

Consumer Protection: Awareness and Institutional Support in Indian Context

Abstract

Consumer is the center around which all operational activities of organizations are concentrated and firms adopt marketing practices to attract them. The present conceptual paper is an attempt to identify various measures available for consumer protection and means of consumer awareness precisely in Indian scenario.

Keywords: Consumer Protection; Consumer Exploitation; Consumer Rights.

Introduction

Consumers purchase a variety of goods and avail services in daily life and expect to derive satisfaction from consumption and use. But at times the satisfaction derived from the use of product differs which may be on account of poor quality of the product, overcharged prices, lower quantity of contents, misleading advertisement etc. Therefore, it is important to protect consumers and to provide them adequate strong and timely institutional support.

Consumer protection finds its base in consumer rights and information of proper consumer groups which can facilitate them to make better choices in the marketplace and get addressed with consumer complaints. The spectrum of organizations promoting consumer protection includes government organizations and self-regulating business organizations such as consumer protection agencies and organizations.

Consumer protection in India is defined in The Consumer Protection Act, 1986 which provides for Separate Consumer Dispute Redress Forums throughout India at every district where a consumer can file complaint with nominal court fees and the quantum of such complaint will be decided by the Presiding Officer of the District Level where the tribunal procedures are relatively less formal and more people centric which take less time to decide upon a consumer dispute.

Aim of the Study

The paper entitled "Consumer Protection: Awareness and Institutional Support in Indian Context" aims at providing a detailed view on the institutional support available to the consumers in India as there is a need for such literature taking into consideration the composition and diversification of Indian customer base.

Meaning of Consumer

A consumer is any individual consuming or using any goods or availing services. But according to law both the person who buys any goods or hires any service for consideration and the one who uses such goods and services with the approval of the buyer are called as consumers.

Any person who buys goods for resale activities or for any commercial purpose is not considered as consumer. Under the Consumer Protection Act 1986, the word consumer has been defined differently for the purpose use of goods and services.

1. For goods, a consumer means (i) any individual purchasing any product for consideration; and (ii) any end user of such goods other than the person who actually purchases.
2. For services, a consumer is (i) individual hiring any service or services for some price; and (ii) any person deriving benefits of such service or services provided that the service is availed with the approval of such person.

Consumer Protection and Common Malpractices

Consumer protection means safeguarding and protecting the interest and rights of consumers. It refers to the measures adopted for the protection of consumers from malpractices adopted by the business organizations and to provide them speedy assistance to redress their



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grievances. Some of the most common business malpractices followed for consumer exploitation are a) Sale of adulterated goods(b) Sale of spurious goods i.e. value degradation(c) Sale of sub-standard goods not conforming to quality standards(d) Sale of duplicate products(e) Use of false measures leading to underweight(f) Practicing hoarding and black-marketing leading to demand supply mismatch and price rise(g) Charging more than the fixed MRP (h) Confusing advertisements claiming a product or service to be of superior quality (i) inferior services lower than the agreed.

The above are instances where consumers are exploited and hence a number of safeguards are adopted by the government alongwith non-government organizations.

Significance Consumer Protection Social Responsibility

The business must follow social and ethical norms where the moral responsibility of the business is to serve the interest of consumers and it is the obligation of producers and traders to provide adequate quality and quantity of goods at fair prices.

Increasing Awareness

The consumers now are more mature and conscious of their rights against business malpractice and many organizations and associations are working to build consumer awareness and helping them to enforce their legal rights.

Satisfaction of Consumers

Consumer satisfaction is the ultimate key to success of business and every businessman should make necessary efforts to serve the interests of consumers.

Social Justice

Exploitation of consumers is against the spirit of Indian Constitution where the directive principles of state policy are laid down in line with this principle.

Trusteeship

Gandhian philosophy states that manufactures and producers are not the real owners of the business as resources are supplied by the society. They are mere the trustees of the resources and they should use such resources effectively, efficiently and economically for the benefit of the consumers who collectively form the society.

Growth and Survival of Business

The business must cater consumer interests for own survival and growth. In today's globalized and competitive world any business organization indulged in malpractices or failing to provide improved services to their ultimate consumer may not survive and thus, in their own long run interest organizations must be become consumer centric.

