consumer protection framework for PwDs in India.

---

<sup>10</sup>The World Bank, *People with Disabilities in India: From Commitments to Outcomes* <<https://documents1.worldbank.org/curated/en/577801468259486686/pdf/502090WP0Peopl1Box0342042B01PUBLIC1.pdf>> accessed 7th February, 2024.

<sup>11</sup> Meera Shenoy, *Persons with Disability & the India Labour Market: Challenges and Opportunities* <[https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new\\_delhi/documents/publication/wcms\\_229259.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/publication/wcms_229259.pdf)> accessed 7th February, 2024.

<sup>12</sup> Sumitra Debroy, *Market size of assistive technology for persons with disability is Rs. 4,500 crore* <<https://timesofindia.indiatimes.com/business/india-business/market-size-of-assistive-technology-for-persons-with-disability-is-rs-4500-crore/articleshow/51062327.cms?from=mdr>> accessed 7th February, 2024;  
International Committee of the Red Cross <[https://blogs.icrc.org/new-delhi/wp-content/uploads/sites/93/2019/07/cocreation-teams-em2-18\\_Dec.pdf](https://blogs.icrc.org/new-delhi/wp-content/uploads/sites/93/2019/07/cocreation-teams-em2-18_Dec.pdf)> accessed 7th February, 2024.

<sup>13</sup>The World Bank, *Disability and Child Protection Project* <<http://documents.worldbank.org/curated/en/278621468200671297/pdf/Project0Inform1ncept0Stage010Oct018.pdf>> accessed 7th February, 2024.

### 1. Constitution of India

The Preamble to the Constitution of India secures justice (social, economic and political), liberty, and equality to all citizens, including those with disabilities. These constitutional values are further enshrined in Part III and Part IV of the Constitution, i.e., Fundamental Rights and Directive Principles of State Policy, respectively. Article 14 of the Constitution guarantees the right to equality and outlines the principle of non-discrimination. Article 19 grants certain freedoms to citizens, including the right to freedom of speech and expression, which encompasses the freedom to seek, receive, and impart information.<sup>14</sup> Article 21 ensures the right to life and personal liberty, encompassing the right to know.<sup>15</sup>

Thus, while the rights of consumers and PwDs are not explicitly enshrined in the fundamental rights chapter of the Constitution, they find protection through the golden triangle of Articles 14, 19 and 21 which was affirmed by the Supreme Court of India in *Vikash Kumar v. Union Public Service Commission*. In this case, the Court held that the golden triangle applies with full force and vigour to PwDs.<sup>16</sup> Further, the Directive Principles place responsibility on the State to promote the welfare of the people by securing and protecting a social order in which justice (social, economic and political) informs all institutions of national life<sup>17</sup>, to promote the economic interest of the weaker section of the population and to protect them from social injustice and all forms of exploitation.<sup>18</sup> Article 41, in particular, bears emphasis as it requires the state to secure the right to work, to education and to public assistance in cases of, *inter alia*, disablement.<sup>19</sup>

### 2. International Commitments

Introduced in 1985, the United Nations Guidelines for Consumer Protection ('UNGCP') serve as the guiding principles that set out the primary characteristics of an effective consumer protection mechanism.<sup>20</sup> The general principles of UNGCP include access to essential goods and services, access to adequate information, protection of vulnerable and disadvantaged consumers, protection of their economic interests, promotion of consumer education and effective dispute resolution and redress, among others.<sup>21</sup> These guidelines provide direction to member states of the UNCTAD, including India, in formulating legislation for consumer protection.

Further, the United Nations Convention on the Rights of Persons with Disabilities ('UNCRPD'), of which India is a member, focuses on promotion, protection and full and equal enjoyment of human rights and fundamental freedoms by PwDs.<sup>22</sup> It also casts a general obligation on members to take measures to achieve full realization of the economic, social and cultural rights of PwDs.<sup>23</sup> The UNCRPD upholds accessibility as one of its general principles.<sup>24</sup> The convention further integrates two integral concepts of accessibility: reasonable accommodation and universal design. Reasonable accommodation refers to modification and adjustments to ensure to PwDs the enjoyment of all human rights and fundamental freedoms on equal basis<sup>25</sup>

---

<sup>14</sup> *Ozair Husain v. Union Of India* [AIR 2003 DELHI 103].

<sup>15</sup> *Reliance Petrochemicals Ltd. v. Proprietors of Indian Express Newspapers, Bombay Pvt. Ltd.* [1989 AIR 190].

<sup>16</sup> *Vikash Kumar v. Union Public Service Commission & Ors.* [(2021) 11 S.C.R. 281].

<sup>17</sup> Article 38(1), Constitution of India, 1950.

<sup>18</sup> Article 46, Constitution of India, 1950.

<sup>19</sup> Article 41, Constitution of India, 1950.

<sup>20</sup> Preface, United Nations Guidelines for Consumer Protection, 1985.

<sup>21</sup> Guideline 5, United Nations Guidelines for Consumer Protection, 1985.

<sup>22</sup> Article 1(1), United Nations Convention on the Rights of Persons with Disabilities, 2006.

<sup>23</sup> Article 4(2), United Nations Convention on the Rights of Persons with Disabilities, 2006.

<sup>24</sup> Article 3(f), United Nations Convention on the Rights of Persons with Disabilities, 2006.

<sup>25</sup> Article 2, United Nations Convention on the Rights of Persons with Disabilities, 2006.

and universal design refers to the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.<sup>26</sup>

### 3. Consumer Protection Act, 2019

In 1986, India emerged as one of the first nations to frame a legislation aligned with the UNGCP and enacted the Consumer Protection Act, 1986.<sup>27</sup> With a view to modernise the consumer protection framework, this initial legislation was replaced by the Consumer Protection Act, 2019 ('CPA')<sup>28</sup>, which stands as the primary legal framework for safeguarding the interests of consumers in India.<sup>29</sup> The CPA defines "consumer" as a person who buys any good or avails a service for a consideration.<sup>30</sup> Under CPA, "goods" refer to every kind of movable property including food<sup>31</sup>; "products" means any article or goods or substance or raw material produced for introduction to trade or commerce<sup>32</sup>; and "service" means service of any description which is made available to potential users.<sup>33</sup>

In relation to the consumption of these goods, products and services, CPA provides six rights to consumers including the right to be protected against the marketing of hazardous goods, products or services; right to be informed about their quality, quantity, potency, purity, standard; right to be assured, wherever possible, access to a variety of goods, products or services at competitive prices; right to be heard; right to seek redressal; and right to consumer awareness<sup>34</sup>. The CPA also provides for the establishment of a Central Consumer Protection Authority ('CCPA'), which regulates matters relating to violation of consumer rights and promotes, protects and enforces rights of consumers as a class.<sup>35</sup>

A complaint regarding violation of rights of consumers or unfair trade practices or false or misleading advertisements which are prejudicial to the interests of consumers as a class, can be made to CCPA, district collector or commissioner of a regional office.<sup>36</sup> Separately, complaints in relation to any goods and services involving unfair contract, unfair or restrictive trade practices, excessive pricing, defective goods, deficient services, hazardous goods or product liability claims can be brought before Consumer Disputes Redressal Commissions ('CDRC'), which function as three-tier quasi-judicial agencies at National<sup>37</sup>, State<sup>38</sup> and District<sup>39</sup> levels.

