

CHAPTER 11 CONSUMER PROTECTION

Consumer protection refers to safeguarding consumers from manufacturers or sellers that engage in anti-consumer trade activities.

Earlier Approach

The previous approach was of '**caveat emptor**', which literally translates to "**let the buyer beware.**"

Present Approach

However, presently the approach is of '**caveat venditor**', which literally translates to "**let the seller beware.**"

Exploitative and unfair trading practices,

- defective and dangerous items, adulteration, false and misleading advertising, hoarding, and black-marketing, expose consumers to dangers.

Need for Consumer Protection Act

1. Physical safety of a consumer.
2. Access to information.
3. Corporate Social Responsibility to provide quality and quantity of goods at fair prices.
4. Consumer satisfaction.
5. Social justice and Trusteeship
6. Survival and the Growth of businesses.

Importance of Consumer Protection

A. From Consumer's Point of View

Consumer Ignorance: The majority of consumers are unaware of their rights and remedies, and as a result, they are constantly exploited. Consumer protection is required to protect consumers from such exploitative practices.

Widespread Exploitation of Consumers: Consumers are abused on a huge scale through a variety of unfair trade practices, and consumer protection is necessary to safeguard them.

Unorganized Consumers: Consumers in India are still unorganized, and there are few consumer organisations that would advocate for them.

B. From Business Point of View

Business utilises societal resources: Every business utilises societal resources, and it is their job to operate in the society's best interests.

Long-term business interests: It is in the business's best interests to keep its customers happy. Customers must be satisfied in order to win the global competition. Satisfied consumers lead to repeat purchases, which helps to expand the company's customer base.

Government Intervention: If a firm engages in any type of unfair commercial practices, the government will take action against it, harming the company's reputation.

Social Responsibility: A business has social duties to a variety of stakeholders, including owners, employees, the government, and customers. As a result, shoppers should be able to purchase high-quality goods at affordable pricing.

Moral Justification: Any firm has a moral obligation to behave in the best interests of its customers and prevent exploitation and unfair trade practices such as faulty and unsafe products, adulteration, false and misleading advertising, hoardings, black marketing, and so on.

THE CONSUMER PROTECTION ACT 2019

- **A consumer is defined as someone who buys or receives consumer goods or services against a payment. It includes anyone who benefits from such services, but it excludes anyone who uses such services for financial gain.**
- **Under the Consumer Protection Act 2019, a consumer is a person who buys any goods or avails services for a consideration, which has been paid or promised, or partly paid and partly promised, or under any scheme of deferred payment.**
- **also includes the person who is using the goods or services with the approval of the buyer.**
- **It applies to both offline and online transactions.**
- **NOTE: Any person who obtains goods and services for resale or commercial purpose is not treated as consumer** and whether they sell goods or services, including e-commerce companies.

Scope of the Act

- The scope of this act is broad and covers a wide range of activities. This act covers all the undertakings;
- Both large and small scale undertakings.
- All three sectors are covered, namely private, public, and cooperative.
- It is applicable to e-commerce companies as well.
- It is applicable to whole of India.

- All goods, services and trade practices are a part of this act, until specifically exempted.

TERMS AND DEFINITION

- Complaint:** Any allegation in writing made by the complainant for obtaining relief w.r.t restrictive trade practice, defect in goods or deficiency in services provided, overcharging of price or offer of goods or service injurious to life and safety.
- Complainant:** means one or more consumers, or any voluntary consumer association, central or state government or the central authority or a legal heir or legal representative or a parent or legal representative in case of a minor.
- Spurious goods:** Goods that are falsely claimed to be genuine.
- Unfair trade practice:** A trade practice for the purpose of promoting sale, use or supply of any goods or service falsely represents its quality, standard, quantity, composition, style or model.
- Restrictive trade practice:** A trade practice which manipulates price or affect the flow of supplies in the market relating to goods and services in such a manner that an unjustified cost is imposed on the consumer.
- Defect:** Any fault, imperfection, shortcoming or inadequacy in quality, nature and manner of performance in relation to goods or a product.
- Deficiency:** Any fault, imperfection, shortcoming or inadequacy in quality, nature and manner of performance in relation to any service and includes act of negligence or omission or commission or withholding relevant information which causes loss or injury to the consumer.
- Injury:** Any harm illegally caused to any person in body, mind or property.
- Product:** Any article or goods or substance or raw material or any extended cycle of such product either in gaseous , liquid or solid state possessing intrinsic value capable of delivery either as assembled or a component produced or manufactured to trade. It does not include human tissues, blood, blood products and organs.
- Product Seller:** Any person in the course of business imports, sells, distributes, leases, installs, prepares, labels, markets, repairs, maintains or otherwise involved in placing the product for commercial use or a service provider.
- Product Liability:** Responsibility of a product manufacturer or seller of any product or service to compensate for any harm caused to a consumer by defective product manufactured or sold or by deficiency in services

