



Consumer Protection Law in India

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1. Introduction

The growing interdependence of the world economy and international character of many business practices have contributed to the development of universal emphasis on consumer rights protection and promotion. Consumers, clients and customers world over, are demanding value for money in the form of quality goods and better services. Modern technological developments have no doubt made a great impact on the quality, availability and safety of goods and services. But the fact of life is that the consumers are still victims of unscrupulous and exploitative practices. Exploitation of consumers assumes numerous forms such as adulteration of food, spurious drugs, dubious hire purchase plans, high prices, poor quality, deficient services, deceptive advertisements, hazardous products, black marketing and many more. In addition, with revolution in information technology newer kinds of challenges are thrown on the consumer like cyber crimes, plastic money etc., which affect the consumer in even bigger way. 'Consumer is sovereign' and 'customer is the king' are nothing more than myths in the present scenario particularly in the developing societies. However, it has been realized and rightly so that the Consumer protection is a socio-economic programme to be pursued by the government as well as the business as the satisfaction of the consumers is in the interest of both. In this context, the government, however, has a primary responsibility to protect the consumers' interests and rights through appropriate policy measures, legal structure and administrative framework.

Consumers participate in the marketplace by using a particular product. Had there been no consumer no company would exist. The status of consumer is more or less pathetic as far as consumer rights are concerned. You can take

examples of shopkeepers weighing less than he should, company' making false claims on packs. Then there are local sweetmeat sellers adulterating raw materials to produce the laddoos or barfis. You can recall the case of dropsy because of adulterated mustard oil. No matter how bad quality you get, chances are you will get a rude response from the shopkeeper if you dare to complain.

2. Consumerism: Conceptual Consideration

According to McMillan Dictionary (1985) "Consumerism is concerned with protecting consumers from all organizations with which there is exchanged relationship. It encompasses the set of activities of government, business, independent organizations and concerned consumers that are designed to protect the rights of consumers". In the good olden days the principle of 'Caveat emptor', which meant buyer beware governed the relationship between seller and the buyer. In the era of open markets buyer and seller came face to face, seller exhibited his goods, and buyer thoroughly examined them and then purchased them. It was assumed that he would use all care and skill while entering into transaction. The maxim relieved the seller of the obligation to make disclosure about the quality of the product. In addition, the personal relation between the buyer and the seller was one of the major factors in their relations. But with the growth of trade and its globalization the rule no more holds true. It is now impossible for the buyer to examine the goods before hand and most of the transactions are concluded by correspondence. Further on account of complex structure of the modern goods, it is only the producer / seller who can assure the quality of goods. With manufacturing activity becoming more organized, the producers / sellers are becoming stronger and organised whereas the buyers are still weak and unorganised. In the age

of revolutionized information technology and with the emergence of e-commerce related innovations the consumers are further deprived to a great extent. As a result buyer is being misled, duped and deceived day in and day out. Mahatma Gandhi, the father of nation, attached great importance to what he described as the “poor consumer”, who according to him should be the principal beneficiary of the consumer movement. He said: “A Consumer is the most important visitor on our premises. He is not dependent on us we are on him. He is not an interruption to our work; he is the purpose of it.

3. Historical Background of Consumer Rights

History of protection of Consumer’s rights by law has long been recognised dating back to 1824. Every year the 15th of March is observed as the World Consumer Rights Day. On that day in 1962 President John F. Kennedy of U.S. called upon the U.S. Congress to accord its approval to the Consumer Bill of Rights. They are:

- (i) right to choice
- (ii) right to information
- (iii) Right to safety and
- (iv) Right to be heard.