### 4. Rights of Persons with Disabilities Act, 2016

The Rights of Persons with Disabilities Act, 2016 ('RPWDA') is the primary legislation for the protection of rights of PwDs in India. It defines "person with disability" as a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society<sup>40</sup> and includes 21 forms of disabilities under its purview.<sup>41</sup> RPWDA prohibits discrimination in relation to disability which includes distinction, exclusion, restriction of rights by PwDs in

<sup>26</sup> Article 2, United Nations Convention on the Rights of Persons with Disabilities, 2006.

<sup>27</sup> Yojana, Consumer Awareness <<http://yojana.gov.in/Yojana%20December%202017.pdf>

<sup>28</sup> The Department of Consumer Affairs has notified 17 Rules and 6 Regulations under the CPA.

<sup>29</sup> Rajya Sabha Unstarred Question No. 721

<<https://sansad.in/getFile/annex/262/AU721.pdf?source=pqars#:~:text=The%20Consumer%20Protection%20Act%2C%202019,%20at%20State%20level%2C%20and%20>> accessed 7th February, 2024.

<sup>30</sup> Section 2(7), Consumer Protection Act, 2019.

<sup>31</sup> Section 2(21), Consumer Protection Act, 2019.

<sup>32</sup> Section 2(33), Consumer Protection Act, 2019.

<sup>33</sup> Section 2(42), Consumer Protection Act, 2019.

<sup>34</sup> Section 2(9), Consumer Protection Act, 2019.

<sup>35</sup> Section 10(1), Consumer Protection Act, 2019.

<sup>36</sup> Section 10(1), Consumer Protection Act, 2019.

<sup>37</sup> Section 53, Consumer Protection Act, 2019.

<sup>38</sup> Section 42, Consumer Protection Act, 2019.

<sup>39</sup> Section 28, Consumer Protection Act, 2019.

<sup>40</sup> Section 2(s), Rights of Persons with Disabilities, 2016.

<sup>41</sup> While the list of disabilities as outlined in the Act is not exhaustive, this report uses it as the frame of reference for analysis and recommendations.

economic fields.<sup>42</sup> A key facet running through the Act is accessibility, one subset of which is accessibility of consumer goods<sup>43</sup> and services<sup>44</sup> for PwDs. Section 43 of the RPWDA requires the government to promote the development, production, and distribution of universally designed consumer products for PwDs and Section 46 requires both governmental and private service providers to align their services with the accessibility standards established by the Central Government under the Act.

Further, Section 40 of the RPWDA requires the Central Government to publish guidelines to establish the standards of accessibility for the physical environment, transportation, information and communications ('ICT'), including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas.<sup>45</sup> While the term "public facilities and services" has been defined very broadly under RPWDA as including, for instance, medical, health and rehabilitation, banking, finance and insurance, communication and transport<sup>46</sup>, the term 'other facilities and services' has not been defined anywhere in the Act. It is therefore safe to assume that Section 40 refers to 'public facilities and services', as defined in the Act.

The RPWDA also mandates the government to ensure that electronic goods and equipment which are meant for everyday use are available in universal design.<sup>47</sup> Further, the Central Government has notified a range of accessibility standards, including harmonized guidelines and standards for universal accessibility for built environment, bus body code for transportation systems, guidelines for government websites, Bureau of Indian Standards ('BIS') for ICT products and services, as well as standards framed by various government ministries such as Culture, Sports and Civil Aviation.<sup>48</sup>

Another legal principle embodied in the RPWDA is that of reasonable accommodation.<sup>49</sup> The Act explicitly states that a failure to provide reasonable accommodation constitutes discrimination on account of disability.<sup>50</sup> Notably, the Act has been judicially interpreted as extending the responsibility of ensuring accessibility and providing reasonable accommodation to private parties as well.<sup>51</sup> In *Akshat Baldwa v. Yash Raj Films*<sup>52</sup>, the Delhi High Court categorically held that the principle of reasonable accommodation also applies to the private sector.

In cases of violations of rights enshrined under the RPWDA, among other remedies, people have the option to lodge a complaint with the Chief Commissioner for Persons with Disabilities ('CCPD')<sup>53</sup> at the central level or with the State Commissioners for Persons with Disabilities ('SCPD')<sup>54</sup> at the state level. These authorities have the mandate to investigate complaints related to violations of disability rights and take appropriate remedial action in accordance with the provisions of the RPWDA.<sup>55</sup>

---

<sup>42</sup> Section 2(h), Rights of Persons with Disabilities, 2016.

<sup>43</sup> Section 43, Rights of Persons with Disabilities, 2016.

<sup>44</sup> Section 46, Rights of Persons with Disabilities, 2016.

<sup>45</sup> Section 40, Rights of Persons with Disabilities, 2016.

<sup>46</sup> Section 2(x), Rights of Persons with Disabilities, 2016.

<sup>47</sup> Section 42(iii), Rights of Persons with Disabilities, 2016.

<sup>48</sup> Ministry of Social Justice & Empowerment, Final Amendment of Rule 15 of the RPwD Rules 2017 <<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1942363>> accessed 7th February, 2024.

<sup>49</sup> Section 2(y), Rights of Persons with Disabilities, 2016.

<sup>50</sup> Section 2(h), Rights of Persons with Disabilities, 2016.

<sup>51</sup> *Vikash Kumar v. Union Public Service Commission & Ors.* [(2021) 11 S.C.R. 281].

<sup>52</sup> *Akshat Baldwa v. Yash Raj Films* [2023 SCC OnLine Del 195].

<sup>53</sup> Section 74, Right of Persons with Disabilities Act, 2016.

<sup>54</sup> Section 79, Right of Persons with Disabilities Act, 2016.

<sup>55</sup> Section 75 and Section 80, Right of Persons with Disabilities Act, 2016.

## Section 3: Key Issues Experienced by Consumers with Disabilities

Some challenges encountered by CwDs can significantly differ from those faced by able-bodied consumers and some challenges are common, even though they are typically felt more acutely by CwDs. This section will delve into a detailed analysis of the specific challenges that CwDs confront.

### 1. Inaccessible goods and services

The accessibility of goods and services is a *sine qua non* for realizing the rights conferred by the CPA and allowing PwDs to participate in society as equals. At present, there is a paucity of government based studies evaluating the extent of accessibility offered by businesses to CwDs in India. However, other nations have conducted such studies, providing crucial data on this issue. The 2021 Census of the United Kingdom included inquiries about the activities, goods and services provided by private entities to PwDs. The findings revealed that PwDs encounter barriers in accessing various built environments, including supermarkets, restaurants, swimming pools, hairdressers, etc. and ICTs such as online shopping and banking applications, and encounter difficulties in accessing information available with goods and services.<sup>56</sup> Similarly, the Australian Human Rights Commission, in its report, highlighted the inaccessibility of bills, buses, air travel, sports clubs, banking services, security mechanisms, and lifts for PwDs.<sup>57</sup>

The highlighted instances underscore a lack of imaginative planning and design carried out by businesses and their failure to consider PwDs as the end users for 'mainstream' goods and services. The prevailing environments are typically designed with able-bodied individuals in mind, leading to PwDs having to depend on adaptations of existing products and technologies.<sup>58</sup> As a result, critical infrastructure such as buildings, transportation, websites, etc. is often designed without due consideration for the accessibility requirements of this demographic.<sup>59</sup> Research suggests that this oversight also extends to product development processes, where CwDs are not consulted during the various phases of a product's life cycle.<sup>60</sup> Their needs are only taken into account when the focus is explicitly on disability.<sup>61</sup> For example, the needs of persons with restricted mobility may be considered when designing a wheelchair but not when designing a car.