Reasons for Consumer Exploitation in India

Illiteracy and Ignorance

Consumers in India are mostly less educated and ignorant who do not understand their rights.

Unorganized Consumer Base

In India consumers are widely dispersed and are not united which put them on back-foot and at the mercy of businessmen who are well organized and influential.

Spurious Goods

There is increasing supply of spurious products viz. look alike, spell alike and pure duplicates and it is impossible for any ordinary consumer to differentiate. It is necessary to protect consumers by ensuring compliance with prescribed norms of quality and safety.

Deceptive Advertising

Some businessmen circulate misleading information and glorify the quality, safety and utility of products and misguided consumers are unaware of real quality of advertised goods. A strong and effective mechanism is needed to counter this malpractice.

Unfair Business Practices

Fraudulent, unethical and monopolistic trade practices on the part of businessmen lead to exploitation of consumers. Consumers often get defective, inferior and standard goods and poor service. Certain measures are required to protect the consumers against such malpractices.

Lack of awareness

The main reason for consumer exploitation is lack of knowledge about the price, quality and services.

Consumer's indifference towards the market

Most of the consumers behave indifferently regarding purchasing and not look for standards fixed by the government agencies like ISI, AGMARK, HALLMARK etc. and the producers take full advantage of indifferent behavior of consumers and succeed in exploiting them.

Influence of Advertising

Consumers are highly influenced by advertisements which misrepresent the products most of the times.

Rights of Consumers

Right to Safety

It is the basic right of the consumers to get protected against goods and services which are hazardous to health or life.

Right to get Informed

The consumer must be provided with accurate information about quality, quantity, purity, standard and the price of the goods and services.

Right to Select

The consumer must be assured, whenever possible, access to a variety of goods and services at competitive prices with satisfactory quality.

Right to be Heard

The rights to safety, information and choice will be ineffective without the right to be heard where the consumers have the right to be heard in legal proceedings in court of law.

Right to Seek Redressal

The consumers have been given the right of redressal of their grievances relating to the performance, grade, quality etc. of the goods and services and in discrepancies the product must be repaired or replaced.

Right to Education

It means the right to receive knowledge and skill to become informed. In this context various consumer associations, educational institutions and

the policy makers can play and are playing an important part. Effective consumer education results into an increased level awareness and help them to enforce and protect their rights more effectively.

Responsibilities of Consumers

To be quality conscious

The consumers should look for the standard quality certification marks like ISI, AGMARK, FPO, Woolmark, Eco-Mark, Hallmark etc. while selecting and purchasing the products.

Alert against misleading advertisements

The advertisement often exaggerates the quality of products and the consumers must not rely on the advertisement and should carefully check the product or carry research before making a purchase decision.

Responsibility to check alternatives available

The consumer should inspect a variety of goods before purchase which are available in the market by comparing quality, price, durability, after sales service etc. This would enable the consumers to make the best choice within the limited resources.

Collect evidence of transaction

The consumer must insist on a valid documentary evidence like cash memo or invoice related to purchase of goods or services and preserve it carefully which can be used as proof of purchase for filing complaint or claiming warrantee or guarantee.

Consumers awareness

The consumers must be aware of their rights and should be able to exercise whenever required.

Complaint for genuine grievances

Any dissatisfied consumer can seek for redressal of grievances. In this regard, a consumer can file a proper claim with the company first and if the manufacturer refuses to response the consumer can approach consumer forums stating actual loss and the compensation claimed must be reasonable. At the same time, no cost fictitious complaints should be filed otherwise the forum may impose penalty on consumer also.

Legitimate use of product/services

It is expected that the consumers use and handle the product/services properly other than during guarantee period. The consumers must be conscious of their duty towards other consumers, society and ecology and make responsible choice.

Ways and Means of Consumer Protection in India

Lok Adalat

Lok Adalats are the most effective, efficient and economical system for speedy redressal of the public grievances. The suffering party can directly approach the adalats and the issues will be discussed on the spot and decisions are taken immediately. Cases like electricity billing, telephone billings, road accidents etc. can be taken up in Lok Adalat for spot settlement. Certain agencies like Indian Railways, Mahanagar Telephone Nigam Limited and Delhi Vidyut Board hold Lok Adalats on regular basis.