President Gerald R. Ford added one more right i.e. right to consumer education. Further other rights such as right to healthy environment and right to basic needs (Food, Clothing and Shelter) were added. In India we have recently started celebrating 24th December every year as the National Consumer Rights Day. In the history of the development of consumer policy, April 9, 1985 is a very significant date for it was on that day that the General Assembly of the United Nations adopted a set of general guidelines for consumer protection and the Secretary General of the United Nations was authorised to persuade member countries to adopt these guidelines through policy changes or law. These guidelines constitute a comprehensive policy framework outlining what governments need to do to promote consumer protection in following seven areas:

1. Physical safety;
2. Protection and Promotion of the consumer economic interest;
3. Standards for the safety and quality of consumer goods and services;

4. Distribution facilities for consumer goods and services;
5. Measures enabling consumers to obtain redress;
6. Measures relating to specific areas (food, water and pharmaceuticals) and
7. Vii Consumer education and information programme.

Though not legally binding, the guidelines provide an internationally recognised set of basic objectives particularly for governments of developing and newly independent countries for structuring and strengthening their consumer protection policies and legislations. These guidelines were adopted recognizing that consumers often face imbalances in economic terms, educational levels and bargaining power and bearing in mind that consumers should have the right of access to non hazardous products as well as the importance of promoting just, equitable and sustainable economic and social development. These U.N. guidelines for Consumer Protection can assist in the identification of priorities particularly in the light of emerging trends in a globalised and liberalised world economy.

The U.N. guidelines were never intended to be a static document and required to be revisited in the changed social, political and economic circumstances. On re-examination of U.N. guidelines in 1999 “sustainable consumption” was also included in the list which is certainly an important step in this direction. It would perhaps be apt to highlight that long back Mahatma Gandhi said that” the rich must live more simply so that the poor may simply live.” There cannot be a better expression championing the cause of sustainable consumption. It may not be out of place to mention that the increased internationalisation of cooperation is also a part of the globalisation process. Rules adopted for corporations trading in OECD countries for the protection of the interests of consumers can now also be applied to their conduct for the protection of the interests of the consumers in non-OECD countries. A new investment guideline from the OECD spells out principles to be applied by multinational corporations dealing with consumers. The Guidelines, which deal with fair

business, marketing and advertising practices as well as safety and quality of goods and services lend themselves to consumer monitoring and campaigning. Possibilities for action include twinning arrangements in which groups from non- OECD countries work with groups from the home countries of multinational corporations to hold them accountable for failure to adhere to the Guidelines.

Before moving in the direction of consideration of provisions of the Consumer Protection Act, 1986, perhaps it would be better to summarise the factors responsible for legislations to protect consumer's rights. These factors are as follows:

- Rapidly increasing variety of goods and services which modern technology has made available;
- Growing size and complexity of production and distribution system;
- High level of sophistication in marketing and selling practices, in advertising and other forms of production;
- Removal of personal relationship of buyer and seller as a result of mass marketing methods; and
- Consumers' increased mobility.

4. In India

In India, the consumer movement as a 'social force' originated with the necessity of protecting and promoting the interests of consumers against unethical and unfair trade practices. Rampant food shortages, hoarding, black marketing, adulteration of food and edible oil gave birth to the consumer movement in an organized form in the 1960s. Till the 1970s, consumer organisations were largely engaged in writing articles and holding exhibitions. They formed consumer groups to look into the malpractices in ration shops and overcrowding in the road passenger transport. More recently, India witnessed an upsurge in the number of consumer groups.

The consumer movement arose out of dissatisfaction of the consumers as many unfair practices were being indulged in by the sellers. There was no legal system available to consumers to protect them from exploitation in the marketplace. For a long time, when a consumer was not happy with a particular brand product or

shop, he or she generally avoided buying that brand product, or would stop purchasing from that shop. It was presumed that it was the responsibility of consumers to be careful while buying a commodity or service. It took many years for organisations in India, and around the world, to create awareness amongst people. Because of all these efforts, the movement succeeded in bringing pressure on business firms as well as government to correct business conduct which may be unfair and against the interests of consumers at large. A major step taken in 1986 by the Indian government was the enactment of the Consumer Protection Act 1986.