#### (a) Inaccessible goods and products

Accessibility challenges for goods emerge when they are not physically accessible or the necessary support information required for making a purchase is inaccessible. Physical inaccessibility can manifest in various ways for persons with different types of disabilities. For example clothing with buttons and backside closures (without accounting for the needs of those with motor difficulties),<sup>62</sup> standard automobiles without

<sup>56</sup> Office for National Statistics, Disabled people's experiences with activities, goods and services, UK: February to March 2022 <<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabledpeoplesexperienceswithactivitiesgoodsandservicesuk/februarytomarch2022>> accessed 7th February, 2024.

<sup>57</sup> Australian Human Rights Commission, Access for all: Improving accessibility for consumers with disability <[https://humanrights.gov.au/sites/default/files/AHRC\\_2016\\_GPGB\\_access\\_for\\_all.pdf](https://humanrights.gov.au/sites/default/files/AHRC_2016_GPGB_access_for_all.pdf)> accessed 7th February, 2024.

<sup>58</sup> Emiliani, *Assistive Technology (AT) versus Mainstream Technology (MST): The research perspective. Technology & Disability* (2006) <<https://doi.org/10.3233/TAD-2006-18104>> accessed 7th February, 2024.

<sup>59</sup> Akhileshwari Reddy, Damini Ghosh, Namratha Murugesan, Riddhi Dastidar and Sneha Visakha, 'Beyond Reasonable Accommodation: Making Karnataka's Cities Accessible by Design to Persons with Disabilities' <<https://vidhilegalpolicy.in/research/beyond-reasonable-accommodation-making-karnatakas-cities-accessible-by-design-to-persons-with-disabilities/>> accessed 7th February, 2024.

<sup>60</sup> William Peterson, 'Role of Persons with a Disability in the Design Process' <<https://doi.org/10.1310/tsr1502-87>> accessed 12<sup>th</sup> February, 2024.

<sup>61</sup> Carol Kaufman, 'Social Exclusion: A perspective on consumers with disabilities' <[https://books.google.co.in/books?hl=en&lr=&id=wehWCgAAQBAJ&oi=fnd&pg=PA157&dq=products+accessible+for+persons+with+disabilities&ots=EeULYCaqx&sig=EuBp6v0PSMKLb57e5hsnZtOSc0I&redir\\_esc=y#v=onepage&q=products%20accessible%20for%20persons%20with%20disabilities&f=false](https://books.google.co.in/books?hl=en&lr=&id=wehWCgAAQBAJ&oi=fnd&pg=PA157&dq=products+accessible+for+persons+with+disabilities&ots=EeULYCaqx&sig=EuBp6v0PSMKLb57e5hsnZtOSc0I&redir_esc=y#v=onepage&q=products%20accessible%20for%20persons%20with%20disabilities&f=false)> accessed 7th February, 2024.

<sup>62</sup> Neenu Poonia and Pinki, Adaptive clothing for disabled people <<https://www.homesciencejournal.com/archives/2020/vol6issue2/PartE/6-2-21-378.pdf>> accessed 7th February, 2024.

adaptations,<sup>63</sup> or computer accessories, such as keyboards and mouse, without being accompanied by accessibility features, such as large keys and cursors for those who need them.<sup>64</sup> Apart from physical inaccessibility, another major challenge lies in the lack of support information provided with the goods. Access to relevant information is essential for making purchasing decisions<sup>65</sup> and is often considered as a pre-condition for shopping.<sup>66</sup> In situations when such information is not provided in accessible formats such as Braille, audio, large print, sign language etc.,<sup>67</sup> it leads to further exclusion of CwDs.<sup>68</sup>

The lack of accessible support information for essential items such as medicines, food, cosmetics, etc. for persons with visual impairments was also highlighted in a PIL filed by the Kapila and Nirmal Shweta Hingorani Foundation in the Delhi High Court.<sup>69</sup> The Foundation maintained that as persons with visual impairments cannot discern the correct shape, size and colour of tablets, taking medications becomes a challenging task for them. If not provided with necessary information, persons with visual impairments can inadvertently consume wrong medications, which can lead to serious health issues, adverse reactions, and even loss of life. This gap was also recognised by the Food Safety and Standards Authority of India ('FSSAI') in October 2023. The FSSAI issued an advisory to all food business operators urging them to include a QR code on product labels containing information related to product name, shelf life, nutrition facts, vegetarian/non-vegetarian logos, ingredient lists and allergen warnings.<sup>70</sup>

### **(b) Inaccessible services**

Our research indicates that the key factors contributing to service inaccessibility include both the inherent nature of the service and the attitudes of service providers, affecting both online and offline services. For example, a study of complaints registered before the CCPD reveals that PwDs are consistently denied insurance policies<sup>71</sup> and encounter challenges accessing ATMs<sup>72</sup> and other banking services<sup>73</sup>. These challenges can typically be attributed to the lack of awareness and discriminatory attitudes displayed by the service providers. In 2023, a survey of accessibility of ATMs conducted by the Goa Institute of Management found out that none of the surveyed ATMs in Goa were accessible for PwDs.<sup>74</sup>

Similar challenges are observed in digital spaces as well. According to a survey conducted by the Vidhi Centre for Legal Policy, Mission Accessibility and I-STEM, some of the most popular consumer-facing mobile applications in India, including Paytm, Swiggy, Zomato and Flipkart, were found to be significantly

---

<sup>63</sup> Case no. 6222/1141/2016, Office of the Chief Commissioner for Persons with Disabilities.

<sup>64</sup> Sheryl Burgstahle, 'Working Together: People with Disabilities and Computer Technology' <<https://www.washington.edu/doit/working-together-people-disabilities-and-computer-technology>> accessed 7th February, 2024.

<sup>65</sup> Bettman, Johnson, & Payne, 'Consumer decision making' (1991).

<sup>66</sup> Hoffmann and Inderst, 'Price discrimination and the provision of information' <[http://www.wiwi.uni-frankfurt.de/profs/inderst/Theory/info\\_price\\_discrimination\\_oct09.pdf](http://www.wiwi.uni-frankfurt.de/profs/inderst/Theory/info_price_discrimination_oct09.pdf)> accessed 7th February, 2024.

<sup>67</sup> Waddington, 'A disabled market: Free movement of goods and services in the EU and disability accessibility' <[https://cris.maastrichtuniversity.nl/ws/portalfiles/portal/72537873/waddington\\_2009\\_a\\_disabled\\_market\\_free\\_movement.pdf](https://cris.maastrichtuniversity.nl/ws/portalfiles/portal/72537873/waddington_2009_a_disabled_market_free_movement.pdf)> accessed 7th February, 2024.

<sup>68</sup> Eskytè, 'Disabled People's Vulnerability in the European Single Market: The Case of Consumer Information' <<https://doi.org/10.1007/s10603-019-09422-3>> accessed 7th February, 2024.

<sup>69</sup> *The Kapila and Nirmal Hingorani Foundation & Ors. v. Union Of India & Ors.* [W.P.(C) 5985/2023].