Public Interest Litigation

Public Interest Litigation (PIL) is an instrument with which any person can approach to the court of law to protect the interest of the society by

providing legal remedy to un-represented groups and interests which may consist of consumers, minorities, marginalized persons, activists and others.

Redressal Forums and Consumer Protection Councils

According to Consumer Protection Act 1986, there is a proper judicial system has been set up to deal with the consumer grievances and disputes at district level, state level and national level which are called District Forum, State Consumer Disputes Redressal Commission (State Commission) and National Consumer Disputes Redressal Commission (National Commission) respectively.

Any individual consumer or association of consumers can file a complaint depending on the value goods and claim for compensation with an objective of providing a simple, speedy and inexpensive redressal of consumer grievances. The Act is continuously amended where the councils are required to give wide publicity to the rights of consumers for filling complaints and to provide inputs to consumer movement.

Awareness Programs

To increase the level of awareness among the consumers the GoI has initiated various publicity measures which include brings out journals, brochures, booklets and various visuals depicting the rights, responsibilities and redressal machineries for consumers.. The World Consumer Rights Day is observed on 15 March and National Consumer Day is celebrated 24 December. Several broadcasted media are also used to spread consumer awareness at regional levels to encourage the participation of public in the realm of consumer protection alongwith National Awards for outstanding work in this field.

Consumer Organizations

Consumer organizations are in force all over the world to promote and protect consumer interests and India is not exception Some of the important Consumer Organizations that have been playing an active role in taking up consumer concerns are:

1. CERC (Consumer Education and Research Centre), Ahmedabad.
2. VOICE (Voluntary Organization in the Interest of Consumer Education), New Delhi.
3. CGSI (Consumer Guidance Society of India), Mumbai.
4. CAG (Consumer Action Group), Chennai.
5. CUTS (Consumer Unity and Trust Society), Jaipur.
6. Common Cause, New Delhi.
7. Consumer Education Centre, Hyderabad.
8. Karnataka Consumer Service Society, Bangalore.
9. Kerala State Consumers Coordination Committee, Cochin.

Consumer Welfare Funds

The government has created a consumer welfare fund to cater financial assistance and to strengthen the consumer movement throughout country particularly in rural and semi-urban areas. The basic purpose of setting up this fund is to facilitate training and research in areas of consumer

education, complaint handling, counseling and guidance mechanisms, product testing labs etc.

Legislative Measures

A wide range of laws have been enacted in India to safeguard the interest of consumers and to protect and unethical practices. Some of these Acts are as follows:

1. Drug Control Act, 1950
2. Agricultural Products (Grading and Marketing) Act, 1937
3. Industries (Development and Regulation) Act, 1951
4. Prevention of Food Adulteration Act, 1954
5. The Essential Commodities Act, 1955
6. The Standards of Weights and Measures Act, 1956
7. Monopolies and Restrictive Trade Practices Act, 1969
8. Prevention of Black-marketing and Maintenance of Essential Supplies Act, 1980
9. Bureau of Indian Standards Act, 1986.

The Consumer Protection Act 1986

The Consumer Protection Act was enacted in 1986 and it came into force from 1 July 1987 with an objective to provide better and all-round protection to consumers and effective safeguards against business malpractices like defective products, inefficient services and unfair business practices alongwith a provision for simple, speedy and cost effective mechanism for redressal of consumers' grievances.

Salient Features of Consumer Protection Act 1986

The salient features of Consumer Protection Act (CPA) 1986 are as follows:

1. It applies to all products (goods as well as services) and unfair trade practices unless specifically mentioned by the Central or State Government.
2. It covers all sectors i.e. private, public or co-operative.
3. It specifically provides for establishment of consumer protection forums at the central, state and district levels to promote and protect the rights of consumers and three tier machinery to deal with consumer grievances and disputes.
4. It provides for statutory recognition to the rights of consumers.

Complaint filing

For redressal of consumer grievances a complaint must be filed with the appropriate forum. The important aspects of complaint filing are:

Who can file a complaint?

Under Consumer Protection Act 1986 following persons can file a complaint:

1. a consumer
2. any recognized voluntary association where the consumer is a member of that association or not.
3. The Central or State Government
4. One or more consumers having common interest.
5. Legal heir or representative in case of demise of a consumer.

What complaints can be filed?

A consumer can file a complaint relating.

