

# Consumer Protection Act, 1986 and Roll of Businesses to Avoid Consumer Grievances

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## Abstract:

‘Consumer as a King’ is a talk of fame only, but the reality is different. A consumer is afflicted from a range of malpractices as false advertisements, underweight goods, less neutralized food, displeased services etc. It was the prerequisite of time to control these malpractices to protect the interest of an innocent buyer. In 1986, The Consumer Protection Act was introduced and implemented by the Central Government of India, which was proved as a new development in the history of socio-economic legislation. The law is punitive or exemplary in nature. The main objective of the Act is to provide protection to the consumer from industry’s wrong practices. To activate the functioning of the Act in an effective manner, many other Acts are in co-existence to it. But government alone cannot do anything unless consumers get actively involved in the process. To have a strong consumerism in the country, there is a requirement that consumers must have proper understanding of their rights and responsibilities. The study is a discussion about the role of government in spreading awareness to the consumers and also trying to develop understanding of basic concepts of the Act. How can business be developed by strong consumerism? The study is also focusing on the various ways by which businesses can be involved with the aspect of strong consumerism.

**Key Words:** *Consumerism, Consumer protection act, consumer rights, complaint, nodel agency, business role*

## Introduction:

To a great extent, success of an organization depends upon satisfaction of its consumers. Profit-maximization approach of the firms compels them to ditch innocent customers. To regulate the affairs and functions of any organization, government has executed and implemented many rules and regulations, which protects interest of consumers at large. In this article, author tried hard to brief some important aspects of the Act like consumer, consumerism, various consumer rights, consumer grievances, and mechanism to resolve the grievances. To understand the whole concept, it is required to know first-the meaning of consumer.

## Who is a Consumer?

As defined under section 2 (1) (d) of the Act, a consumer is a person who

- a. buys any goods for a consideration; or

- b. hires or avails any services for a consideration; or
- c. uses the goods with the consent of the person who has hired the services for a consideration.

Here, consideration is meant same as defined under section 2 (d) of Indian Contract Act, 1872, which is a subject matter of a contract for which the parties are agreed upon. It is an obligation (whether monetary or non monetary) in exchange of terms of the contract. Thus, consumer buys goods for consumption not only for commercial purposes. Age, education, profession etc. are not necessary factors to become a consumer. If we are consuming a Pizza at an eating outlet or buying a car for own purposes, not for further business purposes, we are a consumer.

### **1.1 What is Consumerism?**

Awareness of the consumers about their rights and responsibilities any be known as consumerism. It may be defined as a pattern of behavior or attitude of awareness or paying more attention to their decision making. Consumerism has taken over the place of doctrine of caveat emptor which means let the buyer beware. There are many components of consumerism, self –protection by consumer is the first one to be considered. It is prime duty of an individual as a consumer to identify his rights and do necessary efforts to protect them. Secondly, it involves all kind of efforts or facilities provided either by government or any of the agency. A number of regulatory are also working in protection of consumer interest and in solving their grievances with the suppliers.

Now, focus is onlooking forward to the efforts of private players as voluntary bodies to provide quick solutions to the grievances of the consumers. A silly question arises on the name of the Act, that is name of the Act is Consumer Protection Act, where customers are treated as sovereign or a king. Better name could be the Consumer sovereign Act. On the other side, there is a requirement to pay attention on protection of his (king's) interest.

### **1.2 Introduction to the Consumer protection Act, 1986:**

In ancient time, Vedas were the only or prime source of rules and principles to be conduct in India. Over a period of time, many innovative and diving writings were coming into force including Smriti and Sruti to prescribe code of conducts. Many Smriti (800B.C. to 600 B.C.) was most influential that time. With the passage of time, new regulations were passed by British Government but again consumer protection continued to be of prime concern. First Indian law for consumers was introduced in 1872, named Indian Contract Act, 1872, and then Sales of Goods Act, 1930 came into existence which categorically focused on the area of buying and selling contract. 'Doctrine of Caveat Emptor' was also introduced in the Sales of Goods Act. Many more acts were introduced with passage of time to take care of the interest of consumers like Drugs and Cosmetics Act, 1940, Essential Commodities Act, 1955 and Prevention of Black Marketing and Maintenance of Supplies of Essentials of Commodities Act, 1980 and many more.

Looking at the importance of consumer as a major stakeholder, Indian government has introduced an exclusive Act for consumers i.e. Consumer Protection Act, 1986. Major objective behind it is just to provide

quick and less formal justices to the aggrieved consumers with less paper work at a reasonable or affordable cost. The acts focus on consumer rights, consumer support and liberalized the judicial system. The Act has established of state and central consumer councils for the advancement of consumer education which can give multifold results if govt would associate with the business players in the market. Business may pay certain efforts to educate consumer to improve their potential as consumer to get their rights better protected.