<sup>70</sup> File no. SS-M017/1/2023, Food Safety and Standards Authority of India <<https://www.fssai.gov.in/upload/advisories/2023/10/6530e9d74cd4bAdvisory-1.pdf>> accessed 7th February, 2024.

<sup>71</sup> Case no. 114/1092/12-13, Office of the Chief Commissioner for Persons with Disabilities.

<sup>72</sup> Case no. 9900/1102/2018, Office of the Chief Commissioner for Persons with Disabilities.

<sup>73</sup> Case no. 134 76/1102/2022, Office of the Chief Commissioner for Persons with Disabilities.

<sup>74</sup> Hindustan Times, 'No ATMs in Goa meet RBI's accessibility guidelines: Survey' <<https://www.hindustantimes.com/cities/others/goa-institute-of-management-and-confederation-of-indian-industry-survey-finds-lack-of-accessibility-features-in-atms-for-disabled-persons-101685366808537.html>> accessed 7th February, 2024.

inaccessible to PwDs.<sup>75</sup> The CCPD and SCPD have also observed a deficiency of accessibility features in prominent consumer facing websites and applications such as Practo<sup>76</sup>, Make My Trip<sup>77</sup> and Uber<sup>78</sup>. Additionally, an evaluation of the accessibility of banking websites in India revealed that none of the Indian banks complied with the Web Content Accessibility Guidelines of the World Wide Web Consortium.<sup>79</sup>

## 2. Inadequate complaint/grievance redressal mechanism

Accessible consumer complaint options are very crucial for the protection of the interests of CwDs who heavily rely on essential products and services to lead independent lives. When these are inadequate or faulty, it can severely impact their well-being and quality of life.

Consider a scenario where a person orders food using a food delivery app and discovers that the food contains rats. In the case of an able-bodied person, registering a complaint is relatively straightforward through the customer service options provided by the delivery app. However, for a person with visual impairment, the ability to register a grievance depends on the accessibility of the complaint mechanism. If the process is not in an accessible format, they simply cannot report the issue, let alone obtain redress. Similarly, the requirement of clicking pictures of the problem and submitting the same for the complaint to be processed is not possible to comply with for persons with visual impairment. Further, for a person with speech impairment, if only telephone customer service is available, the person may encounter challenges in registering a complaint. Platforms like food delivery applications are widely used and essential for PwDs. Failure to consider accessibility at various levels when designing the life cycle of an order on such platforms can compromise the quality of life for PwDs and limit their ability to enjoy the same level of service as others.

In situations where consumers encounter defects or deficiencies in goods and services, they typically have two avenues for seeking resolution: they can either directly approach the customer service of the concerned business if the business has customer care in place or other legal/government led mechanism such as CDRCs. However, these options are often inadequate and inaccessible to PwDs.

For instance, the Telecom Regulatory Authority of India in 2018 flagged several accessibility challenges that PwDs face while availing customer care services from telecommunication and broadcasting service providers. These challenges included problems such as lack of accessible online options for registering complaints and absence of trained executives at customer care centres to takedown the grievances of PwDs.<sup>80</sup> In 2022, the Department of Consumer Affairs (‘DCA’), under the Ministry of Consumer Affairs, Food & Public Distribution, also noted that deficiency in customer support services is one of the most significant issues experienced on ride-hailing platforms.<sup>81</sup> If such situations are problematic for the general population, it would undoubtedly be even more challenging for those with disabilities.

Further, the complaint mechanisms of CDRCs, much like the customer support services of businesses, appear to be inadequate. For example, a study conducted by the Vidhi Centre for Legal Policy of the Karnataka State

---

<sup>75</sup> Ameen Jauhar, Jai Vipra, Rahul Bajaj, Kartik Sawhney, Shakul Raj Sonker, Sunil Choudhary, Akashdeep Bansal, Srinivasu Chakravarthula, Amar Jain and Turab Chimthanawala, ‘*Making the Digital Eco-System Disabled Friendly*’ <<https://vidhilegalpolicy.in/research/making-the-digital-eco-system-disabled-friendly/>> accessed 7th February, 2024.

<sup>76</sup> Case no. 13205/1102/2022, Office of the Chief Commissioner for Persons with Disabilities.

<sup>77</sup> Case no. 13242/1101/2022, Office of the Chief Commissioner for Persons with Disabilities.

<sup>78</sup> Case No. 996/1108/2019/06, Office of the Delhi State Commissioner for Persons with Disabilities.

<sup>79</sup> Charan Singh, *Financial Inclusion of the Disabled* <[https://repository.iimb.ac.in/bitstream/123456789/10782/1/WP\\_IIMB\\_556.pdf](https://repository.iimb.ac.in/bitstream/123456789/10782/1/WP_IIMB_556.pdf)> accessed 7th February, 2024.

<sup>80</sup> Telecom Regulatory Authority of India, Making ICT accessible for Persons with Disabilities <<https://www.trai.gov.in/sites/default/files/RecommendationsICT09072018%2C%20.pdf>> accessed 7th February, 2024.

<sup>81</sup> Ministry of Consumer Affairs, Food & Public Distribution, All ride-hailing platforms directed to become convergence partner in the National Consumer Helpline for better grievance redressal <<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1824260>> accessed 7th February, 2024.

Commission revealed multiple accessibility challenges within the commission complex.<sup>82</sup> The complex lacked essential accessibility features including ramps, signage, a help desk, reception area, or a building map to guide litigants, and its narrow corridors posed limitations for wheelchair access.<sup>83</sup>

In an effort to enhance accessibility to CDRCs, the DCA introduced the eDaakhil portal in 2020, allowing for online filing of complaints. However, the portal lacks basic accessibility features such as having a clearly labelled button to get to the complaints portal, skip to main content option, text size changing options, changing colour schemes and changing icons—features typically found on government websites. This lack of accessibility renders the portal largely inaccessible for PwDs. To file a complaint on eDaakhil, a person needs to log in, but the login process includes captcha requirements without the option of an audio captcha, making it impossible for persons with visual impairments to file a complaint, akin to a disclaimer stating ‘no people with visual impairment allowed’. Similar captcha requirements are present for other facilities on the portal, such as checking the case status.

As an alternative redressal option, the DCA also provides the National Consumer Helpline; however, the online registration of grievances on this platform also requires a captcha without an audio alternative, posing challenges for PwDs. Further, due to lack of accessibility features, these websites also violate the Guidelines for Indian Government Websites 3.0 standards which are based on the W3C’s Web Content Accessibility Guidelines (WCAG 2.1) and RPWDA.<sup>84</sup>

---

<sup>82</sup>Reshma Sekhar, Shreya Tripathy, Pooja Sastry and Preeta Dhar, ‘*Re-Imagining Consumer Forums*’ <<https://vidhilegalpolicy.in/research/re-imagining-consumer-forums/>> accessed 7th February, 2024.

<sup>83</sup> Ibid.

<sup>84</sup> Guidelines for Indian Government Websites 3.0  
<https://cdnbbsr.s3waas.gov.in/s3c92a10324374fac681719d63979d00fe/uploads/2024/02/2024022987.pdf>

## Section 4: Inadequacy of the Existing Legal Framework

The challenges faced by PwDs, as identified in the previous section, persist despite the existence of laws aimed at safeguarding the rights of consumers and PwDs. This highlights the gaps in existing laws, which will be discussed in detail in this section.