1. An unfair trade practice or a restrictive trade practice.
2. Goods purchased by or agreed to be purchased from one or more defect.
3. Services availed or agreed to be availed suffer from deficiency in any form.
4. Price charged in excess of MRP.
5. Goods or services which are hazardous or likely to be hazardous to life and safety.

Where to file a complaint?

If the total value of goods and services and the compensation claimed is less than Rs. 20 Lakhs, the complaint can be filed in the District Forum if it is between Rs. 20 Lakhs and Rs. One, the complaint can be filed before the State forum; and if it more than Rs. One Crore, the complaint must be filed before the National Forum.

Procedure to file Complaint

A complaint can be filed in person or by any authorized agent or by registered post written on a plain paper duly backed up by documentary evidence supporting the allegation mentioned in the complaint. The complaint should precisely specify the relief sought containing the nature, description and address of both the parties supported by the facts relating to the complaint and when and where it arose.

Reliefs available to consumers

Depending on the magnitude of complaint and remedy sought by the consumer the competent authority may order one or more of the following:

1. Removal of manufacturing defects from the goods or deficiencies in services.
2. Replacement of the products.
3. Refund of the price paid.
4. Award of compensation for loss or injury suffered.
5. Discontinuance of unfair trade practices or restrictive trade practice.
6. Withdrawal of hazardous or dangerous goods from being offered for sale.
7. Provision of adequate monetary compensation.

Time limit for filing the case

The consumer can file the complaint within two years from the date on which the cause of action for dissatisfaction had arisen and even after two years if sufficient cause is there for the delay.

Time limit for deciding the case

Every complaint must be taken care as soon as possible within a period of 90 days from the date of notice received by the counter party. If complaint requires laboratory testing of goods this period has a time limit of 150 days.

Grievance Settlement Mechanism

The judicial mechanism set up under the Consumer Protection Act, 1986 consists of consumer forums at the district, state and national levels known as District forum, State Consumer Disputes Redressal Commission and National Consumer Disputes Redressal Commission respectively.

District Forum

Established by the state governments in every district.

Composition

Chairman and additional two members one of whom must be a female. The district forums are

headed by the person not less than the rank of District Judge.

Jurisdiction

A written complaint can be filed in front of the District Consumer forum where the value of goods or services and the compensation claimed does not exceed Rs. 20 lakhs.

Appeal

In case of dissatisfaction with decision a consumer can challenge the same before the State Commission, within 30 days of the verdict.

State Commission

Established by the state governments in their respective states.

Structure

President and minimum two members or more as per requirement of which one member must be female. The Commission is headed by a person of the rank of High Court judge.

Jurisdiction

A written complaint can be filed before the State Commission where the value of goods or services and the compensation claimed is more than Rs. 20 lakhs but less than Rs. One Crore.

Appeal

In case of dissatisfaction with decision of order of the State Commission consumers can appeal to the National Commission within 1 month of verdict.

National Commission

The National commission was established in 1988 by the union government which is the apex body in the three tier judicial mechanism for redressal of consumer grievances and the office is headquartered at Janpath Bhawan, A Wing, 5th Floor, Janpath, New Delhi.

Composition

President and minimum four members or as may be prescribed of which one member must be female. The National Commission is chaired by a sitting or retired judge of the Supreme Court of India.

Jurisdiction

All complaints pertaining to those goods or services and compensation where value is above Rs. One Crore can be put directly before the National Commission.

Appeal

An appeal can be filed against dissatisfaction with the order of the National Commission to the Supreme Court of within 1 month of passing order.

In order to fulfill the objects of the Consumers Protection Act 1986, the National Commission has also been empowered with the administrative control over all State commissions by calling for periodical reviews regarding the

institution, disposal and pending of cases and ensuring for adoption of uniform procedures.

Conclusion

The ultimate objective of every marketer is to maximize profit by all means. This concept is more peculiar in case of India where a massive amount of spurious brands (look alike, spell alike and pure duplicates) are in existence.

Due to lack of awareness consumers are often misguided to spend their hard earned money on non-worthy products. Being a welfare state the government is continuously making citizens aware by customer rights and duties and has a proper grievance redressal mechanism at different tiers so that the consumer rights are protected at any cost. The consumer can approach at any level and at any point of time to seek justice.

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