

Consumer Protection in India: Genesis and Recent Developments

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CONSUMER PROTECTION ACT, 1986



...there is still a long road ahead to ensure effective consumer justice.

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Consumer protection owes its origin to the USA. In the early 1960's, when consumers were unhappy with business firms because of their unfair business practices, Ralph Nader, a young advocate, championed the cause of consumers against the manufacturers and traders. President John F. Kennedy, on March 15, 1962, in a message to the U.S. Congress (Parliament), proclaimed that the consumer had four basic rights: (1) the right to safety; (2) the right to be informed; (3) the right to choose; and (4) the right to be heard. To commemorate President Kennedy's Consumer Bill of Rights, March 15 is celebrated every year as the World Consumer Rights Day. On April 16, 1985, the UN General Assembly adopted a set of guidelines for consumer protection and the Secretary-General of the UN was requested to persuade member countries to adopt these guidelines through policy changes or law in order to promote consumer protection. Consumer protection laws have since been enacted in almost all countries of the world. Many countries, particularly the USA, UK, France, Germany, Sweden and Norway, have a strong consumer movement, supported by relevant legislative measures.

In India, the legal provisions for the prevention and control of unfair business practices and for the promotion

and protection of consumer's interest have been in existence for a long time. Despite more than a dozen such legislations which were in force (see Table 1), consumer's interest were not adequately protected. These enactments sought to protect the consumer, interest in piecemeal. The titles of the legislations briefly indicate the nature and scope. For example, the Drugs and Cosmetics Act is intended to ensure the quality of drugs and cosmetics manufactured, imported, distributed or sold in India. There was no sample, unified agency to redress consumers' multifarious grievances, pertaining to the supply of defective goods, provision of deficient services, restrictive and unfair trade practices, charging of excessive prices, and offering of hazardous goods and services. Moreover, the legislative provisions were not effectively enforced. Furthermore, in case of most of the legislations, consumers themselves did not enjoy the right to seek redress of their grievances.

Consumer Protection Act, 1986

The most significant milestone in the history of the consumers movement in India was the passing of the Consumer Protection Act (CPA), on December 24, 1986. It has since been amended thrice, in 1991, 1993 and 2002. The Act seeks to provide better protection of consumer's interest,

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through speedy and in-expensive redress of their grievances, through a three-tier adjudicative machinery, set up at the district, state, and the national levels.

Consumer Rights

The six rights of the consumers, sought to be protected and promoted by the Consumer Protection Act, are:

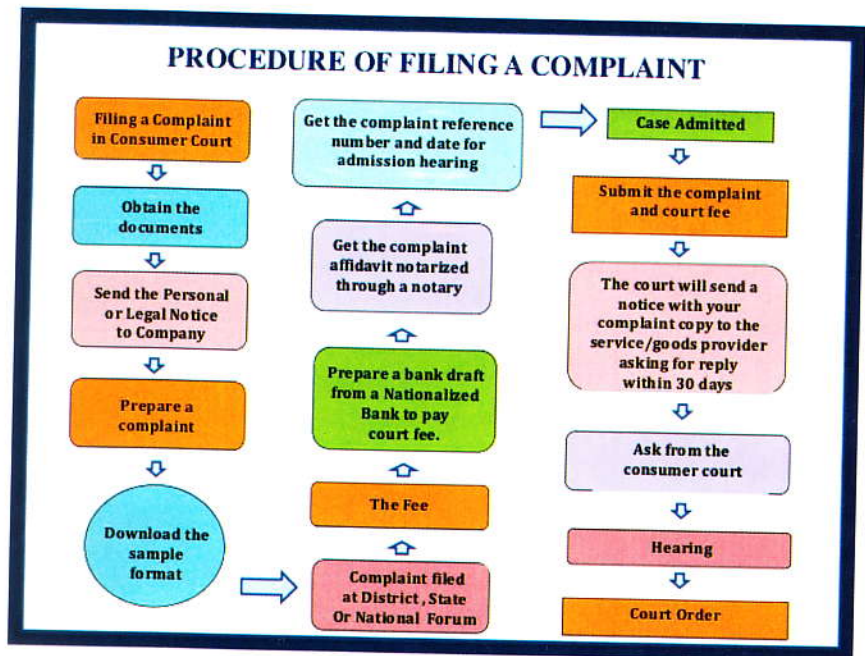
- The right to be protected against the marketing of hazardous goods and services;
- The right to be informed about the quality, quantity, potency, purity, standard, and price of goods and services, so as to protect the consumer against Unfair Trade Practices (UTPs);
- Availability of a variety of goods and services at competitive prices;
- The right to be heard at appropriate grievance-redress forums;
- The right to seek redress against unfair trade practices or Restrictive Trades Practices (RTPs) or exploitation in any other way; and
- The right to consumer education.

Filing of Complaint

The process of redress of any consumer grievance starts with the filing of a complaint before the appropriate consumer forum, which hears the parties concerned, following the principles of natural justice, and passes appropriate order, to provide necessary relief to the aggrieved person. In case either of the two parties (the complainant and the opposite party) feels aggrieved with the order, it can file an appeal before the appropriate authority, whose order shall be final.

