

Consumer Protection Act



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Introduction

The World Economic Forum has declared that by 2030 with the GDP growth rate of 7.6% India tends to become the 3rd largest Consumer Market. Various aspects are to be taken into consideration while calculating these ranks and one of them is satisfaction of the consumers, which depends upon the existence of the laws supporting them. In India, we have many consumer laws and one such law is the Consumer Protection Act of 1986 (COPRA).

Objectives & Importance of the Act

The Consumer Protection Act was implemented in order to provide better protection to the rights of the consumers. Prior to the implementation of this Act, there was no special act for

protecting the consumers and the only remedy available to the consumers was under the Law of Torts i.e filing a civil suit for damages against the shopkeeper or the service provider. This act is based on the *doctrine of Caveat Emptor* which means that it is the *responsibility of the buyer to identify the defects in the good*.

There are various objectives which are sought to be protected under the Consumer Protection Act such as-

1. To promote and protect all the six rights of the consumers which will be discussed later.
2. To provide simple and speedy disposal to the cases by providing quasi-judicial machinery for the redressal of consumer disputes.
3. The act also aims to provide inexpensive redressal to the issues of the consumer.
4. A consumer dispute redressal forum called state commission has been set up in order to settle the disputes of each and every consumer in all the states of the country.

Who is a consumer?

According to [Sec-2\(1\)\(d\)](#) of the Act, a consumer is a person who purchases any goods or services or hires or avails the services of some person for his own personal use and not for manufacturing or resale of that good. For instance, a person purchasing wheat flour for his own personal use is a consumer but a person purchasing wheat flour for baking bread which he is going to sell in his bakery shop is not a consumer.

Rights and Duties of a Consumer

The Consumer Protection Act has recognised six rights of a consumer which are :

1. Right to Safety
2. Right to Information
3. Right to Choose
4. Right to be heard
5. Right to Redressal
6. Right to Consumer Education

Right to Safety

This right refers to as the right to be protected against the marketing of goods and services which are hazardous to life and property of the consumers. This right has a very wide scope of application, for instance, this right is available in the areas of electrical appliances, healthcare, automobile, pharmaceuticals, housing, travel etc. Nowadays, each and every field has an office for researchers who research and experiment and launch new products and appliances accordingly. Most of these products are not tested by the producers which prove to be harmful

to the consumer. Therefore, after the implementation of this act, there is a mandate for each and every field to get all their products which are a danger to the life to be carefully tested and validated before launching it to the market.

Right to Information

It refers to the right of a consumer to be informed of the quality, quantity, potency, purity, standard and price of the goods and services being sold by the shopkeeper. This right is given to the consumer in order to protect them from the various unfair trade practices conducted by the seller in order to earn more profits. Therefore, it is an obligation on the seller to provide the consumer with all the relevant information of the product he wishes to purchase.

Right to Choose

It is defined in the act as the right to be assured, wherever possible, to have access to a variety of goods and services at competitive prices. It is very common to find one product being sold at different possible prices by different sellers. This reflects the age of market competition which is found in almost all the countries. Therefore it is the right of all the consumers to purchase any product at any price which according to him is the best. A consumer cannot be forced to purchase a product of some particular brand or quality.

Right to be heard

It is referred to as the right to be heard and to be assured that consumers' interests will receive due consideration at appropriate forums. This right was introduced for a consumer in order to ensure that all the complaints and issues of the consumers are heard duly under the appropriate authority. This is because of this right that almost all the big selling companies have a separate department known as the customer service to help the consumers in case of any dispute or any complaint regarding the quality or quantity of the product.

Right to seek Redressal

If any consumer has been exploited by the seller or faced any unfair trade practices he can seek redressal i.e. compensation or damages under this right. This right ensures that all the issues of the consumers are dealt with and justice is done to him. A proper redressal mechanism has been set up by the government of India such as the consumer courts and forums at district and national level which is discussed later in this article.

Right to Consumer Education

It is the right of each and every person who is a citizen of India to have knowledge about all the laws and policies relating to the consumer. Therefore it is made sure the material regarding the consumer-related laws is easily available all over India but there is still a major part of the population who is not aware of his laws and rights. This is the reason many awareness

programmes have been organized by the government of India such as 'jago grahak Jago' and the camps organized by various lawyers in the remote areas of the country.

