

CONSUMER PROTECTION ACT – 1986

Consumer protection means the protection of the consumer from the exploitation by the unfair trade practices and services right of the consumer under the act, consumer redressal agencies- district forum, state commission, National commission. It provides proper protection of the fundamental rights and interest of the consumer, freeing them from exploitation, creating consumer awareness, consumer providing the right to clean business environment to the consumers by means of legal amendments is also that protection means.

NEED FOR CONSUMER PROTECTION ACT IN INDIA:

Consumers are largely denied their due rights, especially in developing countries such as India. The consumers are spread widely all over a country and are poor, illiterate and are generally not aware of their rights, though their awareness has recently increased. The manufacturers and suppliers of goods or services often exploit consumers by adopting a number of unfair and restrictive trade practices. They often merge and also form tacit cartels to raise prices for maximising their profits at the expense of consumers.

In India, Central and State Governments had passed various legislative enactment regarding CP. Among them, main acts were:

- Drug and Cosmetics Act 1940,
- Industries Development and Regulations Act 1951
- Indian Standards Institution (Certification Marks) Act 1952
- Prevention of Food Adulteration Act 1954
- The Trade and Merchandise Marks Act, 1958
- Monopolies and Restrictive Trade Practices Act 1969
- Packaged commodities Regulation Order 1975
- Standards of Weights and Measures Act 1976
- Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act 1980
- Standards of Weights and Measures (Enforcement) Act, 1985

IMPORTANT DEFINITIONS

Consumer means any person who buys any goods for consideration which has been paid or promised or partly paid and partly promised, or under buy deferred payment and includes any use of such goods other than person who buys such goods for consideration.

Consumers definition is in two parts

The first part says that a 'Consumer' is a person who pays a price for the goods he/she buys.

The second part says that a 'Consumer' is a person who pays for the services he/she hires.

‘**Service**’ means service of any description which is made available to potential users and 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 the purveying of news or other information.

‘**Goods**’ means every kind of movable property other than actionable claims and money, and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

“**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.

“**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.

An “**unfair trade practice**” means a trade practice, which, for the purpose of promoting any sale, use or supply of any goods or services, adopts unfair method, or unfair or deceptive practice.

Some of these practices include

- a) False or misleading representation,
- b) Bargain sale,
- c) Offering of gifts, prize etc. and considering contents or lottery,
- d) Non-compliance of product safety standard,
- e) Hoarding or destruction of goods.

Complainant means any of the following and having made a complaint

- i. A consumer, or
- ii. Any voluntary consumer association registered under the Company Act, 1956 or under any law for the time being in force, or
- iii. The Central govt or any State govt, or
- iv. One or more consumers, where there are numerous consumers having the same interest
- v. In case of death of a consumer; his legal heir or representative.

Complaint means any allegation in writing made by a complainant that

- i. An unfair trade practice or a restrictive trade practice has been adopted by any trader or service provider;
- ii. Goods bought by him or agreed to be bought by him suffer from one or more defects
- iii. Services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect

- iv. A trader or the service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price in excess of the price
- v. Goods which will be hazardous to life and safety when used are being offered for sale to the public
- vi. Service which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by the service provider which such person could have known with due diligence to be injurious to life and safety, with a view to obtaining any relief provided by or under this act.

OBJECTIVES OF THE CPA:

Consumer has following rights:

- a) **Right to protection against hazardous goods:** Consumer has the right to be protected against marketing of such goods and services as are hazardous to health, life and property. There are several fake, adulterated, inferior, defective, ineffective and dangerous goods available in market. They are injurious to body and health. Consumer, therefore, has the right to safety from all such goods as well as are likely to cause harm to his body and health, besides causing loss of money.
- b) **Right to access variety of goods and at competitive prices:** Under the right, consumer can choose any from among the variety of goods and services available in the market. One finds in the market goods of different brand, quality, shape, colour, size, design and price produced by different manufacturers. Under this right, the consumer must be assured access to variety of goods and services at competitive prices as far as possible.
- c) **Right to Consumer Information:** Consumer has the right to get all necessary information on the basis of which he may decide to buy the good or service. The right to be informed about the quality, quantity, purity, potency, standard, price of goods etc.
- d) **Right to due attention at appropriate forums:** Consumer has the right to present before the appropriate forum or authorities all those matters which effect his interest. The right includes the right to make protest and file complaints.
- e) **Right to seek redressal against unscrupulous exploitation, restrictive and unfair trade practices:** Consumer has the right to get his claims and complaints settled against the manufacturers and sellers.
- f) **Right to Consumer Education:** Under this right, consumer is entitled to get information or education about those things which are necessary from him. Helps consumer protect himself against fraudulent, deceptive and misleading advertisement and poor or negligent services.
- g) **Right to a Healthy Environment:** As in the right to a physical environment that will enhance the quality of life. It includes protection against environmental dangers over which the individual has no control. It acknowledges the need to protect and improve the environment for present and future generations.