### **1.3 Consumer Rights:**

There are eight rights provided by United Nations Guidelines for Consumer Protection (UNGCP) as right to safety, right to basic needs, right to information, right to choice, right to be heard, right to education, right to healthy environment, and right to redress (Sahoo, 2009). The Consumer Protection Act, 1986 has adopted six major rights out of these eight rights. Consumer rights are categorized into six segments:

#### **1.3.1 Right to safety:**

First and foremost right of a consumer is to protect him/her from marketing of life hazardous goods and /or services. There is no criteria as to hazardousness of the goods and /or services, it may be short run or long run, may cause death or may be a little bit harm full. Goods or services may be affected by usage of faulty ingredients, imperfect design, and negligent workmanship or may be due to lack of proper instruction or monitor by the supervisor. Right to safety covers both safety against adulteration of food and physical safety. Many other acts are also introduced by the government for the support of consumer safety, which are actively associated with this Act.

For example: Food Safety and Standards Regulations, 2011 is a versatile law to cover consumers from adulterated food and also set standards for every category of food. Other law of the bubble is Bureau of India Standards, 1986 to ensure about the quality of goods and /or services, which certifies that the manufactured goods are meeting with the mark of quality established by Indian Standards Institute (ISI). Still, there is requirement to have world class product testing facilities to test drugs, food, medicine and every kind of product or services. As in developed countries like U.S., many brawny agencies are taking care of protection of all kind of consumer products like the food and Drugs Administration (FDA), The National Highway Traffic Society Administration (FNHTSA) and many more.

#### **1.3.2 Right to Information:**

Other basic right of a consumer in India is to be informed about the quality, quantity, potency, purity, standard, and price of goods and/or services. Main rationale behind it is to protect the interest of innocent people from unfair trade practices. There are many source of information's available in the market, for an example labels, advertisements, print media, electronic media, citizen's charter of an organization, public information's provided by the organizations on their official websites etc.; out of these two major sources of information advertisement and word of mouth are most influential but still unreliable. People cannot get real

information about the product as hidden cost, safety measures, reliability, and value for money are required to take a rational buying decision.

Till date, there is no strict course of action followed up for labeling in India. Many of pharmaceutical goods are still available in the market without a standardized labeling convention. In actual practice a number of pharmacy companies are not even disclosing potential side effects of their drugs and medicines. Many laws are regulating actively for prevention of consumer's right of information as Prevention of Food Adulteration Act, 1954 provides guidelines and regulates Labeling of all goods available in the market and Advertising Standard Council of India regulates and Controls advertisements of all kinds.

### **1.3.3 Right to Choose:**

This is right of consumer to be acquainted with all possible buying opportunity of freely accessible products or services at a competitive price. In simple way, we can say that, this is a precursor to indispensable goods/services. Monopoly condition in market may restrict this right where as in a competitive market one can exercise this right in absolute manner by having a choice among all goods/services available at competitive prices. Only one factor is obligatory to control a market i.e. competition. Monopolistic market is most acceptable forum of market in India. Consumers are not much interested in shifting from one famous brand to other brand. Right to choose can be better exercised in a competitive market where a variety of goods are available at competitive prices. Monopolies and Restrictive Trade practice Act, 1969 (MRTP) was enacted to ensure the proscription of monopolistic and unfair trade practices.

### **1.3.4 Right to be heard:**

To consider consumer's interest in the making and execution of government policy and in the development of products and services, the right to be heard has been introduced by the Consumer Protection Act, 1986. In other words, authorities should not ignore benefits of consumers while formulating and executing economic and other environment policies. There should be a provision by which consumer gets opportunities to express their point of view in front of decision making bodies, public/private enterprises, manufacturers and traders. Consumer's suggestions necessitate to be measured for their wellbeing and society at large. Various platforms have been created for consumer voice as Advisory Committees at all levels i.e. at District, State, and National Level. Along with Advisory Committees, Consumer Care Centers, Grievance and Redressal Cells and Public Utilities Departments many more voluntary organizations are raising voice of consumers by way of public discussions, seminars and talk with media and like.

### **1.3.5 Right to Redress:**

Right to redress provides fair judgments to the claims on justices and equitable grounds. It specifically includes compensation for falsification, inferior goods, or substandard services. Rationale behind this right is to put the wrong things at right place. An innocent consumer is to be provided a genuine judgment for unfair trade practices or for unscrupulous exploitation by industry people. To redress the consumers' grievances quasi judicial bodies have been enacted, which are known as 'Consumer Fora'. At district level

matters one or more than one District forums are available, State Commission has been working at State Level, where as for National Level Disputes, National Commission has been enacted. It is consumer's responsibility to seek redressal either alone or with the help of any working organization.

