



Consumer Protection Act, 1986 and Consumer Protection Bill 2015: A Review

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Abstract: *The contemporary era is marked as the era of consumers. No country can knowingly or unknowingly disregard the interest of the consumers. This can be argued on the basis of fast enactment of consumer protection laws in almost all part of the world. Apart from the consumer protection laws in developed world, we could find the accelerated rate of lawmaking for consumers in developing countries like Thailand, SriLanka, Korea, Mongolia, Philippines, Mauritius, China, Taiwan, Nepal, Indonesia, Malaysia and other countries. India is not an exception to this rule. The Consumer Protection Act, 1986, is one of the examples that is to be treated as a milestone in the history of socio-economic legislation to protect the interests of the consumers in India. This paper explores to know the emerging issues and problems associated with this Act and to discuss the role of Consumer protection act 1986 and Consumer Protection Bill 2015 in protecting consumers from unfair trade practices.*

Key words: Basic needs, consumers, businesses goods

Introduction

By the nineteenth century consumer came to be used as a counterpoint to the term producer. The nineteenth century view of the consumer has survived in most capitalist democracies. In fact, consumers have a 'secondary relationship' with goods and services, because they are forced to live with and through services and goods that they themselves did not create. Thus, the consumer still remains as a 'marginal group' in today's dominant market economy of the world. India is fast being recognized as a major hub for all consumer and businesses goods. The presence and influence of the market has thus grown dramatically in consumer life. Gandhiji believed "consumer is king" is the king of market. In view of this, many businesses including the late J.R.D. Tata and the late Jamnalal Bajaj helped

develop an ethical code for business practice, to build bridges between consumers and business. However, the inherent profit motive in mass production and sales also offers the opportunity to many manufacturers and dealers to exploit consumers. Each day, unscrupulous market practices are finding their way into consumer homes, violating consumer rights and jeopardizing their safety. The need for empowerment of consumers as a class cannot be overemphasized and is already well recognized all over the world. The level of awareness of the consumer can be taken as an indicator of the progress of a country. Be it medicines, electronic goods, Fast Moving Consumer Goods or even services rendered – each of these demand that consumers become aware of their rights. In order to safeguard consumer interest, six consumer rights



were initially envisioned by consumer rights activists of the West, namely: Right to Safety, Right to information, Right to Choice, Right to Heard, Right to Redress and Right to Consumer Education. In time, two more important rights were added viz.: Right to Basic Needs and the Right to a Healthy and Sustained environment.

Consumer Protection Bill 2015

The Consumer Protection Bill, 2015, was introduced in Lok Sabha on August 10, 2015. The Bill replaces the Consumer Protection Act, 1986. The Statement of Objects and Reasons of the Bill states that this is to widen the ambit and modernize the law on consumer protection due to the changes in the markets. Any person who fails to comply with an order of either of the Commissions would be liable for imprisonment from one month to three years, or with a fine from 10,000 rupees to 50,000 rupees. The proposed new law assumes importance as there is growing concern over safety of consumer products and services especially after the Maggi controversy. The new bill, approved by the Cabinet on Wednesday and likely to be introduced in the ongoing session of Parliament, provides for a comprehensive framework for protection of consumer interest and will replace the Consumer Protection Act, 1986, sources said.

The key features of the new bill include establishment of an executive agency 'Central Consumer Protection Authority' (CCPA) which will protect and enforce the rights of consumers. "The authority will intervene when necessary to prevent consumer detriment arising from unfair trade practices and to initiate class action including enforcing recall,

refund and return of products," sources added.

That apart, the bill has provisions for "product liability" if product/services cause personal injury, death or property damage and will take action against defaulting manufacturers or service providers. The bill also provides for stringent penalty, including life imprisonment in certain cases, sources added. The Consumer Protection Act 1986 was amended thrice earlier in 1991, 1993 and 2002. The bill also has a provision for setting up of a 'circuit bench' to facilitate quicker disposal of complaints and there is an enabling provisions for consumers to file complaints electronically and file complaints in consumer courts that have jurisdiction over the place of residence of the complainant. The complaints will be deemed as admissible if the question of admissibility is not decided within 21 days.

Objectives of the paper

- To know the emerging issues and problems associated with this Act.
- To discuss the role of Consumer protection act 1986 and Consumer Protection Bill 2015 in protecting consumers from unfair trade practices.
- To offer suggestions for policy prescription.

Data collection: This paper purely basis on the Secondary data. This Data have been collected through various sources like internet, journals, magazines, text books of various authors and Newspapers.



Meaning and Concept: Every individual is a consumer, regardless of occupation, age, gender, community or religious affiliation. Consumer rights and welfare are now an integral part of the life of an individual and we all have made use of them at some or the other point in our daily routine.

Every year 15th March is observed as "World Consumer Rights Day". It commemorates a historic declaration (1962) by former US President John F. Kennedy of four basic consumer rights:

- The right to safety
- The right to be informed
- The right to choose
- The right to be heard

This declaration eventually led to the international recognition of the fact that all citizens, regardless of their incomes or social standing, have basic rights as consumers. Another significant day is 9 April 1985, when the General Assembly of the United Nations adopted a set of guidelines for consumer protection and the Secretary General of the United Nations was authorized to persuade member countries to adopt these guidelines through policy changes or law. These guidelines constituted a comprehensive policy framework outlining what Governments need to do to promote consumer protection in the following areas:

- Physical safety
- Protection and promotion of consumer economic interests
- Standards for safety and quality of consumer goods and services
- Measures enabling consumers to obtain redressal

- Measures relating to specific areas (food, water, and pharmaceuticals) and
- Consumer education and information programme

In India, 24th December is celebrated as "National Consumer Rights Day", since the Consumer Protection Act, 1986 was enacted on this day. The Consumer Protection Act was enacted in 1986 based on United Nations guidelines with the objective of providing better protection of consumers' interests. The rights under the Consumer Protection Act, 1986 flow from the rights enshrined in Articles 14 to 19 of the Constitution of India. The Right to Information Act (RTI), which has opened up governance processes of our country to the common public also has far-reaching implications for consumer protection.

