

UNIT 161 – UPSC - Consumer Protection Act

Consumer protection is practices in India since ancient time but it is accelerated recently due to various issues. In India, different Acts have been implemented to protect the consumers against different forms of mistreatment that include the Indian Penal Code, 1860; Indian Contract Act, 1872; Drugs Control Act, 1950; Industries (Development and Regulation) Act, 1951; Indian Standards Institution (certification marks) Act, 1952; Drug and Magic Remedies (Objectional Advertisement) Acts, 1954; Prevention of Food Adulteration Act, 1954; Essential commodities Act, 1955; Trade and Merchandise Marks Act, 1958; Hire purchase Act, 1972; Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975; Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities Act, 1980; Essential commodities (Special Provisions) Act, 1981; Multi-State-Co-operative Societies Act, 1984; Standard of Weights and Measures (Enforcement) Act, 1985; and Narcotic Drugs and Psychotropic Substances Act, 1985. Some significant consumer protection enactments of pre-independence time are the Sale of Goods Act, 1930; Agriculture Produce (Grading and Marketing) Act, 1837, and Drugs and Cosmetics Act, 1940.



One of the most important legal actions taken by government in the area of consumer protection/consumer movement has been the endorsement of the Consumer Protection Act, 1986. This Act was needed because the well-organized sectors of manufacturers, traders and service providers with the acquaintance of market and controlling skills often try to cheat the consumers. The Consumer Protection Act, 1986 was enacted to protect the interests of consumers. It is one of the most comprehensive parts of legislation and covers all goods and services. The purpose of the Act is to provide for the establishment of the Commission that prevent practices having adverse effect on competition, promote and sustain competition in markets, protect the interests of consumers and ensure freedom of trade carried on by other participants in the markets, in India. The major focus of the Act is on the prohibition of anti-competitive agreements, prohibition against abuse of dominant position, regulation of combinations, and advocacy of competition policy. Consumer in India is considered as important. According to Mahatma Gandhi, "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. We are not doing a favour to a consumer by giving him an opportunity. He is doing us a favour by giving an opportunity to serve him." Though these views are quite encouraging but in India, there is still need to reform consumer acts to protect their rights.

In a world of information irregularity, the government has the responsibility to equalize this imbalance. In the Government of India, the Department of Consumer Affairs is the central point for different Departments and organizations which is responsible to generate awareness among consumers of market realities as well as the rights of the consumers and the manner in which they can educate themselves and also enforce their rights. In India, the Jago Grahak Jago" campaign is very popular and it created awareness among consumers. Mostly, consumers are not aware of the rights and this drive pushed manufacturers and traders to ensure quality service to consumers. According to consumer act law in India, everybody, including individuals, a firm, a Hindu undivided family and a company, have the right to use their consumer rights for the purchase of goods and services made by them. It is important that, as consumer, everyone must have good information about the basic rights as well as about the courts and procedures that follow with the infringement of one's rights. Generally, the consumer rights in India include the right to be protected from all kind of hazardous goods and services, the right to be fully informed about the performance and quality of all goods and services, the right to free choice of goods and services, the right to be heard in all decision-making processes related to consumer interests, the right to seek redressal, whenever consumer rights have been infringed and the right to complete consumer education.

There are numerous significant features of the Act. The Act provides for establishing three-tier consumer dispute redressed machinery at the national, state and district levels. It applies to all goods and services. It covers all sectors, whether private, public or any person. The Act provides for relief of a specific nature and also for compensation to the consumer as appropriate. The Act also provides for setting up of Consumer Protection Councils at the Central, State and District levels, which are advisory bodies to promote and protect the rights of the consumers. The provisions of the Act are in addition to and not in derogation of the provisions of any other law for the time being in force. Consumer Protection Act has been implemented since many decades in India. A number of deficiencies and shortcoming in its operation have been observed thus requiring Amendments on three occasions and still leaving scope for more improvements.

