CONSUMER PROTECTION ACT & CONSUMER CARE

ASPECTS AND PROSPECTS

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CHANGING POSITION OF THE PEOPLE

SUBJECT

CITIZEN

CUSTOMER
CONSUMER PROTECTION

Why to Protect Consumers’ Rights/Interests?

Consumers, Clients, Customers.
Importance of Consumer Protection

It has considerably increased.

* Change of the Concept of State.
* Growing Interdependence of the World Economy.
* Changed International Business Practices.
Reasons For Universal Emphasis

• Rapidly increasing variety of goods and services which modern technology has made available;

• Growing size and complexity of production and distribution system;

• Sophistication in marketing and selling practices in advertising;

• Removal of personal relationship of buyer and seller and Consumer’s increased mobility.
"THE CHARACTER OF THE MARKET HAS CHANGED. EARLIER, WE KNEW OUR CUSTOMERS BY NAME"

- ANUJ BAHRI, Bookstore owner
CONTRIBUTIONS OF CHANGES

* Universal emphasis on the need of Consumers' Rights Protection
* Need of Consumer Awareness and Education
* Observance of 15th March every year as World Consumer’s Rights Day.
World Consumer Rights Day

Rights of the Consumers as per John. F.Kennedy’s Bill of Rights

* the right to safety
* the right to be informed
* the right to choose
* the right to be heard

Four more Rights have been added

* the right to satisfaction of basic needs
* the right to redress
* the right to education
* the right to a healthy environment.
Development of Consumer Policy
April 9, 1985 – United Nations General Assembly Resolution - General Guidelines

• Physical Safety;

• Protection and Promotion of the Consumers’ Economic Rights;

• Standards for the Safety and Quality of Consumers Goods and Services;

• Measures enabling consumers to obtain redress;

• Measures relating to specific areas (food, water and pharmaceuticals) and

• Consumer education and information programme.
IMPORTANT PRE-EXISTING LAWS

- The Indian Contract Act, 1872
- The Sale of Goods Act, 1930
- The Dangerous Drugs Act, 1930
- The Agricultural Produce (Grading & Marketing) Act, 1937
- The Drugs (Control) Act, 1940
- The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954.
- The Prevention of Food Adulteration Act, 1954
- The Essential Commodities Act, 1955
- The Trade and Merchandise Marks Act, 1968
- The Monopolies and Restrictive Trade Practices Act, 1969
- The Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Packaged Commodities) Rules, 1977
- The Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980
- The Bureau of Indian Standards Act, 1986
- Competition Act, 2002
THE CONSUMER PROTECTION ACT, 1986
(As Amended in 2002)

Important Provisions
THE CONSUMER PROTECTION ACT, 1986

OBJECTIVE:

To provide for the better protection of the interests of the consumers.

To provide for the establishment of quasi-judicial authorities for the settlement of consumer disputes.
Rights of Consumers

• The right to be protected against the marketing of goods and services which are hazardous to life and property;

• The right to be informed about the quality, quantity, potency, purity, standard and price of goods or services as the case may be so as to protect the consumer against unfair trade practices;

• The right to be assured, wherever possible access to variety of goods and services at competitive prices;
• The right to be heard and be assured that consumer’s interests will receive due consideration at appropriate fora;

• The right to seek redressal against unfair trade practices or unscrupulous exploitation of consumer; and

• The right to consumer education.
OTHER RELEVANT PROVISIONS OF THE ACT

Section 1(4) : The Act applies to all goods and services

“Save as otherwise expressly provided by the Central Government by notification, this Act shall apply to all goods and services.”
Section 3: The Act not in derogation of any other law

“The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.”
DEFINITIONS UNDER THE CONSUMER PROTECTION ACT
Consumer : Section 2(1) (d)

**Of Goods**

- Any person who buys any goods for a consideration and
- includes any user of such goods with the approval of the buyer

**Of Services**

- Any person who hires any services for a consideration and
- includes any beneficiary of such services when availed of with the approval of the hirer.
**Cases:**

*M/s Spring Meadows Hospital v. Harjot Singh Ahluwalia AIR 1998 SC 1801*

- The child is a consumer being the beneficiary of the services hired by the parents.