The Act envisages the promotion and protection of the following rights of consumers:

Right to Safety: 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 of should not only meet their immediate needs, but also fulfil long term interests. Before purchasing, consumers should insist on the quality of the products as well as on the guarantee of the products and services. They should preferably purchase quality marked products such as ISI, AGMARK, etc.

Right to be informed: 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. Consumer should insist on getting all the information about the product or service before making a choice or a decision. This will enable him to act wisely and



responsibly and also enable him to desist from falling prey to high pressure selling techniques.

Right to Choose: Means right to be assured, wherever possible of access to variety of goods and services at competitive price. 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.

Right to be Heard: 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. The consumers should form non-political and non-commercial consumer organizations which can be given representation in various committees formed by the Government and other bodies in matters relating to consumers.

Right to Seek Redressal: Means right to seek redressal against unfair trade practices 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. They can also take the help of consumer organisations in seeking redressal of their grievances.

Right to Consumer Education: Means the right to acquire the knowledge and skill to be an informed consumer throughout life. Ignorance of consumers, particularly of rural consumers, is mainly

responsible for their exploitation. They should know their rights and must exercise them. Only then real consumer protection can be achieved with success.

Standards, Weights and Measures

Use of proper and accurate standards, weights and measures is very important for effective functioning of any economy, as it plays an indispensable role in promoting welfare of consumers. The Weights and Measures Unit, under the Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution, has been set up to promote use of exact and correct weighing and measuring instruments. For this, various legislations have been enacted like Standards of Weights and Measures Act, 1976, Standards of Weights and Measures (Enforcement) Act 1985, Standards of Weights and Measures (General) Rules 1987 and Standards of Weights and Measures (Packaged commodities) Rules, 1977. All such regulations aimed to ensure that consumers get the exact quantity of commodities, with mandatory declaration of relevant information on the package of goods; as well as facilitate use of standard weighing and measuring instruments in trade and commerce activities. Further, there are also Weights and Measures Departments/ Wings or Department of Legal Metrology in various States and Union Territories to regulate all such provisions of weights and measures.

Bureau of Indian Standards (BIS) has been set up under Bureau of Indian Standards Act, 1986 (BIS Act, 1986) as the National Standards Body of India. It majorly performs two types of activities,



namely, formulation of quality standards of goods or services and their certification through Product Certification Scheme/ Quality Certification Scheme. BIS Act, 1986 seeks to protect the interests of the consumers and promote their welfare by formulating and enforcing the standardization, marking and quality certification of goods. Quality Management Systems serve as an indicator of the ability of the firm to meet quality needs of the consumers.

Issues and Problems

Globalization has made the world smaller by integrating the global markets. This has exposed the consumers to the wide range of products and services available in the market. It has, on one hand; given them a greater choice of products and brands with lower costs. While, on the other hand, it has made consumers more and more quality consciousness and aware of their rights. As a result, they are able to voice their concerns about various problems and issues faced by them.

Some of the commonly raised problems are:

- Adulteration of food substances by traders through addition of substances which are injurious to health or removal of substances which are nutritious or by lowering their quality standards
- Misleading advertisements of goods and services in television, newspapers and magazines to influence the consumers demand for the same
- Variations in the contents filled in the package of goods
- Improper delivery of after sales services
- Supply of defective goods
- Hidden price component

- Use of deceptive or incorrect rates on products
- Use of false or non-standard weights and measures in supply of goods
- Production of low quality goods in bulk quantities
- Illegal fixation of Maximum Retail Price (MRP)
- Selling above the MRP
- Unauthorized sale of essential products like medicines, etc. beyond their expiry date to ignorant consumers
- Poor customer services
- Non-compliance with the terms and conditions of sales and services
- Supply of false or incomplete information regarding the product
- Non-fulfillment of guarantee or warrantee etc.

All such issues and problems must be handled more efficiently both at the Centre and the State level, with a view to protect the interests of the consumers and promote their welfare.

Suggestions

In today's changing market scenario, there is an increasing necessity of empowering the consumers through education and motivation regarding their rights and responsibilities. He/she should be equipped to be fully vigilant so as to be able to protect himself/herself from any wrongful act on the part of the seller/trader. Several steps have been taken by the Government, both at the Central and State level towards generating awareness among the consumers. Given all such initiatives, it is the responsibility of the consumer as well to keep in mind the following suggestions:



- Purchase products only after their complete scrutiny and not at the cost of attractive advertisements.
 - Keep check on the weighing and measuring instruments used by traders.
 - Avoid buying fruits and vegetables from unhygienic place.
 - Check print of MRP on the packet.
 - Check the quantity as per the figure printed on the packet.
 - Check the expiry date of the product, particularly that of eatables and medicines.
 - Always collect bill at the time of purchase.
 - The cases discussed in this paper have boosted the morale of the people and made the seller more sensitive towards the consumer rights. This is a beneficial change which has affected each and every individual for the general awareness about the consumer rights. Similar kind of NGOs can be formed in other districts and their work can be replicated for the betterment of society.
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Moreover, the packaging and appearance of the product should not be the guiding factor for consumer purchases. Along with cost consideration, consumer must be cautious of the quality of the product. Most importantly, it is the prime responsibility of a consumer to bring to the notice of the concerned authorities, any violation in their rights.

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