### **1.3.6 Right to Consumer Education:**

Right to knowledge and skills are desirable for taking action to persuade state of affairs which affects consumer decisions. A consumer must be aware of all the developments concerning his environment which might affect his/her choice. An aware consumer behaves with more confidence and takes wise decisions and is also able to manage with the available resources. A number of programs and events are being organized by Central/ State Government to educate the consumers against imitation, dishonest, and grossly misleading information and other mal practices. Consumer education also helps in improvement in understanding, critical thinking and imparts better life skills.

### **1.3.6 Right to Basic Needs:**

This right ensures availability of basic needs products and services for survival at good quality and affordable prices. There are no criteria available for basic needs; it would be food, clothing, shelter, health care, education, and sanitation to lead a decent life. For example to ensure food quality and dietary requirements, many of the apex bodies are working together as FAO (Food & Agriculture Organization), WHO (World Health Organization), CODEX Alimentations etc.

### **1.3.7 Right to Healthy Environment:**

Quality of life widely depends upon physical environment of a country. The right covers protection against the environment damages over which the individuals have no control. Here, healthy environment leads to clean surroundings or a healthy life style without damages of water, air, soil, and noise pollution. Government and manufacturers must keep watch on toxic gases, polluted water out of their production process. Right to live and work in healthy environment is a right to live at a place which is neither threatening nor dangerous because of pollution and natural disasters.

### **1.4 Consumers' Responsibilities:**

A consumer should also be responsible enough to avail the various rights available under the Act. He should focus on development on healthy environment by stopping wasteful consumption of natural resources as paper, water, petrol or diesel and LPG etc. He should be aware and educated to use biodegradable and environment friendly products. A wise consumer must reduce the consumption of artificial and non-biodegradable goods. It's also a responsibility of a consumer to ensure the value of money for each buying of goods and services. He should demand and consume only standard quality products and /or services. Along with it, he must keep a watch over the activities of industries and business.

### **1.5 When a complaint can be made?**

Generally an aggrieved consumer can file a suit against the supplier in the following cases, if:

- 1.5.1 Damages occurred because of an unfair trade practice or a restrictive trade practice of a trader or a supplier. In other words, promotion of sales by means of the restrictive or defective practices of a supplier to get undue benefits.
- 1.5.2 An article sold by a supplier is found defective.
- 1.5.3 The service availed by a consumer is undersupplied or substandard from the contracted one.
- 1.5.4 Prices are over charged from the consumer, which may be any amount higher than the stipulated under the contract of sale.
- 1.5.5 Hazardous goods/services are supplied to the consumer without specifying the guidelines or precautions to use them. In other sense, such supplies are made with violation of the guidelines provided by the competent government.

### 1.6 Who can file a complaint?

A complaint can be filed by an aggrieved consumer, any voluntary consumer association on behalf of the consumer/s, Central/State Government or one or more consumers together, where several consumers are affected or in case of death or disability of any person his/her legal representative.

### 1.7 Where to file a complaint?

There is a three-tier adjudication system available in India, which are primarily known as 'Consumer Courts'. To provide speedy and comfortable justices to all consumers, government has segregated the adjudication system at three levels as according to the value of the claim or type of the grievances of the consumers, which are briefly explained below.

Sr. No.	Type of Consumer Court	Key features of the Adjudicating Body	When to file complaint	Appeal against the Adjudicating Body
1.	District Forum/ District Consumer Disputes Redressal Forum	State Government has power to appoint one or more than one District Forums in a District, which consists of three members and one of them, is president and having qualifications equal vent to a District Court Judge, where as one member shall be a women.	A suffered consumer can file a case against any supplier if the claim amount is up to Rs. 20 lakh.	In case, any consumer is not satisfied with the adjudication of District Forum, can apply to State Commission within 30 days from the declaration of such adjudication.
2.	State Commission/	State Government has	If the complaint	In case, any

	State Consumer Disputes Redressal Commission	power to appoint one State Commission in each state, which also consists of three members and one of them, is president and having qualifications equal vent to a High Court Judge, where as one member shall be a women.	amount is above Rs. 20 Lakh to Rs. 1 Crore than a consumer shall have to file case with the State Commission.	consumer is not satisfied with the adjudication of State Commission, can apply to National Commission within 30 days from the declaration of such adjudication.
3.	National Commission/ National Consumer Disputes Redressal Commission	Central Government has power to appoint National Commission which is situated in Delhi and consists of five members and one of them, is president and having qualifications equal vent to a Supreme Court Judge.	All the case having settlement amount above Rs. 1 Crore or in case a consumer is not satisfied with the adjudication of State Commission or if the dispute is of national importance, can knock the door of National Commission.	In case, any consumer is not satisfied with the adjudication of National Commission, can apply to Supreme Court within 30 days from the declaration of such adjudication.