(From Google)

1. The Right to be heard:

The consumer has the right to be heard if he has any complaint or grievance regarding the good or service received. This implies that consumers' complaints and grievances must receive due attention and consideration at an appropriate forum.

2. The Right to safety:

The consumers are entitled to protection of their health and safety from the goods and services they buy. They should not be supplied goods or services which are hazardous to their health and safety.

3. The Right against exploitation:

This covers right to protection from unfair trade practices and unscrupulous exploitation of consumers by charging excessive prices by suppliers of goods or services.

4. The Right to be informed:

This implies that consumers should be given correct and full information about the quality of goods that they buy. They should be provided information about the ingredients of the product, freshness of the product, any side effects that may occur as a result of consumption of a commodity. This right applies especially to the drug manufacturers and suppliers.

5. The Right to choose:

This implies that consumers should be provided a variety of products from which they can make a choice of their liking. The opportunity to choose from limited options restricts their right to choose.

6. The Right to get redress:

This implies that consumers' complaints and grievances about the products and services supplied to them must be redressed. That is, they should not only be heard but their complaints must be redressed and compensated adequately.

MAIN FEATURES OF CPA, 1986

CPA is the most progressive act of social welfare and is referred to as Magna Carta of consumer protection. It is a land mark act in the history of acts in India.

Main features of the act are as under

It applies to all kinds of goods and services

Provisions of this act are in addition to the provisions of any other Act in force in the country. Thus, this act does not limit or reduce the scope of any other act

Under this act, there is a provision for the Centre and State Governments to setup Consumer Protection Councils composing of both official and non-official members. The objectives of the council are:

To promote the rights and Interests of the consumers

To educate and protect them.

This act provides for the following rights to the consumer:

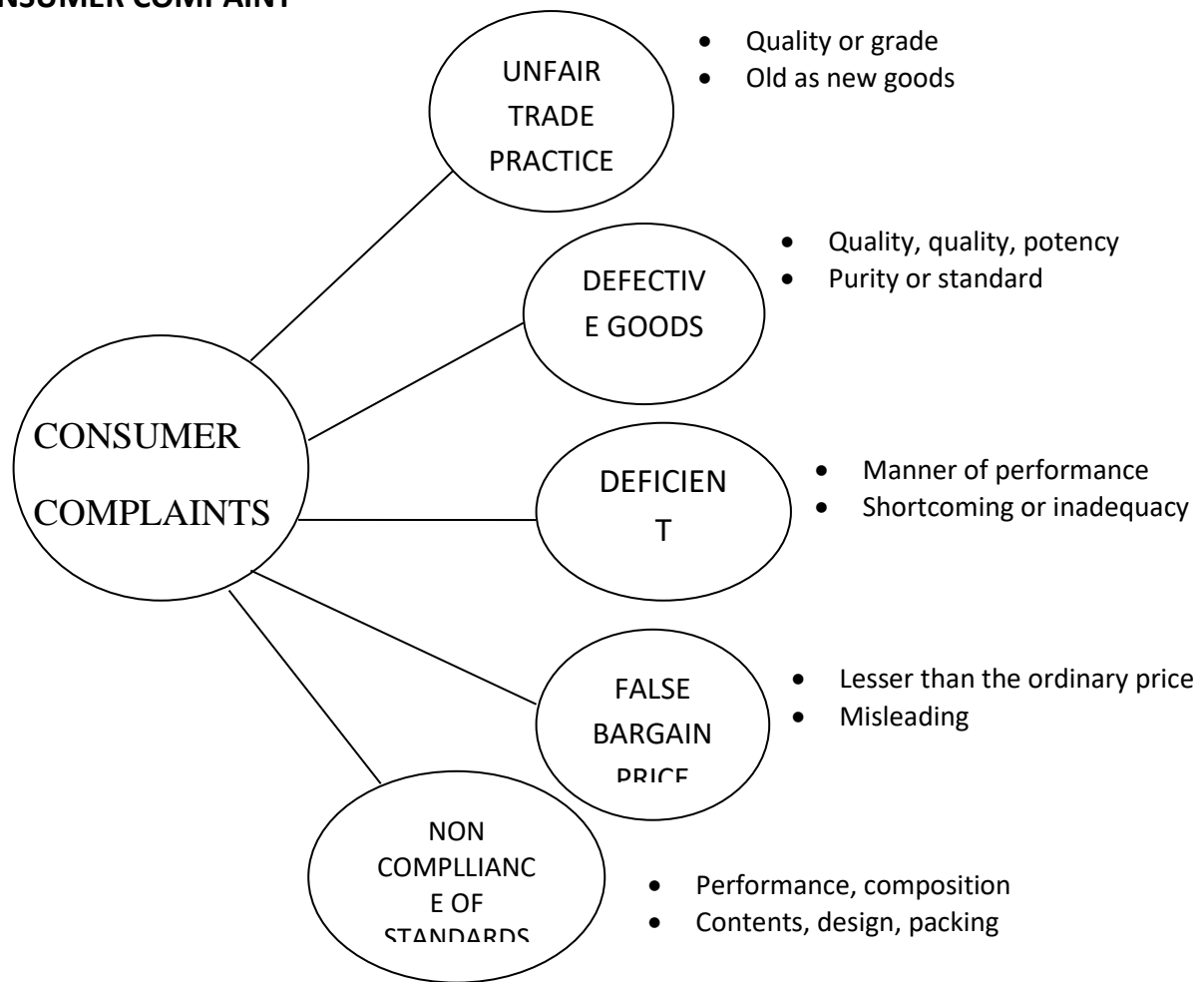
- Right to safety,
- Right to be heard,
- Right to consumer education
- Right to seek redressal
- Right to Choose
- Right to be informed