Legal Protection to Consumers- The legal framework that offers protection to consumers includes:

1. The Indian Contract Act, 1872: The Indian Contract Act of 1872 stipulates the requirements for the applicability of a contract signed by the parties to the contract, as well as the remedies available in the event of a breach of contract.
2. The Sale of Goods Act, 1930: The Act gives buyers various protections and benefits in respect to the agreement made for the sale of goods.
3. The Essential Commodities Act, 1955: This Act prohibits profiteers, hoarders, and black marketers from engaging in anti-social behaviour. Its goal is to maintain control over the production, supply, and distribution of critical commodities.
4. The Agricultural Produce (Grading and Marketing) Act, 1937: The Act establishes grade requirements for agricultural and livestock commodities.
5. Adulteration Act, 1954: The Adulteration Act of 1954 was enacted to prevent the adulteration of food products and to preserve their purity in order to protect public health.
6. The Standards of Weights and Measures Act, 1976: It protects customers from the practice of under-weighting or under-measurement.
7. The Trade Marks Act, 1999: This Act prohibits the use of deceptive marks on products.
8. The Competition Act, 2002: Consumers are protected by the Act in the event that businesses engage in unethical actions.
9. The Bureau of Indian Standards Act, 1986: The Bureau's main tasks are to develop quality standards for goods and to certify them using the BIS certification method.

Definition of Consumer

A consumer is defined as someone who buys or receives consumer goods or services against a payment. It includes anyone who benefits from such services, but it excludes anyone who uses such services for financial gain.

Under the Consumer Protection Act 2019, a consumer is a person who buys any goods or avails services for a consideration, which has been paid or promised, or partly paid and partly promised, or under any scheme of deferred payment.

CONSUMER RIGHTS

1. Right to Safety: **Right to Safety:** Consumers have the right to be safeguarded against items and services that are harmful to their health and well-being.

- The consumers are righteous to get quality products, and they can also demand quality assurance from the seller for the same.

- Such as ISI, FPO, AGMARK, Hallmark etc are quality marks for industrial items, food products, agricultural products, gold respectively.

2. Right to be Informed: Before purchasing a product, the consumer has the right to get complete information about it, regarding the quality, quantity, ingredients, purity, price etc.

3. Right to be assured/Choose: The consumer has the freedom to access variety of products at competitive prices. This implies that the marketers should offer a wide variety of products in terms of quality, brand, prices, size, etc. and allow the consumer to make a choice from amongst these.

4. Right to be Heard: The consumer has the right to provide his opinion regarding the product and services, as well as he has the right to be heard in such cases.

Hence the consumer has a right to file a complaint if he thinks that his rights have been violated. Also various consumer cells have been opened up in India so as to provide them the right to be heard.

5. Right to Seek Redressal: If a product or service fails to meet the consumer's expectations or is dangerous, the consumer has the right to seek redressal.

- The consumer may be entitled to a replacement or repair of the problem, as well as reimbursement for any losses.

6. Right to Consumer Education: Consumers have the right to learn and be well-informed throughout their lives.

- He should be informed of his rights and remedies in the event that the goods or service does not meet his expectations.

- The Indian government has integrated consumer education in school curriculum and is using the media to educate consumers about their rights.

- For example, efforts like Jaago Grahak Jaago is one such measure to educate the consumers

CONSUMER RESPONSIBILITIES

Consumers have the following responsibilities:

- Be knowledgeable: Be knowledgeable about the numerous items on the market so that you can make an informed and educated decision.

- Standardized products: Purchase just standardized products to ensure quality. Look for the ISI mark on electrical goods, the FPO label on food products, and the Hallmark on jewellery, among other things.

- Follow Instructions: Follow the product's instructions and learn about the hazards linked with it, then use it safely.

- Cautious Purchasing: Carefully read labels for information on prices, net weight, manufacturing, expiration dates, and so on.

- Assert Yourself: Assert yourself to guarantee that you obtain a fair bargain, and fair price of the product.

- Honesty: Be truthful in interactions and buy only legal goods and services, thus discouraging buying from sellers who follow unethical methods such as black marketing and hoarding.

- Cash Memo: When purchasing products or services, request a cash memo. This will serve as proof of the transaction.