Duties of a consumer

Every consumer right comes with the opposite duty. Right of one consumer is the duty of the others. **Accordingly, there are various duties such as:-**

- On purchasing of goods or hiring of any services, it is the duty of the consumer to pay for the same.
- While purchasing something it is his duty to check weights, balances, prices etc. and also to give a careful reading to the labels.
- It is the duty of the consumer to update himself about the various consumer protection schemes.
- Duty to be careful while purchasing and not to fall in the trap of misleading information and advertisements.
- It is the duty of the consumer to not purchase anything from the black markets.
- It is the duty of the consumer to be aware of his rights and duties and also spreading the awareness of the same among others.
- It is the consumers' duty to file a complaint if the goods which he purchased are defective.
- Each and every consumer should secure the bills of the goods purchased or the services availed so that if in the future he finds the goods or services to be defective he can easily file a complaint against the same and can prove it.

Major definitions

- **Complaint**– According to [Sec-2\(1\)\(c\)](#) any allegation made by the consumer regarding any restrictive or unfair trade practice which the traders have adopted such as goods bought by a consumer are defective, services hired or availed by him suffer some deficiency, trader has charged an excessive price of the goods mentioned in the complaint, goods or services which are hazardous to the life and property of the consumer has been offered for sale to the public by the trader or the service provider.
- **Consumer Dispute**– according to [Sec-2\(1\)\(e\)](#) of the act it is a situation when a person denies the allegations filed against him in a complaint.
- **Person**– according to [Sec-2\(1\)\(m\)](#) of the act the word person includes a registered or unregistered firm, a Hindu undivided family, co-operative society and any other association which is registered as a person under the Societies Registration Act of 1860.

- **Service**— according to [Sec-2\(1\)\(o\)](#) service means any description or any facility which is provided to the potential users and is not rendered free of charge or under a contract of personal service.

Redressal Mechanism

The Consumer Protection Act proposes three-tier redressal mechanism: quasi-judicial machinery at the National, state and district level. The jurisdiction of each consumer redressal forum has been described under this act.

District Consumer Disputes Redressal Forum

Each and every district has a District Consumer Disputes Redressal Forum. According to [Sec-11](#) of this act, this forum has the jurisdiction to entertain complaints and disputes only where the value of the goods or services and the value of the compensation claimed does not exceed Rs 20 Lakhs. **The District Forum shall have the same powers as that of a civil court in the following matters:**

- In the summoning and enforcing of attendance of any defendant or witness
- In examining the witness on an oath
- In receiving the evidence on affidavit
- In any other matter which may be prescribed
- Demanding of the report of concerned analysis or test from the appropriate laboratory or from any other authorized relevant source.
- In discovering and producing any document or other material objects which are producible as evidence in the forum.

The District forum shall consist of a President i.e. the head of the commission who is or has been or is qualified to be a district judge and two other members possessing a bachelors degree from a recognized university and one of them shall be a woman.

The members of a commission shall be the persons of ability, integrity and standing and have adequate knowledge and experience regarding the field of a consumer. Each and every member of the district forum shall either hold the office for a term of 5 years or up to the age of 65 years, whichever is earlier.

State Consumer Disputes Redressal Commission

Each and every State has a State Commission. According to [Sec-17](#) of the act, the pecuniary jurisdiction of a State Commission for entertaining complaints or issues where the value of goods or services and the value of the compensation claimed exceeds Rs. 20 Lakhs but is less than Rs. 1 crore.

The State Commission shall consist of a President and the other two members. The President shall be a person who is or has been qualified to be a Judge of High Court and the other two members shall be possessing a bachelors degree from a recognized university. Out of two members, one shall be a woman.

The members of a commission shall be the persons of ability, integrity and standing and have adequate knowledge and experience regarding the field of a consumer. Each and every member of the district forum shall either hold the office for a term of 5 years or up to the age of 67 years, whichever is earlier.

National Consumer Disputes Redressal Commission

The National Commission was instituted in 1988. It is headed by a sitting or retired Judge of the Supreme Court of India. The present President of the commission is Justice R.K. Agrawal who is a former Judge of the Supreme Court of India. According to [Sec-21](#) of the act, the pecuniary jurisdiction of a National Commission for entertaining complaints or issues where the value of goods or services and the value of the compensation claimed is more than Rs. 1 crore.

The National Commission has been constituted with various powers such as:

- It has the powers of administrative control over all the State Commissions. It can call all the State Commissions or any one of them for periodical returns regarding the institution, disposal and pendency of cases.
- It can adopt a uniform procedure in the hearing of the matters.
- It can provide a speedy grant of copies of documents to the parties.
- It also has a general power of overseeing the functioning of the State Commissions and the District Forums.
- It has the power of providing prior service of the copies of the documents produced by one party to the opposite parties.