*Indian Medical Association v. V.P. Shantha AIR 1996 SC 550*

- The patients who are rendered free service are the beneficiaries of the services hired by the patients who paid for the services.
Who is a Consumer

A consumer is a person who :-
• Consumes goods
• Avails of services

For a consideration whether:-
• Paid
• Promised
• Partly paid and partly promised

• Also includes a beneficiary of such goods/services when such use is made with the approval of such person.
Who is not a Consumer

• Buyer without consideration
• Buyer for re-sale or for commercial purpose
• Services for commercial purpose

**Explanation** - For the purposes of this clause, “commercial purpose” does not include use by a person of goods bought and used by him and services availed by him exclusively for the purposes of earning his livelihood by means of self-employment.
What are Goods?

Section 2(1)(i)

“Goods” means goods as defined in Sales of Goods Act, 1930

Section 2(7) of Sales of Goods Act, 1930

Every kind of movable property other than actionable claims and money; and includes stocks and shares, growing crops, grass and things attached to or forming part of the land, which are agreed to be severed from land before sale, or under contract of sale.
What is defect?

Section 2(1)(f) of CPA

“defect” means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for time being in force or under any contract, express or implied, or as is claimed by the trader in any manner whatsoever in relation to any goods.
Service means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal services.
Service
The definition of ‘service’ is in three parts:
Main part or the exhaustive part:
• Service means service of any description which is made available to potential users.
Inclusionary part:
• Service includes the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or purveying of news or other information.
Exclusionary part:
• Service does not include the rendering of any services free of charge or under a contract of personal service.
Further Exclusions from the category of Consumer

1. Who avail services free of charge
2. Services availed under contract of personal services
CONTRACT OF SERVICE
AND
CONTRACT FOR SERVICE

‘Contract of service’ is different from
‘Contract for service’

**Contract of Service**
- Implies relationship of master and servant

**Contract for Service**
- Implies a contract where there is no master servant relationship
Banking Services

• Defective bank Draft- Standard Chartered Grindlay bank Ltd. v H. B Impex Pvt.Ltd. 2001

• Failure / refusal to honour Bank Guarantee- Z. Babelloni Singapore Pvt. Ltd. v Central Bank of India 2004

• Cancellation of Credit Card
• Permitting unauthorised third party to operate accounts- *State Bank of India v. Frennie Fitter* 1994

• Deficiency in Locker Services- *A. S. Arunanchalam v Chief manager , SBI* 2004
TRANSPORT SERVICES

• Death of a child due to negligence of the airport authorities in maintaining the escalator. Geeta Jethani & Ors. v Airport Authority of India & Ors. 2004(3) CPR 61 (NC)

• Boarding is denied on a confirmed ticket as a result person suffers loss. Rajinder Pal Jaura (NRI) v Secretary, UOI 2003(1) CPR 24

• Cancellation of flight without notice and refusal of airlines to return the amount. Express Travels v M. R. Shah III (2002) CPJ 158 (NC)

• Loss of Consignment. Shobha Global v. Air India II (1995) CPJ 158 (NC)
Railway Services

- Unauthorized persons entered the compartment, assaulted the passenger and took away the valuables forcibly. Sumathi Devi M. Dhanwatyv. UOI II (2004) CPJ 27 (SC)

- Failure to provide basic amenities. Like water, fans, iron shutters in windows, glasses in glass shutters, resins on the berth. South Eastern Railway v. Yeshwant Tiwari 2003 (2) CPR 12 (NC); General Manager, South Eastern Railways v. Anand Prasad Sinha, I (1991) CPJ 10(NC)
Electricity Services

• Delay in giving connection- PSEB v. Zora Singh III (2003) CPJ 169 (NC)

• Current Fluctuation, short circuit, fire as a result loss is caused. HSEB v. Anand Medicos III (2003) CPJ 175 (NC)

• Defective meter

• Excessive billing

• Long disruption due to defect

• Arbitrary disconnection
Housing services

- Plot/ flat is allotted but possession is not given, Haryana Urban Dev. Auth. v Shanthi Devi I (2005) CPJ 6 (SC)

- Demand of higher price on allotment of alternative site. HUDA v. R. P. Chawla 2001 (3) CPR 15 (NC)

- Defects in construction. Prof. R. Shanmugasundaram v TN Housing Board 1997 (2) CPR 299 (NC)

- Failure to provide basic amenities. Leelawati. Dr. Sukhmal Jain III (2003) CPJ 90 (NC)
Indian Medical Association v. V.P. Shantha (1995) 6 SCC 651; AIR 1996 SC 550

- Medical practitioners are not immune from a claim for damages on the ground of negligence.