Who can file a complaint?

- Any consumer;
- Any consumers' association (which must be registered);
- The Central Government or any State Government;
- One or more consumers on behalf



- of numerous consumers having common interest ('class action'); and
- Legal heir or representative of the deceased consumer (in case of death due to medical negligence).

The term 'consumer' has been comprehensively defined in the Act. Any person buying a product or agreeing to buy a product, for personal or household consumption (and not for resale or commercial purpose), for consideration is referred to as a consumer. The term 'consumer' also includes a person who hires or avails of a service for non-commercial purpose and for a consideration.

Grounds of Filing a Complaint

A person can file a complaint on any one of the following grounds:

- An Unfair Trade Practice (UTP) or Restrictive Trade Practice (RTP) adopted by any trader or service provider;
- Any defect in the goods sold;
- Any deficiency in the service provided;
- Charging of price in excess of the price fixed under law, displayed on the package, or on the price

list, or agreed between the buyer and the seller; and

- Offering of any hazardous goods or service.

The terms 'goods', 'service', 'defect in goods', 'deficiency in service', 'unfair trade practice' and 'restrictive trade practice', are given a very wide meaning. Thus, almost all sorts of consumer grievances are taken care of under the scheme of the CPA.

Where to File a Complaint?

The forums where a complaint can be filed are:

- The District Forum concerned, if the claim (price of the product or the service and the compensation demanded) is up to Rs.20 lakhs;
- The State Commission concerned, if the claim exceeds Rs. 20 lakhs, but does not exceed Rs. one crore;
- The National Commission, if the claim exceeds Rs. one crore.

These forums are quasi-judicial bodies, consisting of judicial as well as non-judicial members and headed by a person from the legal background, often called consumer courts. They act like tribunals. They

are vested with the powers of a civil court, for purpose of hearing the cases and enforcing their own orders. They follow the 'principles of natural justice' while hearing the case and provide opportunity of hearing to both the parties. The forums are empowered to pass an ex-parte order and issue an interim injunction ('stay order'), where considered necessary.

Procedure of Filing a Complaint

The procedure of filling a complaint is simple. A written complaint can be filed by the complainant or any person authorised by him, along with the supporting documents (case memo, warranty card, etc.), if any. There is no need of engaging any advocate. In order to deter frivolous and vexatious complaints, a small fee, proportionate to the compensation claimed, is to be paid along with the complaint. The relief sought by the complainant is to be specified in the complaint.

Relief Available to the Victim

After completion of the hearing, the consumer forum can issue one or more of the following directions:

1. Removal of defect from the goods sold and deficiency from the service provided;
2. Replacement of defective goods;
3. Refund of the price paid;
4. Payment of compensation for the loss or injury suffered by the consumer;
5. Payment of punitive damages, wherever appropriate;
6. 'Cease and desist' order against the UTP or RTP adopted by the trader;
7. Withdrawal of hazardous goods from sale;
8. 'Cease and desist' order against manufacturing/offering of hazardous goods/service;
9. Payment of compensation to unidentifiable persons;
10. Issue of corrective advertisement to neutralise the effect of a

Table 1	
Major Legislations for Consumer Protection in India*	
1.	The Consumer Protection Act, 1986
2.	The Food Safety and Standards Act, 2006
3.	The Bureau of Indian Standards Act, 1986
4.	The Drugs and Cosmetics Act, 1940
5.	The Drugs (Control) Act, 1950
6.	The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954
7.	The Essential Commodities Act, 1955
8.	The Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980
9.	The Agriculture Produce (Grading and Marking) Act, 1937
10.	The Standards of Weights and Measures Act, 1976
11.	The Standards of Weights and Measures (Packaged Commodities) Rules, 1977
12.	The Competition Act, 2002
13.	The Trade Marks Act, 1999 (w.e.f. September 2003)
14.	The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003

* Not in Chronological Order

- misleading advertisement; and
11. Payment of costs to either party.

Any person aggrieved from any order of the District Forum can prefer

an appeal before the State Commission, within 30 days of the passing of the order. An appeal against the order of the State Commission can be filed before the National Commission. In the case

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Gender*	<input type="text" value="Select"/>	Age	<input type="text" value="Select"/>
Contact No*	<input type="text" value="Mobile no."/>	Alternate No.	<input type="text" value="Alternate Number"/>
Email Id*	<input type="text" value="Email id"/>	Password*	<input type="text" value="Example: Pass@2015"/>
Country*	<input type="text" value="India"/>	State*	<input type="text" value="Select State"/>
City	<input type="text" value="Select city"/>	Pin Code	<input type="text" value="Pin Code"/>
Address	<input type="text" value="Enter Address"/>		
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Captcha *	<input type="text" value="Enter the code"/> <div style="background-color: black; color: white; padding: 2px 5px; display: inline-block;">41835</div>		
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of a complaint filed directly before the National Commission, the appeal can be filed before the Supreme Court, only on certain specific grounds.