This act is based on the principle of compensation wherein fair compensation to the aggrieved party is provided for To redress the grievance, there is provision for three-tier judicial machinery

- District level - District Forum
- State level - State Commission
- National level - National Commission
- This act provides affective protection to the consumer from different types of exploitation such as defective goods, adulteration, under-weight, excessive price, unsatisfactory or deficient services and unfair trade practices
- This act redresses in a simple, cheap and dynamic manner the grievance of the consumer in limited time.
- All suppliers of goods and services belonging to private, public and co-operative sectors come under the purview of this act.

AMENDMENT IN THE CONSUMER PROTECTIVE ACT 1986

CONSUMER COMPLAINT



The complaint can be made in writing by a complainant in regard to one or more of the following:

1. Complaint against unfair Trade practice: It means a trade practice or a business practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice. It may be as under:
 - a. Falsely suggests that the services are of a particular standard, quantity or grade;
 - b. Falsely suggests any re-built, second-hand renovated, reconditioned or old goods are new goods
 - c. Falsely suggests that the goods are of a particular standard quality, quantity, grade composition style or model
 - d. Represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which they do not have
 - e. Represents that the seller or the supplier has a sponsorship or approval or affiliation which it does not have
 - f. Makes a false or misleading representation concerning the need for, or the usefulness of any goods or services.

- g. Give any warranty or guarantee of the performance, efficacy or length of life of the goods, that is not based on an adequate or proper test
 - h. Makes to the public a representation in the form that purports to be a warranty of guarantee of the goods or services
 - i. A promise to replace, maintain or repair the goods until it has achieved a specified result.
 - j. Materially misleads about the prices at which such goods or services are available in the market.
2. **Complaint Against Defective goods:** a complaint may be filed in respect of the goods which suffer from one or more defects. '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 the time being in force or under any contract express or implied or as is claimed by any trader. The term 'trader' includes any seller, distributor, manufacturer and packer of goods.
 3. **Complaint Against Deficient Services:** The complaint can be made in respect of any services which suffer from deficiency in any respect. The term 'deficiency' has been defined in section 2(11) of the Act as the quality, nature and manner of performance which is required to be contained by or under any law for the 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.
 4. **Complaint Against False Bargain price:** Where an advertisement is published in a newspaper, whereby goods or services are offered at a bargain price when in fact there is no intention that the same may be offered at that price, for a reasonable period or reasonable quantity, a complaint can be filed against the trader by the consumer.
 5. **Complaint Against Non-compliance of Prescribed Standards:** Any sale or supply of goods, for use by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by some competent authority, in relation to their performance, composition, contents, design, construction, finishing or packing, as are necessary to prevent or reduce the risk of injury to the person using such goods, a complaint can be filed against such a case.