Note: In the above all cases, time period to file complaint may be extended from 30 days (but not more than two years from the happening of such incidence) in certain cases, if apex bodies are satisfied to do so.

### 1.8 How to file a complaint?

A consumer can file a complaint with any consumer court depending upon the type of complaint without any legal formalities. In fact, he/she can write the details of the matter on a plain paper with the attachment of all supporting documents like copy of invoice or cash memo, guarantee/ warrantee card etc. and three sets of the same is to be submitted to District Forum or State Commission as the case may be, where as four sets required to be submitted to National Commission. Even stamping of the documents are not required. All the documents can be produced with self-attestation only. Complaint can be filed in person without any help of

lawyer or any expert. A nominal fee is required to be paid by demand draft to the respective forums. Below the poverty line complaints are exempted from the payment of fee if settlement amount is up to Rs. 1 lakh.

### **1.9 Reliefs available to suffered parties:**

- 1.9.1 Removal of the defects from the goods either by replacing them or by repairing them.
- 1.9.2 Repayment of the price paid by the consumer.
- 1.9.3 Damages for the loss/ injury suffered by any consumer.
- 1.9.4 Halt of unfair/ restrictive trade practices moving in the industry.
- 1.9.5 Pull out hazardous goods and cease from offering services.
- 1.9.6 If loss is more than 5% of the value of such defective goods/services and bear by mass non-identifiable consumers, compensation would be decided by the respective forums.
- 1.9.7 Concern for correction in misleading advertisements.
- 1.9.8 Also provides cost of decree to suffered parties.

### **1.10 Nodal Agency:**

Under the supervision of Ministry of Corporate Affairs, there are two bodies which are working on the execution of the Consumer Protection Act and all other ancillary Acts. Name of the bodies are Department of Consumer Affairs (DCA) and Food and Public Distribution (FPD). These departments are responsible to educate the consumers by providing information about available choices and make sure fair, unbiased, and reliable outcomes for consumers. These bodies are ensuring in fact, facilitating timely and effective consumer grievance redressal methods. As a result a consumer can be ensured about quality and safety of the goods or services being provided to him in the market.

### **2.1 Role of Businesses in developing Consumerism in India:**

Due to global forces in the environment, consumer demands and values are changed. According to Estes (1971), the new environment is daunting highly demanding responsibilities on the business with contrast to the environment. The organizations are under the impression that they are properly analyzing people needs and filling them up accordingly.

If any gap is found between the customers fast changing demands and job done by the businesses, which may give unrest to the society and may become a cause of consumer grievance. Verma (2007), stated the term consumerism as an opportunity to grab the market share and become a king in the market. Simultaneously, this opportunity can be availed by those players only, who are able to identify and anticipate the consumer's problems. Cravens (1970), further recommended the businesses to grow an approach towards consumerism for future growth, which could be possible by providing unbiased treatment to the buyers and by earning a justified profit thereto. Bhattacharya (2014) advised to establish some business community to check functioning of the business. Self regulatory business can have wonder consumers through fair deal with the innocent public.



### 3.1 Conclusion and recommendations:

The Consumer protection law prevents consumer interest from unfair trade practices or malfunctioning by the suppliers. The act prohibits and regulates dishonesty or unconscionable advertisement and sales practice, product quality, credit financing and loan collection. At the same time, the Act is highly fruitful for industry as it protects their interest by keeping them updated so they could not fall in any fraudulent or restrictive practice. The Act also provides various standards and guidelines for product quality, designing and packaging for safety purposes, acceptable sales practices and many more.

A vigilant consumer is an asset of a country. Main concern of any government should be on their awareness. Buyer and seller both the parties should be socially intended and alter enough to meet with global challenges. Government should try to reduce the time taken in litigation process. There must be an assurance of speedy and fair justification. Now the time is to focus upon awareness of the consumers or prospective consumers, which is possible with the mutual efforts of government and industry. A business should understand behavior patterns of consumers through appropriate research and develop all the marketing strategies accordingly. Top management should also be actively involved in consumer affairs and awareness programmes. Thus, with these small and preventive steps, a business can deal with consumer to avoid confrontation and grievance.

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