### 1. Consumer Protection Act, 2019

The CPA is the chief legislation for the protection of the rights of consumers, but the Act in its present form has no specific provisions for PwDs. While the CPA does not explicitly exclude CwDs from its application, it falls short in providing additional protections to address the specific challenges faced by these consumers that go beyond those encountered by able-bodied individuals. The broad issues identified in the previous section remain unaddressed by the CPA in several key ways:

#### *(a) Lack of provisions ensuring accessibility of goods and services*

In specific, the Act does not ensure accessibility of goods and services for CwDs. As noted earlier, both universal design and reasonable accommodation ensure accessibility. The duty to provide universal design is *ex ante*, requiring accessibility to be integrated before a PwD seeks access to a good or service. On the other hand, the duty to provide reasonable accommodation is *ex nunc*, coming into play when anyone wants to access non-accessible situations and contexts.<sup>85</sup> While it is acknowledged that all goods and services cannot be universally designed, in such situation the option to avail reasonable accommodation should be there so that adjustments or modifications can be made at a later stage for making the good or service accessible. In the absence of these principles, the CPA fails to effectively protect the accessibility rights of CwDs. The General Comment to Article 5 of the UNCRPD which pertains to Equality and Non-Discrimination, also emphasises that PwDs should have equal access to all goods, products and services that are open or provided to the public in a manner that ensures their effective and equal access. Denial of such access should be viewed in the context of discrimination.<sup>86</sup>

#### *(b) Absence of Mandates for Accessible Support Information Formats*

While the CPA and Consumer Protection (General) Rules, 2020 include provisions for the consumer's right to be informed about product characteristics such as quality, quantity, purity, etc.,<sup>87</sup> and to receive invoices, bills, cash memos, or receipts containing specific details<sup>88</sup>, there is no stipulation for these requirements to be in an accessible format. This omission leaves CwDs dependent on businesses to voluntarily provide information in accessible formats.

#### *(c) Lack of adequate complaint/grievance redressal mechanism*

While the CPA provides a detailed framework for registering complaints, it fails to guarantee accessibility for CwDs at all stages of the grievance redressal process. This includes aspects such as the format of complaints, methods of complaint registration, and serving of notices, among others. Principle 3 of the International Principles and Guidelines on Access to Justice for Persons with Disabilities emphasizes the right of PwDs to

---

<sup>85</sup> Marcello Sacco, 'Article 5: Equality and Non-Discrimination'

<<https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRPD/GC/Equality/SaccoMarcello.docx>> accessed 7th February, 2024.

<sup>86</sup> Committee on the Rights of Persons with Disabilities, General comment on Article 9: Accessibility, CRPD/C/11/3 <<https://www.ohchr.org/Documents/HRBodies/CRPD/GC/DGCArticle9.doc#:~:text=Article%209%20of%20the%20Convention%20clearly%20enshrines%20accessibility%20as%20the,an%20equal%20basis%20with%20others.>>> accessed 7th February, 2024.

<sup>87</sup> Section 2(9)(ii), Consumer Protection Act, 2019.

<sup>88</sup> Rule 5, Consumer Protection (General) Rules, 2020.

receive appropriate procedural accommodations.<sup>89</sup> However, this crucial aspect is absent from the Indian consumer protection framework.

## **2. Rights of Persons with Disabilities Act, 2016**

In contrast to CPA, RPWDA establishes a comprehensive framework for safeguarding the rights of PwDs. It encompasses provisions addressing non-discrimination, accessibility, reasonable accommodation and universal design. Despite these provisions, the implementation of the RPWDA and its effectiveness in protecting the interests of PwDs as a separate class of consumers appears to be inadequate. In this context, there are three primary reasons why the RPWDA may not be the most suitable avenue for safeguarding the interests of CwDs and providing them with an effective grievance redressal mechanism, particularly when compared to the CPA. These reasons are detailed below.

### ***(a) Lack of powers of the adjudicatory authority***

The first reason has to do with the institutional competence and powers of the concerned adjudicatory authorities. The CCPD and SCPD which are the grievance redressal bodies created by the RPWDA, have to deal with many cases of the contravention of the RPWDA and are not specialised in dealing with issues of defects and deficiencies in goods and services, as the CDRCs are. Specifically, based on our semi-structured conversations with a stakeholder, it has been observed that only a limited number of cases have been filed with CCPD regarding issues of inaccessible products or services. Further, directions by the CCPD/SCPDs are arguably only of a recommendatory nature<sup>90</sup>, with no consequences in case they are not complied with. On the other hand, non-compliance with the order of CDRCs can result in imprisonment of one month to three years or fine of Rs. 25,000 to Rs. 1,00,000 or both.<sup>91</sup>

### ***(b) Ineffectiveness of penalties and compensation***

Relatedly, the imposition of a penalty in case of contravention under RPWDA is a rare occurrence. In this regard, it bears mention that the RPWDA envisages a penalty up to Rs. 10,000 in case of the first contravention and between Rs. 50,000 and 5,00,000 in case of subsequent contraventions.<sup>92</sup> In practice, this penalty is rarely imposed. On the other hand, the CDRCs are empowered to impose a penalty between Rs. 1,00,000<sup>93</sup> and 50,00,000<sup>94</sup> in cases of violation of CPA. For the protection of CwDs, such penalties can serve as a major deterrent, and therefore effectively discourage further instances of inaccessibility.

Further, CDRCs are also empowered to award compensation of any amount, based on the facts and circumstances of a given case.<sup>95</sup> For example, in 2020, the family of an air crash victim was awarded a record compensation of Rs. 7.6 crore under the CPA.<sup>96</sup> To be sure, this appears to have been an extreme case and compensation amounts of such a high quantum are rare. However, this example is being cited only to demonstrate the wide amplitude of the powers that CDRCs possess to compensate consumers who have been unduly wronged, in accordance with the settled position of law.<sup>97</sup> In contrast, the RPWDA lacks any provision for granting compensation to PwDs.

---

<sup>89</sup> United Nations Human Rights Special Procedures, International Principles and Guidelines on Access to Justice for Persons with Disabilities <<https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2020/10/Access-to-Justice-EN.pdf>> accessed 7<sup>th</sup> February, 2024.

<sup>90</sup> Section 75(b), Right of Persons with Disabilities Act, 2016.

<sup>91</sup> Section 72(1), Consumer Protection Act, 2019.

<sup>92</sup> Section 89, Right of Persons with Disabilities Act, 2016.

<sup>93</sup> Section 90(1)(a), Consumer Protection Act, 2019.

<sup>94</sup> Section 89, Consumer Protection Act, 2019.

<sup>95</sup> Section 39(1)(d), Consumer Protection Act, 2019; *Charan Singh v. Healing Touch Hospital and Ors.* [(2000) 7 SCC 668].

<sup>96</sup> *Triveni Kodkany and Ors. v. Air India Limited and Ors.* [2020 SCC OnLine SC 876].