WHO CAN FILE COMPLAINT?

- The consumer to whom the goods are sold or delivered, or agreed to be sold or delivered, or the service has been provided, or agreed to be provided
- Any recognized consumer association, regardless of whether the consumer is a member of such association or not
- One or more consumer, where there are numerous consumers having the same interest with the permission of the district forum on behalf of or for the benefit of all consumers so interested.
- The state or central government either in its individual capacity or as a representative of the interest of the consumer in general

WHERE TO FILE A COMPLAINT?

- District Forum – If the cost of goods or services and compensation asked for is up to Rs. 20 lakh, the district where the cause of action has arisen or where the opposite party resides.
- State Commission – If the cost of goods or services and compensation asked for is more than 20 lakh, but less than rupees 1 Crore.
- National Commission at New Delhi – If the cost of goods or services and compensation asked for exceeds rupees 1 Crore.

PROCEDURE TO FILING COMPLAINT

1. Notice has to be sent to the Opposite Party
2. Prepare the consumer complaint in the required format
3. Get the complaint affidavit notarized through a notary
4. Submit the complaint and court fee to the receiving clerk in the consumer court who will give the date for admission hearing and complaint reference number
5. On admission hearing, consumer would be informed whether his case is fit for acceptance or not. If accepted, he will be given the date for next hearing
6. The court will send a notice and complaint copy to the opposite party seeking reply within 30 days.
7. Where complaint alleges a defect in the goods which can't be determined without proper analysis, the forum/commission send it to the laboratory to find out whether there is any defect in it or not?
8. The hearings will continue till the matter is decided
9. The complaint should be decided within 90 days.

TIME LIMITATION TO FILE COMPLAINTS

Consumer dispute can be filed within 2 years from the date on which the cause of action arises. Appeals are required to be filed within 30 days from the date of receipt of the court's order.

CONSUMER DISPUTE:

Consumer dispute refers to a dispute where the person against to whom a complaint has been made, denies the allegations contained in the complaint. Thus it is clear that if a person against whom complaint is made does not agree to the complaint, there is 'consumer dispute'.

CONSUMER DISPUTES ADVISORY BODIES AND REDRESSAL AGENCIES

There are different advisory bodies and consumer disputes redressal agencies under CPA, 1986.

1. **Advisory Bodies:** The Consumer Protection Councils are the advisory bodies under the CPA and they have been charged with promotion and protection of the rights of the consumers. They give publicity to the matters of consumer concern, further consumer education and protecting consumers from unscrupulous exploitation. The councils meet

periodically to deal with consumer problems and take corrective measures for protecting the rights of the consumers.

The following are the three type of Consumer Protection Councils:

- The Central Consumer Protection council,
 - The State Consumer Protection Council
 - The District Consumer Protection Council
- a) **The Central Consumer Protection Council:** Central Government has established a council known as Central Council by notification, headed by Minister in charge of consumer affairs in the Central Government as Chairman of the Central Council. They meet at least once every year.
 - b) **The State Consumer Protection Councils:** State Central Government has established a council known as State Council by notification, headed by Minister in charge of consumer affairs in the State Government as Chairman of the State Council. They meet at least twice every year.
 - c) **The District Consumer Protection Council:** State Government has established for every district a council known as District Consumer Protection Council by notification, headed by Collector of the district as Chairman of the District Council. They meet at least twice every year.
2. **Consumer Redressal Agencies:** The word 'REDRESSAL' means a 'REMEDY'. Redressal means a remedy for the loss suffered by consumers like us. These Forums (courts) award compensation to the consumer if the manufacturer or the trader or the service giver is at fault. For example, if the manufacturer does not give a new handset, the manufacturer can be compelled to repay the money and also in some cases special amount of money for the inconvenience caused due to the faulty product. CPA act, 1986 provides three tier quasi judicial machinery at the district, state and national level.

The CPA applies to all goods and services and covers public, private, joint and cooperative sectors. It however excludes goods obtained from commercial and resale purposes and services which are rendered free of charge or rendered under the contract of personal service.