Consumer Protection Act, 1986 gives benefit to normal consumers by securing less expensive and often quick redressal of their complaints. The Act commands establishment of Consumer Protection Council at the Centre as well as in each States and District in order to support the consumers and generate awareness about their rights. It also provides for a three-tier structure of the National and State Commissions and District Forums for speedy resolution of consumer disputes. Records show that there are 632 District Forums, 35 State Commissions with the National Consumer Disputes Redressal Commission at the apex. The terms of this Act cover goods as well as services. The products covered in consumers act are those which are manufactured or produced or sold to consumers through whole sellers and retailers. The services include transport, telephone, electricity, housing, banking, insurance, medical treatment etc. In the process of consumer forum, if, the consumer is not convinced by the decision of the District Forum, he can request to the State Commission and against the order of State Commission a consumer can appeal in the National Commission. To guarantee quick clearance of cases, State Governments are

advised to avoid any hindrance in appointment of President and Members in Consumer Fora. In order to dispose of the pending cases, Circuit Benches from National Commission regularly visits the State. National Commission has held Circuit Bench sitting at Hyderabad, Bengaluru, Chennai, Pune, Kolkata, Ernakulam, Ahmadabad and Bhopal. Some of the State Commissions also held Lok Adalats for immediate disposal of the cases. Under the proposal of "Strengthening Consumer Fora" (SCF), States/Union Territories get monetary assistance to strengthen infrastructure of building as well as non-building assets. Scheme of Computerization and Computer Networking of Consumer Fora (CONFONET) was initiated in March 2005. Under this proposal, the Consumer Fora at all the three-tiers all through the nation were fully computerised so that there is access of information and faster clearance of disputed cases. The project is being implemented by the National Information centre (NIC) on a turnkey basis.

Consumer Protection Act was modified from time to time by Act no.34 of 1991, Act no.50 of 1993 and Act no.62 of 2002 to serve better to consumers. In 1991, modification was made to incorporate provisions for the quorum of District Forum, appointing persons to control over State Commissions/District Forums, in case of absence of President to allow the court function successively. In 1993, the Act was again improved to deal with the insufficiency in the reporting of the main Act. The major objective of amendment to amend loopholes and increase the scope of areas covered and interest more power to the redressal agencies under the Act. In 2002, consumer Act underwent modification to assist authorities to quickly resolve disputed cases, increase the capability of redressal agencies, strengthening them with more powers, streamlining the procedure and broaden the scope of the Act to make it more functional.

In 2004, Working Group was established to inspect the provision of the Act and consider relevant modification to make the Act effective and functional. A number of proposed amendments were circulated to all State Governments, concerned Central Ministries and NCDRC in July 2006. Revised proposed amendments were distributed in 2009 and with the feedback received on the draft application, the Department of Consumer Affairs in consultation with the Ministry of Law and Justice devised "Consumer Protection (Amendment) Bill, 2010. In meantime some fresh additional comments of the Department of Financial Services were received on the proposed sections regarding unfair trade practice and unfair contract. These changes were got approved by the Ministry of Law and Justice and formed part of the draft proposal of Consumer Protection (Amendment) Bill, 2011. The Bill was introduced in Lok Sabha on 16.12.2011. The Bill was referred to Standing Committee on Food, Consumer Affairs and Public Distribution on 26.12.2011. The Committee Report was presented in Lok Sabha on 19.12.2012. the major intent of the proposed Bill are broadening the scope and strengthen the provisions of the Act, facilitating faster disposal of complaints, rationalising the qualifications and procedure of selection of the Presidents and Members of Consumer Fora, strengthening penal provisions/enforcement orders of Consumer.

The vision of amended consumer act is to defend the rights and interests of consumers, to create awareness about consumer rights, duties and responsibilities and to encourage consumer welfare by strengthening consumer movement in the country. It is necessary that State Governments, academic and research institutions, schools and voluntary organizations must involve themselves actively to create lively consumer movement in the nation. Strict parameters regarding consumer products will be developed and enforced along with regular monitoring of prices to make certain the autonomy of consumers.

