



Consumer Protection Act, 1986-A Descriptive Analysis

Ankush Mittal
L. L. M.

Dhrav Gupta
L.L.M. (Pursuing)

Introduction

Consumer Protection Act, 1986 is an Act of Parliament of India enacted in 1986 to protect the interests of consumers in India. It makes provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith also. The act was passed in Assembly in October 1986 and came into force on December 24 1986. The day is celebrated as consumer protection day.

In the present scenario, Indian market is predominated by the consumerism, particularly after a decade from economic reforms process. It is gradually being transformed from a predominantly sellers market to a buyer's market. Customer is the central point for all the business activities and also the only person subjected to all types of exploitation. With the advancement of technology and changing expectations of Consumers the business man are adopting various strategies to earn their profits at the cost of the customer in order to meet the increasing competition. In spite of the best Consumer Laws and serious measures of the government to protect the interests of the Consumers, exploitation is increasing day by day. The major reason contributing to this situation is lack of awareness among the Consumers about their rights and protection measures. The Consumer Protection Act (CPA) is a compassionate social legislation that provides for protection of rights of the consumers and redressal of consumer disputes. CPA has provided for three tier quasi-judicial consumer dispute redressal mechanism at district, state and national level. The Act applies to all goods and services, excluding goods for resale or for commercial purpose, services rendered free of charge and under a contract for personal service.

The salient features of the Act



The Act applies to all goods and services unless specifically exempted by the Central Government. It covers all the sectors whether private, public or cooperative. The provisions of the Act are compensatory in nature.

The Need for Consumer Protection

Consumers are largely denied their due rights, especially in developing countries such as India. The consumers are spread widely all over a country and are poor, illiterate and are generally not aware of their rights, though their awareness has recently increased. The manufacturers and suppliers of goods or services often exploit consumers by adopting a number of unfair and restrictive trade practices. So, there is a need to undertake this study to know whether the Act 1986 has really implemented by all the business firms or not.

Who is Consumer?

According to [sec 2(1) (d)] “Consumer” means any person, who buys any goods for a consideration (a) which has been paid or promised or partly paid and partly promised, or (b) under any system of deferred payment. “Consumer” does not include a person who obtains goods for resale or for any commercial purpose.

A consumer is a person who hires or avails of any services for a consideration that has been paid or promised or partly paid and partly promised or under any system of deferred payment and includes any beneficiary of such services other than the person hires or avails of the services for consideration paid or promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person. This definition is wide enough to include a patient who merely promises to pay.

What is a Complaint?

A complaint is an allegation in writing made by a complainant, i.e. a consumer that he or she has suffered loss or damage as a result of any deficiency of service.

What Constitute a Complaint?

An allegation in writing made by the complainant that - Any unfair trade practice or restrictive trade practice has been adopted by any trader. - The goods bought or agreed to be bought suffer from one or more defects. - Services hired /availed or agreed to be hired /availed suffer from deficiencies in any respect. - That a trader has charged for the goods or services mentioned in the complaint, a price in excess of the stipulated price. (i) fixed by or under any law

for the time being in force; or (ii) displayed on goods; or (iii) displayed on any package containing such goods - That goods or services which are hazardous to life and safety of the public are being offered to the public

Who can file a Complaint ?

A complaint can be filed by - A consumer to whom goods are sold or delivered or agreed to be sold or delivered or such services provided or agreed to be provided. - Voluntary Consumer Organisation - the Central Government; - the State Governments or Union Territory Administration; - one or more consumers , where there are numerous consumers having the same interest

Who is Liable?

1. Doctors with independent practice.
2. Private hospitals.
3. All hospital having free as well as paying patients, they are liable to both.
4. Doctors/hospitals paid by an Insurance firm for treatment of a client or an employer for the treatment of an employee.

Who is not liable?

1. Doctors in hospitals which do not charge their patients.
2. Hospitals offering free services to all patients. If any category is paying any fees for any service, that particular category will be liable under CPA.

How to File a Complaint?

Procedure for filing complaints and seeking redressal are simple. There is no prescribed performa for the submission of complaint. However, it must be written. It may be submitted directly or by post. A nominal amount of fees is also required to be deposited for making complaints before District Forum. A complaint should contain the following information:

1. Name and address of the complainant.
2. Name and address of the opposite party or parties.
3. Description of the fact of the complaint.
4. Documentary evidence regarding the complaint.
5. Relief expected as redressal of complaint.

The complaint can be filed within 2 years from the date on which cause of action has arisen. Complainant can plead his case/complaint on his own; this means that he is not under compulsion to hire the services of lawyer. A complaint can be filed in (1) the District Forum if the value of services and compensation claimed is less than 20 lakh rupees, (2) before the State Commission, if the value of the goods or services and the compensation claimed does not exceed more than 1 crore rupees, or (3) in the National Commission, if the value of the goods or services and the compensation exceeds more than 1 crore rupees (Table 2). Deficiency of service means any fault, imperfection, shortcoming, or inadequacy in the quality, nature, or manner of performance that 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 contract or otherwise in relation to any service. There is a minimal fee for filing a complaint before the district consumer redressal forums.