<sup>97</sup> In *Charan Singh v. Healing Touch Hospital and Ors.* [(2000) 7 SCC 668], the Supreme Court has laid down the principles for determining the quantum of compensation under the CPA: Calculation of damages under CPA depends on the facts and circumstances of each case. While awarding compensation, a consumer forum has to take into account all

Even in the absence of a legislative framework for the protection of consumers with disabilities, the CDRCs have granted redress to PwDs who have been aggrieved in recognition of their disability: In *Air India v. Gokul Chandra*<sup>98</sup>, a passenger with disabilities was denied pre-booked seats and wheelchair assistance at Delhi Airport. The National CDRC awarded the passenger Rs. 5,00,000 in compensation and Rs. 25,000 in costs, recognizing the consumer's rights and needs. Similarly, in *Punjab Urban Planning and Development Authority v. Darshana Devi*<sup>99</sup>, a woman with disability applied for housing under the "disabled persons" category and paid 25% of the amount. However, after four years, she was not allotted the house within the stipulated time. The Sangrur District CDRC ordered a refund of the money, along with a 12% per annum interest to her.

In another case<sup>100</sup> where an insurance claim for a child with a disability was denied, Maharashtra State CDRC ordered the insurance amount to be provided, along with a compensation of Rs. 2,50,000 for the well-being of the child with disability because of the arbitrary decisions made by the insurance company. In a case before Tiruvallur District CDRC, where there were no ramps in a cinema hall, the cinema hall operator was ordered to pay Rs. 1,00,000 in compensation to the aggrieved person.<sup>101</sup>

### (c) *Need for a sectoral focus*

Implicit within the existing legislative framework under the RPWDA is the idea that it cannot comprehensively address the detailed rights of different subject matters. Section 40 of the RPWDA, read with Rule 15 of the Rights of Persons with Disabilities Rules, 2017, makes accessibility a sectoral endeavour. This framework appears to be premised on the recognition that the needs and challenges of each sector are different and hence there is a need for sectoral interventions to promote accessibility. As mentioned earlier, sectoral standards on accessibility have been framed in areas such as civil aviation, culture and sports. And yet, no sector-specific guidelines have been framed for goods and services, or for 'electronic goods and equipment which are meant for everyday use'. The government has not framed any standards that specify how 'universally designed consumer products and services' are to be promoted.

The closest thing to such guidelines that currently exists is the BIS Standards for accessibility of ICT goods and services.<sup>102</sup> While these standards have a broad scope, they only pertain to ICT products and services. PwDs may encounter accessibility issues in non-ICT products and services as well. For example, consider pregnancy test kits, which are inaccessible to persons with visual impairments as they require a sighted person to interpret the test result. These kits do not fall under the category of ICT products, yet they pose accessibility challenges.

Further, according to the Allocation of Business Rules, 1961 ('AOB'), the DEPWD is the nodal Department for policy, planning and coordination of programmes for PwDs.<sup>103</sup> However, the AOB clarifies that each Central Ministry and Department has to discharge nodal responsibilities concerning its sector, including the overall management and monitoring of the programmes in that sector. These rules therefore support the argument that it is the DCA which would be responsible for ensuring the accessibility of consumer products and services.

---

relevant factors and assess compensation on the basis of accepted legal principles, in moderation. It is for the consumer forum to grant compensation to the extent it finds it reasonable, fair and proper in the facts and circumstances of a given case according to the established judicial standards where the claimant is able to establish his charge.

<sup>98</sup> *Air India v. Gokul Chandra* [NCDRC Appeal No. 399 Of 2017].

<sup>99</sup> *Punjab Urban Planning and Development Authority v. Darshana Devi* [NCDRC Revision Petition No. 499 Of 2017].

<sup>100</sup> *Life Insurance Corporation v. Anil Laxman Matade* [Revision Petition No. 1849 Of 2019].

<sup>101</sup> S. Suresh vs. The Manager, Gokulam Cinemas [Case No. CC/14/2023].

<sup>102</sup> Bureau of Indian Standards, IS 17802 Part 1 2021 & IS 17802 Part 2 2022

<[https://standardsbis.bsbedge.com/BIS\\_SearchStandard.aspx?keyword=Accessibility%20for%20the%20ICT%20Pr oducts%20and%20Services&id=0](https://standardsbis.bsbedge.com/BIS_SearchStandard.aspx?keyword=Accessibility%20for%20the%20ICT%20Pr oducts%20and%20Services&id=0)> accessed 13<sup>th</sup> February, 2024.

<sup>103</sup> Rule 4, Department of Empowerment of Persons With Disabilities (Divyangjan) (Divyangjan Sashaktikaran Vibhag), Government of India (Allocation of Business) Rules, 1961.

## Section 5: Recommendations & Conclusion

Designing goods, services, and grievance redressal mechanisms with accessibility in mind will facilitate effective participation of PwDs in their role as consumers. Consequently, CwDs will be able to make purchases as per their choices without the fear of barriers and can approach appropriate authorities when they are wronged. Achieving such inclusive consumer protection requires careful forward planning.<sup>104</sup> In light of the challenges identified in the preceding sections, this report puts forth the following recommendations to achieve these goals.

**1. Amendment in the Consumer Protection Act, 2019:** Based on the analysis presented in Section 4 of the report, it is evident that the CPA is the more suitable choice for incorporating the rights of CwDs into its framework when compared to the RPWDA. The CPA's broad consumer-centric scope, legal enforceability, and potential for encompassing accessibility and reasonable accommodation provisions make it the preferred avenue to offer comprehensive protection for PwDs as consumers. The National Centre for Promotion of Employment for Disabled People has also recommended a review of all consumer protection legislations including CPA and amendment as per the provisions and spirit of RPWD Act 2016 and UNCRPD.<sup>105</sup>

Therefore, this report recommends broadening the scope of the existing CPA to better protect the interests of CwDs and to align with the rights enshrined in the RPWDA. By incorporating provisions that specifically address the needs and rights of PwDs, the CPA can provide additional support to CwDs and ensure their full inclusion in the consumer protection framework. The detailed list of suggested amendments are annexed to this report in a tabular format as *Annexure A*. The amended CPA can serve as a template for creating disability-friendly laws across sectors.

**2. Survey of challenges faced by consumers with disabilities:** As noted earlier there is a dearth of literature on CwDs in India and the government has yet to initiate any survey aimed at evaluating the satisfaction levels or challenges faced by CwDs. To bridge this gap, it is recommended to conduct a dedicated survey or integrate relevant questions into existing national and state-level surveys, focusing on the challenges faced by PwDs, exploring their unique needs and quantifying the number of PwDs accessing diverse goods and services. This exercise is imperative for informed policy and legal interventions, fostering robust consumer protection for PwDs.

**3. Consumer awareness and education for persons with disabilities:** A crucial step toward empowering PwDs is to educate them about their consumer rights and provide information in an accessible format. Currently, the Consumer Handbook issued by the DCA serves as a comprehensive guide on consumer rights, responsibilities, and protections against exploitation.<sup>106</sup> However, it lacks specific information tailored for CwDs. To address this gap, it is recommended to update all consumer handbooks and information booklets, incorporating a distinct section that outlines the rights of CwDs. Drawing inspiration from the Australian Competition and Consumer Commission, guidelines should be established to assist institutions in formulating comprehensive consumer protection guidelines specifically designed for PwDs.<sup>107</sup> These guidelines should cover information on the consumer rights of

---

<sup>104</sup>Carol Kaufman, 'Social Exclusion: A perspective on consumers with disabilities' <[https://books.google.co.in/books?hl=en&lr=&id=wehWCgAAQBAJ&oi=fnd&pg=PA157&dq=products+accessible+for+persons+with+disabilities&ots=EelULYCaqx&sig=EuBp6v0PSMKLb57e5hsnZtOSc0I&redir\\_esc=y#v=onepage&q=products%20accessible%20for%20persons%20with%20disabilities&f=false](https://books.google.co.in/books?hl=en&lr=&id=wehWCgAAQBAJ&oi=fnd&pg=PA157&dq=products+accessible+for+persons+with+disabilities&ots=EelULYCaqx&sig=EuBp6v0PSMKLb57e5hsnZtOSc0I&redir_esc=y#v=onepage&q=products%20accessible%20for%20persons%20with%20disabilities&f=false)> accessed 7th February, 2024.