- The Medical Practitioners, Government Hospitals/Nursing Homes and Private Hospitals/Nursing homes broadly fall into three categories:
(i) Where services are rendered free of charge to everybody availing the said service (Doctors and hospital in this category are outside the purview of “service” as defined under the Act.)

(ii) Where charges are required to be paid by everybody availing the services. (Doctors and hospitals in this category would clearly fall within the ambit of “service”.)

(iii) Where charges are required to be paid by persons availing the services but certain categories of persons who cannot afford to pay are rendered service free of charge. (Doctors and hospitals in this category would fall within the ambit of the expression “service”; persons who are rendered free service are the “beneficiaries” and as such come within the definition of “Consumer” as defined under the Act.)
Deficiency in service

Sec 2(1)(g) of the Act
defines ‘deficiency’ means any fault, imperfection shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for 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.
Who is a Complainant?

Section 2(1)(b) – “Complainant” means:

(i) a consumer; or

(ii) any voluntary consumer association registered under the Companies Act, 1956 or under any other law for time being in force; or

(iii) the Central Government or any State Government;

(iv) one or more consumers, where there are numerous consumers having same interest;

(v) in case of death of a consumer, his legal heir or representative who or which makes a complaint.
The Act provides for establishment of Councils at three levels – National, State and District.

- The District Consumer Protection Council.
Consumer Courts have been established at three levels – District, State and National

- **District Forum-** 604
- **State Commission-** 35 and
- **National Commission**
Complaint can be filed at

• District Consumer Disputes Redressal Forum, if the value of the claim is up to Rs. 20 lakh

• State Consumer Disputes Redressal Commission, if the value of the claim exceeds Rs. 20 lakhs, but is within Rs. 1 crore.

• National Commission Disputes Redressal Commission, if the value of the claim exceeds Rs. 1 crore.

• State Commissions and National Commission are also having appellate jurisdiction.
Section 2(1)(c) – Complaint

Circumstances under which complaint can be filed?

• If you have suffered loss or damage due to an Unfair Trade Practice or Restrictive Trade Practice.
• If you are a purchaser of defective goods.
• If the services hired or availed of are deficient.
• If you have been charged more than the price displayed.
• If goods / services hazardous to life and safety are offered
Reliefs Available to Consumers: Sec 14(1)

Following reliefs are available to the Consumers under the Act

* Removal of defects from the goods;
* Replacement of the goods;
* Refund of the price paid;
* Award of compensation for the loss or injury suffered;
* Discontinue and not to repeat unfair trade practice or restrictive trade practice;
* not to offer hazardous goods for sale;
* to withdraw hazardous goods from sale;
* to cease manufacture of hazardous goods and desist from offering services which are hazardous in nature;
* if the loss or injury has been suffered by a large number of consumers who are not identifiable conveniently, to pay such sum (not less than 5% of the value of such defective goods or services provided) which shall be determined by Forum;
* to issue corrective advertisement to neutralise the effect of misleading advertisement;
* to provide adequate costs to parties.
<table>
<thead>
<tr>
<th>S.No.</th>
<th>Value of goods or services and compensation claimed</th>
<th>Amount of fee payable</th>
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<tr>
<td></td>
<td>District Forum</td>
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<tr>
<td>(1)</td>
<td>Upto one lakh rupees – For complainants who are under the below poverty line holding Antyodaya Anna Yojana cards.</td>
<td>Nil</td>
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<td>(2)</td>
<td>Upto one lakh rupee</td>
<td>Rs. 100</td>
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<td>(3)</td>
<td>One lakh and above but less than five lakh rupees</td>
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<td>(4)</td>
<td>Five lakh rupees and above but less than Rs.10 lakh</td>
<td>Rs. 400</td>
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<td>(5)</td>
<td>Ten lakh rupees and above but not exceeding Rs.20 lakh</td>
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<td>State Commission</td>
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<td>Above 20 lakh and upto 50 lakh rupees</td>
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<td>(7)</td>
<td>Above 50 lakh and upto one crore rupees</td>
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<td>National Commission</td>
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<td>(8)</td>
<td>Above one crore rupees</td>
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THANK YOU