What is Unfair Trade Practice?

An “unfair trade practice” means a trade practice, which, for the purpose of promoting any sale, use or supply of any goods or services, adopts unfair method, or unfair or deceptive practice. Some of these practices include:

1. False Representation

- When goods and services are not of stated standard, quality or grade;
- When second hand, renovated goods are sold as new ones;
- When the seller does not have the required sponsorship, approval, affiliation;
- When goods and service do not have the claimed use, usefulness or benefit;
- When products / services do not have the claimed warranty / guarantee;

2. When the price of product or service is misleading.

3. False and Misleading Advertisement of selling at Bargain price.

4. Offering gifts, prizes, etc. to lure customers with no intention of providing them.

5. Selling goods which do not fall within the safety standards set up by competent authority.

6. Hoarding or destroying goods with the intention of raising the cost of these or similar goods manufactured in greater number so as to manipulate higher prices.

7. Manufacturing or offering spurious goods or adopting deceptive practices in the provision of services.



Responsibilities of Consumers

We should consider consumer duties and responsibilities. These include the following:

1. Be aware of quality:- In order to ban adulteration of manufacturers and traders and corrupt behaviors, it is the duty of every consumer to be aware of the quality of the products they buy. While shopping, they should look for standard quality certification marks such as ISI, Agmark, FPO, Wool Mark, Eco-Mark, Hallmark etc.

2. Be wary of misleading advertisements:- Advertising often increases the quality of the products. Therefore, consumers should not rely on advertising and should carefully check the product before purchasing or ask users. If there are any discrepancies, then the need to be brought to the notice of the sponsors and the appropriate authority when necessary.

3. Responsibility for inspection of various items before selection:- Consumer should inspect various types of goods before buying goods and services. For this purpose, it should compare its quality, price and stability after the sale service etc. With this, consumers will be able to make the best choices within the limits of their resources.

4. Collect proof of transaction: - Consumers should emphasize legitimate documentary evidence (cash memo / invoices) on purchasing any goods or availing of any service and should be carefully guarded. Such a proof of purchase is required to file a complaint. In the case of durable goods, the products usually provide warranty / guarantee card with the product. Consumers have the duty to obtain these documents and to ensure that they are duly signed, stamped and dated. Consumers should protect them until the warranty / guarantee period expires.

5. Consumers should be aware of their rights: - Consumers should be aware of their rights as stated above and should use them when buying goods and services. For example, it is the consumer's responsibility It is to insist on getting all information about the quality of the product and ensure that it is free of any kind of defects.

6. Complaints for actual complaints:- If you are dissatisfied with the product / services as a consumer, then you can ask for redressal of your grievances. In this regard, you must first file a reasonable claim with the company. If the manufacturer / company does not respond, you can contact the forums. But your claim should have a real loss and the claim of compensation should be fair. Fictitious complaints should not be recorded at any price or otherwise the forum can penalize you.

7. Proper use of products / services:- Consumers are expected to use and operate the product / services properly. It has been observed that during the guarantee period, people use reckless use of the product, thinking that it will be changed during the guarantee period. This practice should be avoided. In addition to the above mentioned responsibility, consumers should be aware of their duty towards other consumers, society and ecology and make responsible alternatives. In other words, their procurement and consumption should not be a waste of natural resources and energy and environmental pollution.

The Government of India also included the above rights in its Twenty-Point Programme. The Consumer Rights No. 1 to 6 is also enshrined in the Consumer Protection Act, 1986.

1. Right to Safety:-This right means right to be protected against the marketing of goods and services, which are hazardous to life and property. The purchased goods and services availed should not only meet their immediate needs, but also fulfill long term interests.

2. Right to be informed:-This right means right to be informed about the quality, quantity, potency, purity, Standard and price of goods so as to protect the consumer against unfair trade practices (UTPs). The key aspects are such as the right to be given the facts needed to make an informed choice, to be protected against misleading advertising or labeling, the responsibility to search out and use available information, to read and follow labels and research before purchase.

3. Right to Choose:-This right means right to be assured, wherever possible of access to variety of goods and services at competitive prices. In case of monopolies, it means right to be assured of satisfactory quality and service at a fair price. It also includes right to basic goods and services. This is because unrestricted right of the minority to choose can mean a denial for the majority of its fair share. This right can be better exercised in a competitive market where a variety of goods are available at competitive prices.

4. Right to be heard/represented:-This right means that consumer's interests will receive due consideration at appropriate forums. It also includes right to be represented in various forums formed to consider the consumer's welfare.

5. Right to Redress:-This right means right to seek redressal against UTPs or unscrupulous exploitation of consumers. It also includes right to fair settlement of the genuine grievances of the consumer. Consumers must make complaint for their genuine grievances. Many a times, their complaint may be of small value but its impact on the society, as a whole, may be very large.