Other Developments

The major developments during the recent years, which can be said to be the

milestones in the history of consumer protection movement in India, are summarised in **Table 2**.

New Act in the Offing

The proposed enactment to replace the present Consumer Protection Act(1986), merits a special mention.

In order to remove the bottlenecks and shortcomings and to enlarge the ambit and scope of the 1986 Act, a fresh bill, namely the Consumer Protection Bill, 2015, was introduced in the Lok Sabha on August 10, 2015. It is intended to repeal and replace the old act with a new one. The Bill was

Table 2	
Major Development in Consumer Protection in India	
1.	Statutory measures for effective protection and promotion of consumer interest (Passing of the Consumer Protection Act, 1986)
2.	Strengthening of statutory measures for standardisation and quality control of goods (Passing of the Bureau of Indian Standards Act, 1986, which repealed and replaced the Indian Standards Institution Act, 1951)
3.	Conferring on consumers the statutory right of hearing under certain allied legislations (December, 1986)
4.	Setting up of the Department of Consumer Affairs, in the Central Government (June, 1991)
5.	Setting up of the Consumer Welfare Fund, 1992, for supporting various consumer welfare schemes
6.	Strengthening the consumer protection legislation, by enlarging its scope and enhancing the consumer courts' powers (June 1993)
7.	National Commission's pronouncement upholding the consumer's right to seek redressal before consumer courts for any negligence or deficiency in medical services (April, 1992), later affirmed by the Supreme Court (November 13, 1995), bringing the medical services under the fold of the CPA
8.	Further strengthening of the CPA, through wide-ranging amendments (December 2002, with effect from March 15, 2003)
9.	Establishment of the Competition Commission of India (CCI) to prevent anti-competitive business practices, to promote competition and protect consumer interests (Passing of the Competition Act, 2002, w.e.f. March 31, 2003)
10.	Prohibition of advertising of cigarettes and other tobacco products and ban on the sale of tobacco products to minors [Passing of the Cigarettes and Other Tobacco Products (Prohibition of Advertising and Regulation of Production, Supply and Distribution) Act, 2003]
11.	Setting up of the Food Safety and Standards Authority of India (FSSAI) for laying down science-based standards of food articles [Passing of the Food Safety and Standards Act, 2006, effective from August 5, 2011]
12.	Proposal to establish Central Consumer Protection Authority, to promote, protect, and enforce the consumers' rights and to provide for product liability, and 'mediation' (Introduction of the Consumer Protection Bill, 2015, in the Lok Sabha, on August 10, 2015). After its passage by both the Houses of Parliament (hopefully in the Winter Session in November-December, 2017), it is expected to be the new Consumer Protection Law.
13.	Some Other Developments:
a.	Setting up of Product Testing and Rating Laboratory at Ahmedabad by CERC and publication of its comparative product test reports;
b.	Setting up of numerous voluntary consumer organisations;
c.	Setting up of consumer grievance cells in industry and trade;
d.	Growing media interest in consumer affairs;
e.	Increased Government effort to create consumer awareness; and
f.	Accumulation of rich case law on the subject.

(All during the last three decades);

referred to the Parliamentary Standing Committee of the Ministry of Food, Consumer Affairs and Public Distribution, which recommended certain amendments to the Bill. The amended Bill is to be introduced in the Lok Sabha in its Winter Session in November-December 2017, and after it is passed by the Lok Sabha, it will go to the Rajya Sabha for its consideration, before it is assented to by the President of India.

The major highlights of the new Consumer Protection Bill are:

1. Setting up of an executive agency, to be known as the Central Consumer Protection Agency, to promote, protect and enforce the consumer rights, to make interventions when considered necessary to prevent consumer detriment from unfair trade practices, and to initiate 'class action', including enforcing, recall, refund or return of products. Currently, the task of prevention of or acting against such practice is not vested in any authority;
2. Penalising of **celebrity endorsements** for false and misleading ads;
3. Declaring of **unfair terms of a contract** as null and void;
4. Setting up of **mediation centres** in consumer courts, as an alternate dispute resolution mechanism; and
5. Enforcing of **product liability** against the manufacturers.

Conclusion

Many significant developments have taken place in the field of consumer protection, since 1986, when the Consumer Protection Act was passed to regulate unfair and exploitative business practices. The CPA has provided an effective organisational structure through the length and breadth of this vast country. The law of consumer protection has substantially developed as a result of successive reforms and a large number of decisions handed down by consumer forums and the Supreme Court of India. A large number of voluntary consumer organisations have also emerged. The traders and service-providers have started taking note of the consumer rights. However, there is still a long road ahead to ensure effective consumer justice. It is hoped that the new Consumer Protection Bill of 2015, likely to be passed by Parliament, soon, shall overcome the shortcomings of the existing law and the Consumer Forums will act expeditiously to clear the heavy backlog of cases, pending before them, so as to give a boost to the consumer protection movement in India.

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