Under 12th Plan strategy and implementation plan, consumers need a low-cost and quick grievance redressal method to guarantee that manufacturers and service providers are accountable for the price and quality that the consumers are entitled to. Accordingly, it is essential to provide several methods of grievance redressal including those which are available in agreement with the provisions of the Consumer Protection Act. Thus, mediation or in-house grievance redressal should be tried, but without giving up the right of the consumer to obtain legal redress. Another objective of 12th Plan strategy is amendment of Consumer Protection Act to make it more successful and tuned to reducing the accumulation of cases. It has been observed that there has been derogation or poaching on the jurisdiction of Consumer Protection Act in some of the areas due to the orders passed by the Courts. Such ambiguities in the Act should be plugged through proper amendments to the Act and Rules. It is proposed that computerisation and Networking of consumer fora across the nation must be installed so that consumers can file complaints and access their case status online. The plan include to offer counselling and a mediation mechanism at pre-litigation stage and so as to reduce the burden of consumer courts and resolve disputes through out of court settlements. In this plan, there is a provision of adequate infrastructure to Consumer fora in order to make them function effectively. 12th Plan strategy also proposes amendment to changeover from manual system to computer based system to bring in more competence and transparency. There is provision for monitoring the performance of functioning of District Fora by developing dynamic MIS Reports on the performances related to total no. of cases filed/ disposed and other related performance indicators. 12th Plan strategy also offer provision of funds for the annual maintenance of confonet hardware items like computers, UPS, replacement of UPS batteries etc. under the Scheme on Strengthening Consumer.

The Role of Voluntary Organizations in Protecting Consumers' Rights

There is a significant contribution of such organization for the welfare of consumers. Consumer organizations are support groups that seek to protect people from corporate abuse. Unsafe products, predatory lending, false advertising, and pollution are types of corporate abuse. Consumer organizations may operate via remonstrations, campaigning or lobbying. Voluntary organizations have major contribution for implementation of consumer rights and serve the consumer better. It has been estimated that there are now more than 800 such organisations in India. They conduct various activities as part of the consumer movement. They perform several functions such as create awareness about consumer, rights and teach the general public about consumer difficulties and remedies through seminars, workshops and training programmes. These voluntary organizations provide legal help to consumers by way, of assistance in seeking legal solution, undertake advocacy of consumers' point of view as representative members of consumer protection councils and others official boards. In India, government encourage voluntary organizations to promote healthy and mass based consumer movement in urban and rural areas.

Voluntary organizations organize comparative testing of consumer products through their own testing tools or accredited laboratories in order to evaluate their qualities of competing brands and publish the test results for the benefit of consumers to become informed buyers. These organizations publish periodicals and journals to distribute information among readers about consumer problems, legal reporting and other emerging matters of interest. Most of these periodicals do not accept advertisements from business firms. Organizations also offer suggestions

and recommend steps which government authorities should consider in policy making and administrative measures adopted in the interest of consumers. Some voluntary organizations have successfully used Public Interest Litigation (PIL) to enforce consumer rights in several cases. It can be said that voluntary organizations have filed cases in law courts in the interest of the general public and not for any individual. To summarize, the Consumer Protection Act, 1986 is a generous social legislation that takes care of the rights of the consumers and provides for promotion. The successful implementation of Consumer Protection is important to protect the rights of consumers and make healthy and happy society. It must be known that manufacturer or provider of a service is also a consumer of some other goods or services. If both the producers/ providers and consumers understand the need for co-existence, adulterated products, false goods and other insufficiency in services, there will be less dispute. The outlook of the consumer justice system in India seems to be hopeful as there is continual amendment of consumer act to protect consumer's rights and resolve pending cases. The Government has also adopted the practical policy, schemes / programmes. In present Indian situation, there is desperate need for the State Governments to give priority to Consumer welfare and get ready themselves to meet the challenges of market economy. In India, government and voluntary organizations have attempted to resolve problems of consumers such as price rise, inflation, adulteration of food through implementing legislative and administrative measures. As society is aware of the protection of the consumers, consumer movement has been modified and number of voluntary organizations is established by different groups of citizens in various part of India to promote and protect the disadvantaged group of society. These organizations have different ideologies, objectives, working styles, social composition and operations.