6. **Right to Consumer Education:**-This right contains the provision to acquire knowledge and skills needed to make informed, confident choices about goods and services, while being aware of basic consumer rights and responsibilities and how to act on them.

7. **Right to Basic Needs:**-All consumers have the right to basic goods and services such as adequate food, drinking water, shelter, clothing, health care, electricity and education. These rights lay a foundation to lead a life with dignity and, therefore, give a meaning to citizen's rights.

8. **Right to a Healthy Environment:**-To live and work in an environment, which is non-threatening to the well-being of present and future generations. The right contains the following elements:

- The right to live and work in an environment that is neither threatening nor dangerous and which permits a life of dignity and well-being.
- The responsibility to minimize environmental damage through careful choice and use of consumer goods and services.
- To reduce waste, reuse products and to recycle whenever possible.

National Consumer Helpline

NCH is a project of the Union Ministry of Consumer Affairs. The project recognizes the need of consumers for a telephone helpline to deal with multitude of problems arising in their day-to-day dealings with business and service providers. NCH provides a national toll free no-1800-11-4000; other users can dial- 011-23708391. SMS can also be sent to +918130009809 mentioning the name and city.

Importance of Consumer Protection Act in the Present Scenario

Consumer protection is important for the protection of consumers and to create trust in various institutions within the country. The law is capable of guaranteeing the safety and quality of the products and services that consumer's use. A country can experience an increase in economic activity only when consumers trust the producers, so the producers should work to provide the necessary assurance to win the trust of consumers. Inexperienced consumers are more vulnerable to selling poor quality products and for illegally selling. Consumer protection laws take into account the challenges faced by such consumers in order to ensure that they are protected from fraudulent vendors and unsafe products. Typically, consumer protection policies



are important to protect consumers from deceptive advertisements, bad services and insecure items in the current scenario.

1. To avoid bad quality:- Companies rarely make cheap products for purpose. However, manufacturers may be tempted to use low-quality content to create some devices, which can lead to them being defective. This type of production can be stopped only when the consumer protection complaint is lodged. As part of the benefit of group legal services, a lawyer can advise a plan member to form a valid complaint, and how to get acquainted with filing it. A successful complaint can cause a manufacturer to stop production.

2. To prevent immoral practices:- The modern economy is highly competent and the owner of the immoral business will cut corners regardless of the health or safety of consumers. Unethical practices also produce incredibly poor service and no consumer should deal with it. He or she educates a group legal plan member that they have consumer rights and how can they be redressed.

3. Illiteracy and ignorance:- Consumers in India are mostly illiterate and ignorant. They do not understand their rights. A system is needed to save them from dishonest merchants.

4. Unorganized Consumers:- Consumers in India are widely scattered and are not united. They are at the mercy of merchants. On the other hand, manufacturers and merchants are organized and powerful. Consumers should be united and fight against unfair business activities.

5. Spurious Goods:- Duplicate products supply is increasing. It is very difficult for a simple consumer to distinguish between a real product and its copy. Consumers need to protect against such exploitation by ensuring compliance with the set criteria of quality and safety.

6. Misleading:-Advertising: Some businessmen give confusive information about the quality, security and usability of products. Consumers are misled by false advertising and do not know the actual quality of the goods being advertised.

A mechanism is needed to prevent deceptive advertisements.

7. Adulteration:- Most of the time consumers do not get purified even after paying a high price, or we can say quality goods. Organizations usually supply adulterated goods for maximizing their profits. Consumers should come forward and complain against those companies.



8. Irregular Supply: - One of the common problems of consumers is irregular supply of goods. The reason for this is the lack of goods. Organizations hoard these items and create artificial shortage of essential items, resulting in high value.

CONCLUSION

The efficient and effective program of consumer protection is of special importance to all of us because we are all consumers. Even the manufacturer or provider of any service is a consumer of some other goods or services. If producers / providers and consumers both require co-existence, adulterated products, counterfeit goods and other deficiencies in services become a thing of the past. Citizen's Charter by active participation and service of all quarters i.e. central and state governments, educational institutions, NGOs, print and electronic media, and voluntary code adoption and compliance by business and industry. It is necessary for the providers to see that the consumers get their due. Time required for the commitment of the consumer and the total commitment to the consumer's social accountability. However, it should move forward in a harmonious way so that our society becomes a better place for all of us. In the present scenario, due to ICT the consumers are in better contact, the advancement in the means of transport, the more mobility and the mass media etc. Nevertheless, consumers are a sensitive lot for exploitation in a developing country like India with the spread of poverty and illiteracy on a large scale. Examples like overcharging, black marketing, adulteration, profiteering, lack of proper services in trains, telecommunications, water supply, airlines etc. are not uncommon here. The government has consistently tried to protect the interests of the consumers through legislative assemblies and CPA 1986 is considered as the most progressive law for consumer protection. The implementation of the Act shows that the interests of consumers have been better preserved in advance. However, consumer awareness, consumer activists, NGOs and other related agencies through consumer education and work are the most needed to make consumer protection movement especially successful in the country and for the welfare of society.

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