In addition to the President of the commission, it shall consist of 4 other members, out of which at least one shall be a woman. **All of these members shall fulfil the following conditions to be able to qualify as a member in the National Commission:**

1. Their age should not be less than 35 years of age.
2. They shall be possessing a bachelors degree from a recognized university.
3. They shall be a person of ability, integrity and standing and have adequate knowledge and experience regarding the field of a consumer.

Every member of the commission shall hold office for a term of 5 years or up to the age of 70 years whichever is earlier.

Who can file a complaint?

According to [sec-2\(1\)\(b\)](#) a complainant can be a person who is:

- A consumer, or
- Any voluntary consumer association registered under the Companies Act of 1956 or under any other law for the time being in force, or
- The Central Government or any State Government, who or which makes a complaint, or
- One or more consumers, where there is more than one consumer they shall have the same interest for filing a collective complaint, or
- In the case of death of a consumer, his legal heir or representative who or which makes a complaint.

How to file a Complaint?

The very first step before filing a complaint the aggrieved party should do is to send a notice to the service provider from whom the goods were purchased or the service was availed informing him about the defects in the goods or the deficiency in the service or unfair practice. This notice is sent to the trader or the aggrieved party in order to see if that company or trader is willing to give the compensation or offer any other remedy. If in case the trader or service provider is not willing to provide with any remedy, the aggrieved party shall go ahead with filing a formal complaint.

The next step is to file a formal complaint under the Consumer Protection Act of 1986. Here the aggrieved party does not need to hire a lawyer in order to file a complaint. He can file the complaint on his own. **The aggrieved party just need to write down the following contents on a plain paper:**

- Name, description and the address of the complainant and of the opposite party or parties
- Facts relating to the complaint and time and venue where it arose
- All the possible documents in support of the allegations contained in the complaint
- The relief or the remedy claimed by the complainant
- The complaint should consist of signatures of the complainant or his authorized agent

The next step after the drafting of the complaint is to choose the appropriate authority under whom the complaint is to be filed. The complainant shall choose the authority according to pecuniary jurisdiction of his complaint i.e. the total value of the goods or services and the compensation claimed by him. It is to be noted here that the complainant can also file an online complaint on www.consumerhelpline.gov.in

Furthermore, the complainant needs to pay the prescribed court fees according to the pecuniary value of his case. Following are the fee details of the court fees:

For District forums

- Up to Rs 1 lakh: Rs 100
- Between Rs 1-5 lakh: Rs 200
- Between Rs 5-10 lakh: Rs 400
- Above Rs 10 lakh and up to Rs 20 lakh: Rs 500

For State Commissions

- Above Rs 20 lakh but less than Rs 50 lakh: Rs 2,000
- Above Rs 50 lakh and up to Rs 1 crore: Rs 4,000

For the National Commission

A standard amount of Rs 5,000

The Forum under which the complaint has been filed by the aggrieved party is under a mandate to provide the resolution to the parties within a period of 30 days. If it fails to adhere with the same the party can move to the next commission.

The limitation period for filing a Complaint or Appeal to higher commission

- **Filing of a complaint**– the complainant can file a case against the trader or the service provider only within two years from the date on which the cause of action arose. The forum may entertain the case in case of delay only if the complainant gives sufficient cause.
- **Appeal to the State Commission**– according to [sec-15](#) of the act an appeal can be filed to the State Commission by any person who is aggrieved by an order passed by the District Forum within a period of thirty days from the date of an order, in a form and manner prescribed under the act. If an appeal is filed after the expiry of the period of limitation the State Commission has the discretion to entertain that appeal if the complainant shows sufficient cause for not filing an appeal within the limitation period.
- **Appeal to the National Commission**– according to [sec-19](#) of the act an appeal can be filed to the National Commission by a person aggrieved by the order passed by the State Commission within 30 days from the date of receipt of order. The appeal to be accompanied by a copy of an affidavit.
- **Appeal to the Supreme Court of India**– according to [sec-23](#) of the act an appeal may be referred to the Supreme Court of India by the party aggrieved by the order passed by the National Commission within a period of 30 days from the date of order passed.

- **Revision Petition to the National Commission**– [sec-21\(b\)](#) of the act vests the power in the National Consumer Disputes Redressal Commission to call for the records and pass appropriate orders in any consumer dispute which is either pending or has been decided by the State Commission. The National Commission can exercise its revisional jurisdiction only if it appears to the commission that the State Commission has acted illegally or with irregularity or outside its jurisdiction. Such a Revision Petition can be filed within a period of 90 days from the date of the order passed by the aggrieved party.