<sup>105</sup> National Committee on the Rights of Persons with Disabilities, 100+ points on NITI Aayog's Three Year Action Agenda to make it inclusive for persons with disability <<https://ncpedp.org/documents/DisabilityInclusioninNITIAayogAgenda.pdf>> accessed 7th February, 2024.

<sup>106</sup> Department of Consumer Affairs, Consumer Handbook <[https://consumerhelpline.gov.in/Consumer\\_Handbook.pdf](https://consumerhelpline.gov.in/Consumer_Handbook.pdf)> accessed 7th February, 2024.

<sup>107</sup> Angraini, & Notoprayitno, 'Protection of Consumers with Disabilities in The Public Services Sector (Legal Comparative with Australia)' <<https://doi.org/10.29244/jcs.8.1.1-14>> accessed 7th February, 2024.

PwDs and offer guidance on filing complaints against violators.

4. **Sensitisation and training of businesses:** There is a critical need to educate and sensitize businesses about the unique needs and requirements of PwDs, considering the substantial population they represent. Overlooking this demographic can result in missed opportunities for businesses. Research demonstrates a positive impact of enhanced service quality on customer satisfaction and sales<sup>108</sup> and personalization of services is also considered as a crucial factor influencing perceived service quality and customer satisfaction.<sup>109</sup> High perceived service quality leads to positive word-of-mouth and customer loyalty while poor service generates disproportionately lower satisfaction and negative word-of-mouth.<sup>110</sup> Therefore, training should be provided to businesses for effective implementation of accessibility laws and standards, as recommended by the Committee on the Rights of Persons with Disabilities.<sup>111</sup>
5. **Incentives for accessible goods and services:** It is pertinent to mention that at present the DCA lacks any beneficiary-oriented scheme.<sup>112</sup> To encourage the accessibility of goods and services, it is recommended that the DCA explores the possibility of introducing incentives. By incentivizing businesses to enhance accessibility, there is a greater likelihood that they will proactively make their goods and services more accessible.

In conclusion, access to goods and services plays a critical role in enabling full and equal participation in society, bolstered by robust consumer protection measures. Despite the existence of comprehensive laws designed to protect the rights and interests of consumers and PwDs, it is evident that CwDs still face significant accessibility challenges, hindering their ability to lead independent and comfortable lives comparable to those of able-bodied individuals. To address these challenges, this report highlights the importance of implementing legal mandates as an effective strategy among other measures. A strong consumer protection framework aligned with the RPWDA is essential to ensure that both goods and services, as well as complaint/grievance redressal mechanisms are accessible to CwDs.

It is our sincere hope that the recommendations outlined in this report will be taken into serious consideration and put into action. By doing so, we can work towards establishing a consumer protection framework that is genuinely inclusive and supportive of PwDs. Ultimately, our vision is for PwDs to become integral participants in India's consumer rights framework, ensuring that their needs and rights as consumers are fully recognized and respected in the future.

---

<sup>108</sup> Go'mez, 'Customer Satisfaction and Retail Sales Performance: An Empirical Investigation' (2004).

<sup>109</sup>Mittal and Lassar, 'The role of personalization in service encounters' (1996) <[https://psycnet.apa.org/doi/10.1016/S0022-4359\(96\)90007-X](https://psycnet.apa.org/doi/10.1016/S0022-4359(96)90007-X)> accessed 7th February, 2024.

<sup>110</sup> Ibid.

<sup>111</sup> Committee on the Rights of Persons with Disabilities, General comment on Article 9: Accessibility, CRPD/C/11/3 <<https://www.ohchr.org/Documents/HRBodies/CRPD/GC/DGCArticle9.doc#:~:text=Article%20of%20the%20Convention%20clearly%20enshrines%20accessibility%20as%20the,an%20equal%20basis%20with%20others.>> accessed 7th February, 2024.

<sup>112</sup>Office of the Chief Commissioner for Persons with Disabilities (Divyangjan), Annual Report 2019-20 <[http://www.ccdisabilities.nic.in/sites/default/files/2022-03/CCPD\\_AR\\_English\\_2019-20%20for%20Website.pdf](http://www.ccdisabilities.nic.in/sites/default/files/2022-03/CCPD_AR_English_2019-20%20for%20Website.pdf)> accessed 7th February, 2024.

## ANNEXURE A:

Existing Provision	Proposed Amendment	Rationale
<b>1. Right to accessible goods, services and products as consumer rights</b>		
<p><b><i>Section 2 – Definitions</i></b></p>	<ul style="list-style-type: none"> <li>● Insert the definition of “reasonable accommodation” as provided under Section 2(y) of the RPWDA.</li> <li>● Insert the definition of “universal design” as provided under Section 2(ze) of the RPWDA.</li> </ul>	<p>These definitions will provide a foundational framework for understanding and interpreting the proposed accessibility rights under the CPA and will ensure that these rights are interpreted and applied uniformly.</p>
<p><b><i>Section 2(9) - "consumer rights" include,</i></b></p> <p>(i) the right to be protected against the marketing of goods, products or services which are hazardous to life and property;</p> <p>(ii) the right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices;</p> <p>(iii) the right to be assured, wherever possible, access to a variety of goods, products or services at competitive prices;</p> <p>(iv) the right to be heard and to be assured that consumer's interests will receive due consideration at appropriate fora;</p> <p>(v) the right to seek redressal against unfair trade practice or restrictive trade practices or unscrupulous exploitation of consumers; and</p> <p>(vi) the right to consumer awareness.</p>	<ul style="list-style-type: none"> <li>● Insert Clause (vii) to provide the right to accessible goods, products or services as an ex-ante provision and/or right to reasonable accommodation in goods, products or services as an ex-nunc provision.</li> <li>● Insert an Explanation under Clause (iii) to clarify that variety of goods and products include universally designed goods and products.</li> </ul>	<p>The inclusion of the right to accessible goods, products, and services as a separate consumer right within the CPA will ensure that it receives equal promotion, protection, and implementation alongside other six consumer rights enshrined within the legislation. A complaint regarding its violation can be made to CCPA, district collector or regional commissioner (in accordance with Section 17 of the CPA).</p>
<p><b><i>Section 2(11) – "deficiency"</i></b></p> <p>means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a</p> <p>contract or otherwise in relation to any service and includes—</p>	<p>Insert Clause (iii) to add “failure to provide accessibility or reasonable accommodation in services” as a deficiency in service.</p>	<p>Incorporating the failure to provide accessibility or reasonable accommodation within the definition of 'deficiency in services' will empower a CwD to approach CDRCs in case of denial of reasonable accommodation in services. This will be in line with Section 46 of the RPWDA.</p>