The three-tier machinery consists of

- The District Forum
- The State Commission and
- The National Commission

(I) **The District Forum:** District forum is headed by district judge. Each district forum is to be established by the State Government by notification to be published in Official Gazette.

a. **Composition of the district forum:** Each district forum shall consist of

- (a) A person who is, or who has been or is qualified to be, a district judge, who shall be its President
 - (b) There will be 2 other members who shall be persons of ability, integrity and standing and have adequate knowledge or experience or have shown capacity in dealing with problems relating to economics, law, commerce, accounting, industry, public affairs or administration, one of whom shall be a woman.
 - (c) Every appointment shall be made by the State Government on the recommendation of Selection Committee consisting of the following namely:
 1. The President of the State Commission – Chairman,
 2. Secretary, Law Department of the State- Member.
 3. Secretary, incharge, of the Department dealing with consumer affairs in the state-member.
- b. **Terms and age:** Provided that a member shall be eligible for re-appointment for another term of 5 years or up to the age of 65 years whichever is earlier.
- c. **Jurisdiction of the district forum:**
- (a) Subject to other provisions of this Act, the District Forum shall have jurisdiction to entertain complaints where the value of the goods or services and compensation if any, claimed does not exceed rupees twenty lakhs.
 - (b) A complaint shall be instituted in a District Forum within the local limits of whose jurisdiction.
 1. The Opposite part of each of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or carries on business or has a branch office, or personally works for gain
 2. Any of the opposite parties where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or carries on business or has a branch office, or personally works for gain, provided that in such case either the permission of the District Forum is given.
 3. The cause of action, wholly or in part arises.
- (II) **The State Commission** (State commission headed by Judge of High Court, jurisdiction whole state).
- a. **Establishment:** In every state, the state govt. by issuing a notification can establish consumer Grievance Redressal Commission to be called 'State Commission'.
 - b. **Composition:** Each state Commission shall consist of:
 - (a) A person who is or has been a judge of a High Court, appointed by the State Govt. who shall be its President. But his appointment shall be made only after consultation with the Chief Justice of the High Court.
 - (b) There will be 2 other members who shall be persons of ability, integrity and standing and have adequate knowledge or experience or have shown

capacity in dealing with problems relating to economics, law, commerce, accounting, industry, public affairs or administration, one of whom shall be a woman.

(c) Every appointment shall be made by the State Government on the recommendation of Selection Committee consisting of the following namely:

1. The President of the State Commission – Chairman,
2. Secretary, Law Department of the State- Member.
3. Secretary, incharge, of the Department dealing with consumer affairs in the state-member.

c. **Terms and Age:** Every member of the State Commission shall hold office for a term 5 years, or up to the age of 67 years, whichever is earlier, and shall not be eligible for re-appointment.

d. **Jurisdiction of the State Commission:** Subject to other provisions of this Act, the District Forum shall have jurisdiction

(a) to entertain

1. complaints where the value of the goods or services and compensation if any claimed exceed rupees twenty lakhs but not exceed rupees one crore
2. appeals against the order of any District Forum within the State.

(b) To call for the records and pass appropriate order in any consumer dispute which is pending before or have been decided by any District forum within the State.

(III) **The National Commission:** National commission headed by Chief Justice of India, jurisdiction –entire nation) Following are the provisions of the CPA in respect of National Commission:

a. **Establishment:** By issuing notification Central Government can set up a National Commission. This commission has been established at New Delhi.

b. **Composition:** The National Commission shall compose of:

- (a) A person who is or has been a judge of the Supreme Court, shall be appointed by the Central Government. He shall be its President.
- (b) There shall be 4 other members including one woman. They shall be persons of ability integrity and standing and have adequate knowledge or experience or have shown capacity in dealing with problems relating to economics, law, commerce, accounting, industry, public affairs or administration.

Every appointment shall be made by the Central Government based on Selection Committee consisting of the following namely

1. A person who is a judge of the Supreme Court, to be nominated by the chief justice shall be its Chairman.
2. The secretary Department of Legal Affairs in the government of India shall be its member

3. Secretary of the Department dealing with consumer affairs in the government of India shall be its other members
- c. **Term of Members:** Every member of the National Commission shall hold office for a term of 5 years or up to the age of 70 years, whichever is earlier.
 - d. **Jurisdiction of The National Commission:** Subject to the other provisions of this Act, the National Commission shall have Jurisdiction as under
 1. To entertain complaints where the value of the goods or services and compensation, if any, claim exceeds rupees 1 crore.
 2. To entertain appeals against the orders of any State commission
 3. To call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any state commission where it appears to the National Commission that such State Commission has exercise a jurisdiction not vested in it by Law, or has failed to exercise a jurisdiction do vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.