5. Consumer Protection Act, 1986

It may be mentioned at the outset that anyone interested in the task of consumer protection movement has to be well versed in various laws and not merely with the Consumer Protection Act, 1986. He should have knowledge of laws relating to Contract, Tort, Railways, Telegraphs, Telephones, Post, Air Travel, Insurance, Electricity, Water, Housing, Medicine, Banking, Finance, Engineering, Motor Vehicles, Hotel Industry, Entertainment, Cooperative Societies, Tourism Agencies, Sales Tax, Central Excise, Limitation, Transport etc. There is no limit to subjects, which may come before a Consumer Forum / Commission for decision. In addition, one should also be well versed with the laws relating to unfair trade practice and restrictive trade practices. Be it as it may. In India various Acts intended to protect the consumers against different forms of exploitation were enacted.

The Objectives of Consumer Protection Act, 1986 in India

The purpose of the Act is to provide for the establishment of the Commission:

- To prevent practices having adverse effect on competition;
- To promote and sustain competition in markets;
- To protect the interests of consumers and
- To ensure freedom of trade carried on by other participants in the markets, in India

The major focus of the Act is on the following areas:

- Prohibition of anti competitive agreements;

- Prohibition against abuse of dominant position;
- Regulation of combinations;
- Advocacy of competition policy.

The legislative intention behind this Act is to clear all hurdles in promoting competition among business units whether of domestic or foreign origin. The Consumer Protection Act of 1986 was enacted with an objective to provide better protection of the interests of the Consumers, to make provision for the establishment of Consumer Councils and other authorities for the settlement of consumer disputes. This is indeed a very unique and highly progressive piece of Social Welfare Legislation. The provisions of this Act are intended to provide effective and efficient safeguards to the consumers against various types of exploitations and unfair dealings. Unlike other laws, which are basically punitive or preventive in nature, the provisions of the Act are compensatory. It is a matter of great satisfaction that we can legitimately boast that we now have in our country a statute, which provides more effective protection to the consumers than any corresponding legislation in force in countries, which are considered to be much more advanced and industrialised. The consumer protection Act been in operation for about 18 years. A number of deficiencies and shortcoming in respect of its operation have come to light thereby requiring amendments thrice, still leaving scope for further improvements. Despite all this it is a handy weapon for consumers to ensure accountability of producers of goods and providers of services. In the International Conference on Consumer Protection held in Malaysia in 1997, the Indian Consumer Protection Act was described as one “which has set in motion a revolution in the field of consumer rights, the parallel of which has not been seen anywhere else in the world”. Important Features of the C.P. Act This may be summed up as under: The Act applies to all goods and services unless specifically exempted by the Central Government. It covers all the sectors – private, public and cooperative.

- The provisions of the Act are compensatory in nature.
- It provides adjudicatory authorities, which are simple, speedy and less expensive.
- It also provides for Consumer Protection Councils

6. National, State and District levels

The provisions of this Act are in addition to and not in derogation of the provisions of any other law for the time being in force. The objectives of these councils are to help the respective governments in adopting and reviewing policies for promoting and protecting the rights of the consumers. The composition of these consumer councils are broad based. The citizens and organisations representing different interest groups having implications for consumer’s rights protection are members of these councils. One may like to add, that the Consumer Councils are required to be constituted on public private partnership basis for better feed back and thereby review of the policy in the area of consumer’s rights protection. The main objective of these councils is to promote and protect rights and interests of consumers in the society. It also provides for Consumer Disputes Redressal Adjudicatory bodies established at three levels i.e. District, State and National. They are known as District Forums, State Commissions and National Commission. District Forum is composed of President and two members (one member is woman). Every member of the District Forum shall hold office for a term of five years or upto the age of 65 years, whichever is earlier and shall be eligible for reappointment. Now graduation is the minimum educational qualification for a member. The State Commission is presided over by Retired High Court Judge. The National Commission is presided over by the retired Supreme Court Judge. The District Forum can adjudicate on the matter upto Rs. 20 lakhs, State Commission upto one crore and National Commission above Rs. one crore. The proceedings before these adjudicatory bodies are regulated in accordance with the principles of natural justice. Now State Commissions and National Commission have started sitting in Circuit Benches. It may, however, be highlighted that there are some Vacancies of the Presidents and Members of the Forums in the entire Country. Now complaints filed are required to be accompanied with such amount of fee and payable in such manner as may be prescribed. Fee structure for the cases filed in the District Forums has been prescribed by the Ministry of Consumer Affairs, Food and Public Distribution by Rule 9A of the Consumer