Existing Provision	Proposed Amendment	Rationale
<p>(i) any act of negligence or omission or commission by such person which causes loss or injury to the consumer; and</p> <p>(ii) deliberate withholding of relevant information by such person to the consumer.</p>		
<b>2. Accessible support information</b>		
<p><b>Section 2(9) - "consumer rights" includes,</b></p> <p>(ii) the right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices;</p>	<p>Insert a Proviso/Explanation specifying that all requirements under 2(9)(ii) must be made available in accessible formats for CwDs.</p>	<p>The will ensure that CwDs have equal access to essential information that is necessary for them to make informed choices.</p>
<p><b>Section 18 - Powers and functions of Central Authority</b></p> <p>(1) The Central Authority shall—</p> <p>(a) protect, promote and enforce the rights of consumers as a class, and prevent violation of consumers rights under this Act;</p> <p>(b) prevent unfair trade practices and ensure that no person engages himself in unfair trade practices;</p> <p>(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 thereunder;</p> <p>(d) ensure that no person takes part in the publication of any advertisement which is false or misleading.</p>	<p>Insert a Clause (e) to empower the Central Authority to ensure that advertisements are not inaccessible for CwDs.</p>	<p>Accessible advertisements will ensure that CwDs have equal access to promotional materials and product information.</p>
<p><b>The Consumer Protection (General) Rules, 2020:</b></p> <p><b>Rule 5 - Manner of issuing invoice or bill or cash memo or receipt for goods sold or services rendered.–</b></p> <p>(1) Every invoice, bill, cash memo or receipt for goods sold or services rendered, issued by a seller shall have the following minimum particulars, namely – <i>see footnote</i>.<sup>113</sup></p>	<p>Insert a proviso requiring that where an invoice, bill, cash memo or receipt issued by a seller is in electronic form, the same should be accessible for PwDs.</p> <p>Insert another proviso requiring that where an invoice, bill, cash memo, or receipt is issued by a seller, it shall be requisite for the seller to ensure that such documentation is made accessible for PwDs upon the</p>	<p>This proviso ensures that sellers are obligated to provide accessible documentation to CwDs upon request.</p>

<sup>113</sup> Clause (a) to (l) under Rule 5(1) of the Consumer Protection (General) Rules, 2020.

Existing Provision	Proposed Amendment	Rationale
Provided that where such invoice, bill, cash memo or receipt is issued by a seller in electronic form, the signature of the seller is not required.	consumer disclosing their disability status to the seller.	
<b>3. Accessible grievance redressal mechanism</b>		
<b>Section 2(6) - "complaint" means</b> any allegation in writing, made by a complainant for obtaining any relief provided by or under this Act.	Amend the definition of "complaint" to include more disabled-friendly formats of complaints, such as braille, voice recordings etc.	Registering a complaint serves as the initial step in the redressal mechanism under the CPA. By introducing accessible complaint formats within the CPA, the proposed amendment will encourage CwDs to assert their rights under the Act and seek resolution for grievances.
<b>Section 35 - Manner in which complaint shall be made.—</b> (1) A complaint, in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided, may be filed with a District Commission by— see footnote. <sup>114</sup>  Provided that the complaint under this sub-section may be filed electronically in such manner as may be prescribed.	Insert another proviso in the said sub-section to ensure that any such manner prescribed for electronic filing of complaints should also be accessible for PwDs.	By making it explicit that accessibility is a requirement for electronic complaint filing methods, the amendment promotes equal access to consumer protection mechanisms for PwDs, which otherwise could be inaccessible as seen in the example of eDaakhil portal in Section 3 of the report. This will be in line with Section 12(4)(b) of the RPWDA which requires the government to ensure that the filing departments are supplied with necessary equipment to enable filing of documents in accessible formats.
<b>Section 18(2) - Powers and functions of Central Authority</b> Without prejudice to the generality of the provisions contained in sub-section (1), the Central Authority may, for any of the purposes aforesaid – see footnote. <sup>115</sup>	Insert a Clause (m) to empower the Central Authority to ensure that procedural accommodations are made for PwDs.	This will be in line with Section 12(1) of the RPWDA which requires the appropriate Government to ensure that PwDs are able to exercise the right to access any court, tribunal, authority, commission or any other body having judicial or quasi-judicial or investigative powers without discrimination on the basis of disability.
<b>Section 16 - Power of District Collector</b> The District Collector 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 misleading advertisements, within his jurisdiction and submit his report to the Central Authority or to	Amend Section 16 and Section 17 to ensure that accessibility-related issues are explicitly addressed and spelled out within the scope of the said sections.	Such amendments would empower these bodies to take cognizance of accessibility related issues of CwDs and direct the businesses to provide reasonable accommodation in a case where accessibility was not provided. This will streamline the process and prevent the necessity for distinct legal actions specifically focused on accessibility issues.

<sup>114</sup> Clause (a) to (d) under Section 35(1) of the Consumer Protection Act, 2019.

<sup>115</sup> Clause (a) to (l) under Section 18(2) of the Consumer Protection Act, 2019.

Existing Provision	Proposed Amendment	Rationale
<p>the Commissioner of a regional office, as the case may be.</p> <p><b>Section 17. Complaints to authorities.—</b> 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 any one of the authorities, namely, the District Collector or the Commissioner of regional office or the Central Authority.</p>		
<p><b>Section 39 - Findings of District Commission</b> (1) Where the District Commission is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services or any unfair trade practices, or claims for compensation under product liability are proved, it shall issue an order to the opposite party directing him to do one or more of the following – <i>see footnote</i>.<sup>116</sup></p>	<p>Insert a Clause (o) in Section 39(1) to empower the District Commissioner to make reasonable accommodation as one of the measures that can be taken against the opposite party under the said Section.</p>	<p>Such an amendment would provide an effective remedy to a CwD and facilitate the enforcement of the proposed right to reasonable accommodation under Section 2(9) of the CPA.</p>
<p><b>Section 65 – Service of notice, etc.</b> (1) All notices, required by this Act to be served, shall be served by delivering or transmitting a copy thereof by registered post acknowledgment due addressed to opposite party against whom complaint is made or to the complainant by speed post or by such courier service, approved by the District Commission, the State Commission or the National Commission, as the case may be, or by any other mode of transmission of documents including electronic means.</p>	<p>Insert a Clause in the said section to require all notices involving PwDs issued under the CPA to be accessible.</p>	<p>This objective can be achieved through two approaches. Firstly, individuals can inform the CDRCs about their disability, enabling all notices to be sent through accessible means. Alternatively, there can be an option in the complaint filing form allowing individuals or their lawyers to indicate disability status. This information would prompt the CDRC to ensure that all notices related to the matter are provided in an accessible format.</p>
<p><b>Section 101 – Power of Central Government to make rules.</b></p>	<p>Insert a Clause under Section 101(2) to empower the Central Government to prescribe, by way of rules, measures aimed at protecting the rights and interests of CwDs.</p>	<p>Central Government-prescribed rules and regulations can provide clear guidelines for businesses and service providers. Violations of these regulations can result in legal consequences which can act as a deterrent against non-compliance.</p>

<sup>116</sup> Clause (a) to (n) under Section 39(1) of the Consumer Protection Act, 2019.

**Vidhi Centre for Legal Policy**

**A-232, Ratan Lal Sahdev Marg,  
Block A, Defence Colony,  
New Delhi – 110024**

**43, Residency Road,  
Ashok Nagar, Bengaluru  
Karnataka – 560025**

**2nd Floor, Piramal Ananta,  
Agastya Corporate Park, LBS Marg,  
Kurla West, Mumbai - 400070**