- Consumer Societies: Establish consumer societies that will actively participate in consumer education and protection.

- Take action whenever needed: In the event of a defect in the quality of items purchased or services received, file a complaint with an appropriate consumer forum. Even if the sum involved is modest, don't hesitate to take action.

- Avoid Littering: Respect and value the environment, and avoid any activity that would adversely affect it.

REDRESSAL UNDER THE CONSUMER PROTECTION ACT 2019

a. Who can file a complaint under CPA, 2019

- a consumer; or
- any voluntary consumer association registered under any law for the time being in force;
- the Central Government or any State Government; or
- the Central Authority; or
- one or more consumers, where there are numerous consumers having the same interest;
- in case of death of a consumer, his legal heir or legal representative; or
- in case of a consumer being a minor, his parent or legal guardian.

b. Redressal Agencies

As per Consumer Protection Act, 2019, The statute establishes a three-tier system for resolving consumer complaints, as follows:

District Commission	Complaints upto 1 crore
State Commission	Complaints exceeding 1 crore, but upto 10 crores
National Commission	Complaints exceeding 10 crores

1. District Commission

The state concerned establishes district forums in each district. The following are the key characteristics:

- It is made up of a President and two members, one of whom must be a woman, who are officially nominated by the state government.
- The value of consumer complaints should not exceed Rs. 1 crore.
- Upon receiving the complaint, the district forum shall forward it to the opposing party and submit the items or sample to a laboratory for testing.
- If the district forum determines that the goods are defective or that there has been unfair trading practices, the opposite party may be ordered to repair or return the items or pay compensation. If any of the party is not satisfied with the district forum's decision, they have 45 days to file an appeal with the state forum from the date of order.

2. STATE COMMISSION

The government establishes a state commission in each state. The following are the key characteristics:

- Each commission has a president and at least two members appointed by the state government, one of whom should be a woman.
- The total worth of the products or services, including the compensation sought, is greater than Rs. 1 Crore but less than Rs. 10 crore.
- Upon receiving a complaint, the state commission may submit the matter to the opposing party and send the items to a laboratory for examination.
- After being satisfied, the state commission might require the other party to replace, reimburse, or pay compensation. If any of the parties is not pleased with the judgement, they can file a complaint with the national commission within 30 days of the order being issued.

3. NATIONAL COMMISSION

Central government sets the National commission. The provisions are:

- It is made up of a President and at least four members chosen by the central government, one of whom should be a woman.
- All complaints relating to products and services with a compensation value above Rs. 1 crore can be filed with the national commission.
- When the national commission receives a complaint, it can also refer it to the opposing party and send items for testing.
- The National Commission has the authority to issue orders for product replacement and loss compensation, among other things.
- If any of the parties is not pleased with the decision taken, they can file a complaint with the Supreme Court of India within 30 days of the order being issued.

RELIEFS AVAILABLE TO CONSUMER

- Removal of flaws in the goods.
- Removal of the deficiencies in the services.
- Replacement of damaged goods with new ones that are free of flaws.
- Refunding the complainant for the price paid by him.
- Payment of an appropriate amount of compensation for any loss or injury that has occurred.
- In suitable circumstances, payment of punitive damages.
- Discontinuance or abandonment unfair/restrictive trade practices.
- Discontinuance of the sale of hazardous goods and services.
- Payment to the consumer welfare fund (not less than 5%) which is to be used in the prescribed manner.
- Run corrective advertisements to counteract the effect of misleading advertisements.
- Reimburse all parties for their expenses.

Role of NGO's and Consumer Organisation

There are a number of NGO's and consumer organizations active in India who are working for consumer protection. Their roles involve:

- Raising awareness of consumer rights among the general public.
- Educating consumers through periodicals and other publications.
- Providing consumers with legal help, such as legal counsel.
- Filing complaints on behalf of consumers in competent consumer tribunals.

- Inspiring consumers to take action against unfair business practices.
- Taking the initiative to file cases on behalf of consumers in consumer courts.

**List of Consumer Organisations and Non-Governmental organisations(NGOs)
working to defend and promote consumers' interests.**

Consumer Coordination Council, Delhi

Common Cause, Delhi

Voluntary Organisation in Interest of Consumer Education (VOICE), Delhi

Consumer Education and Research Centre (CERC), Ahmedabad

Consumer Protection Council (CPC), Ahmedabad

Consumer Guidance Society of India (CGSI), Mumbai

Mumbai Grahak Panchayat, Mumbai

Karnataka Consumer Service Society, Bangalore

Consumers' Association, Kolkata

Consumer Unity and Trust Society (CUTS), Jaipur