Protection (Amendment) Rules, 2004, which is as follows: Value of goods or services Amount of fee payable and compensation claimed.

Value of goods or services and compensation claimed Amount of fee payable

1. Upto one lakh rupee Rs. 100
2. One lakh and above but less than five lakh rupees Rs. 200
3. Rs. 5 lakh and above but less than Rs.10 lakh Rs. 400
4. Rs. 10 lakh and above but not exceeding Rs. 20 lakh Rs. 500

7. Appeal procedure

The National Commission, State Commissions and District Forums are required to decide complaint, as far as possible, within a period of three months from the date of notice received by the opposite party where complaint does not requires analysis or testing of commodities and within five months if it requires analysis or testing of commodities. The Appeals are allowed within 30 days against the order of the District Forum to the State Commission and against the order of the State Commission, to the National Commission. Appeal can also be preferred to the Supreme Court against the order of the National Commission within a period of 30 days. No appeal by a person who is required to pay any amount in terms of an order of the National Commission shall be entertained by the Supreme Court unless that person has deposited in the prescribed manner fifty percent of that amount or rupees fifty thousand, whichever is less. Similarly there is a requirement for depositing ` 35000/- and ` 25000/- in case of appeals to National Commission and State Commission. From the various reports and feedback received by the Central Government, it is evident that many of the consumer forums have not been provided with adequate accommodation, infrastructure facilities and staff. In many State Commissions and District Forums, vacancies of Presidents/Members have not been filled up which adversely affects the disposal of cases. It should be remembered that the confidence of the consumer ultimately depends upon the successful functioning of the Consumer Commissions/Forums. It is, therefore, a matter of utmost importance that these agencies must

function effectively, efficiently and without any interruption. For this to happen state governments are having definite role to perform.

8. Conclusion

The efficient and effective programme of Consumer Protection is of special significance to all of us because we all are consumers. Even a manufacturer or provider of a service is a consumer of some other goods or services. If both the producers/ providers and consumers realize the need for co-existence, adulterated products, spurious goods and other deficiencies in services would become a thing of the past. The active involvement and participation from all quarters i.e. the central and state governments, the educational Institutions, the NGO's, the print and electronic media and the adoption and observance of a voluntary code of conduct by the trade and industry and the citizen's charter by the service providers is necessary to see that the consumers get their due. The need of the hour is for total commitment to the consumer cause and social responsiveness to consumer needs. This should, however, proceed in a harmonious manner so that our society becomes a better place for all of us to live in. Educate consumers to develop an understanding about their responsibilities as consumers. Consumer should organize together to develop the strength and influence to promote and protect their own interest. Government should make and implement rules of punishment more harsh so that manufacturer and shopkeeper think twice before adopting fraudulent practices. A campaign should be set in motion to involve each and every consumer for making them more conscious and aware of their right and responsibilities. Government and other consumer agencies should make efforts in the direction of propaganda and publicity of district forum, state and national judiciary established for consumer protection so as to make more and more consumer aware about machinery for their greater involvement and to seek justice in case of grievances. Redress procedure should be made more logical, easy enough to be understood by a large number of consumers. Further procedures shall so designed as to have easy handling and quick disposal of cases.