Remedies available under the Act

The Consumer Protection Act provides consumers with various remedies. **Following are the remedies available under the act:**

- **Removal of Defects**– if the consumer after conducting a proper test by using the product finds the product to be defective then the authority can pass an order of removing the defects in the product.
- Replacement of goods
- Refund of the price paid by the consumer while purchasing the product.
- **Award of Consumption**– a consumer can demand compensation from the trader or service provider if because of his negligence the consumer has suffered some physical or any other loss.
- **Removal of Deficiency in Service**– the authority can pass orders for removal of the deficiency if there is any deficiency in delivery of the service, for instance, if the consumer has applied for a loan and has fulfilled all the formalities but the bank is making unnecessary delay in sanctioning the loan, then the court can pass orders to sanction the loan.
- **Discontinuance of Unfair/ Restrictive Trade Practice**– if a complaint is filed by the consumer against any unfair trade practice in the market, the authority can order an immediate withdrawal of such practice and can also pass an order for banning such trade practice.
- Stopping of sale of hazardous goods
- Withdrawal of hazardous goods from the market.
- Payment of the adequate cost

Consumer Protection Amendment Bill of 2018

The Consumer Protection Act of 1986 has been amended thrice but the act is still not sufficient to deal with challenges such as online transactions, multi-level and digital marketing. The Bill

has proposed to make various changes in the ancient act in order to provide better protection to the rights and interests of the consumer. Following are the changes which the Bill proposes:

- **Central Protection Councils(CPCs)**– in the act of 1986 CPCs just has the authority to promote and protect the rights of consumers but as proposed in the Bill CPCs will be advisory bodies for promotion and protection of consumer rights.
- **The ambit of law**– the 2018 Bill includes all goods and services, telecom and housing construction and all modes of transactions for consideration while excludes free and personal services.
- **Unfair trade practice**– this Bill proposes the addition of three more types to the list of unfair trade practices as given in the act of 1986 i.e.
 1. Failure to issue a bill or receipt
 2. Refusal to accept a good returned within 30 days
 3. Disclosure of personal information given in confidence, unless required by law or in public interest.
- **Product liability**– earlier there was no provision of product liability in the act of 1986 but now this Bill proposes that claim for product liability can be made against the manufacturer, service provider and seller. Moreover, compensation can be obtained by just proving one of the various conditions mentioned in the Bill.
- **The pecuniary jurisdiction of the Commissions**– this Bill proposes to change the pecuniary jurisdiction of the commissions to Rs 1 crore for District Forum; between Rs 1 crore and 10 crores for State Commission; and above Rs 10 crores for National Commission.
- **Alternate dispute redressal mechanism**– there was no such provision in the original act but now the Bill proposes to attach Mediation cells to the District, State and National Commissions.
- **E-commerce**– the Bill mentions and defines direct selling, e-commerce and electronic service provider which were not there in the act of 1986. Moreover. The central government may prescribe rules for preventing unfair trade practices in e-commerce and direct selling.
- **Penalties**– the Bill proposes a change in the penalty i.e. imprisonment up to three years or fine not less than Rs 25,000 which can be extended to Rs one lakh or both.

Conclusion

Consumer Rights and Responsibilities:

The Rights of the Consumer

- **Right to Safety-** Before buying, a consumer can insist on the quality and guarantee of the goods. They should ideally purchase a certified product like ISI or AGMARK.
- **Right to Choose-** Consumer should have the right to choose from a variety of goods and in a competitive price.
- **Right to be informed-** The buyers should be informed with all the necessary details of the product, make her/him act wise, and change the buying decision.
- **Right to Consumer Education-** Consumer should be aware of his/her rights and avoid exploitation. Ignorance can cost them more.
- **Right to be heard-** This means the consumer will get due attention to express their grievances at a suitable forum.
- **Right to seek compensation-** This defines that the consumer has the right to seek redress against unfair and inhumane practices or exploitation of the consumer.

The Responsibilities of the Consumer

- **Responsibility to be aware** – A consumer has to be mindful of the safety and quality of products and services before purchasing.
- **Responsibility to think independently**– Consumer should be well concerned about what they want and need and therefore make independent choices.
- **Responsibility to speak out-** Buyer should be fearless to speak out their grievances and tell traders what they exactly want
- **Responsibility to complain-** It is the consumer's responsibility to express and file a complaint about their dissatisfaction with goods or services in a sincere and fair manner.
- **Responsibility to be an Ethical Consumer-** They should be fair and not engage themselves with any deceptive practice.