

## **Consumer Court**

Consumers play a vital role in the economic system of any nation. Consumers are the key players in the market place and their consumption patterns greatly influence the society and the economy. In the modern philosophy of marketing, consumer is supposed to be the 'king' and business is expected to provide maximum possible satisfaction to consumers. Technology has made available a variety of goods and services to the consumers from all over the world, which are only a click away. New products and services throng the market every day, many of which disappear very soon. Coupled, with the revolution in information technology the consumers are facing new challenges, such as cyber-crime, plastic money, unsustainable consumption, global warming etc., which affects them in a number of ways. The consumer who is referred to as 'king' is actually a 'victim' of the market malpractices. Producers and sellers have only one motto; to maximize profit by engaging in all sort of deleterious practices and producing products that do not meet acceptable quality standards. In order to maximize profits, many businessmen exploit consumers by supplying poor quality goods at higher prices. Consumers are exposed to physical, environmental and other hazards. As a result consumers do not get value for their money.

The Industrial revolution and the development in international trade and commerce has led to vast expansion of business and trade. As a result, a host of services have been made available to the consumers like insurance, transport, electricity, housing, entertainment, finance and banking. A well-organized sector of manufacturers and traders with better knowledge of markets has come into existence, thereby affecting the relationship between the traders and the consumers making the principle of consumer sovereignty almost inapplicable. The advertisements of goods and services in television, newspaper and magazines influence the demand for the same by the consumers though there may be manufacturing defects, imperfections, or shortcomings in the quality, quantity and the purity of the goods or there may be deficiency in the services rendered. For the welfare of the public, the glut of adulterated and sub-standard articles in the market has to be checked. Therefore, it has become necessary to protect the consumers from exploitation, to save them from adulterated sub-standard goods and services, and to safeguard their interests. Though there have been many laws to protect the consumers but in order to provide for better protection of the interests of the consumers the Consumer Protection Act was enacted in 1986.

### **FAQ's**

#### **1. Who is a Consumer ?**

A Consumer is a person who purchases a product or avails a service for a consideration, either for his personal use or to earn his livelihood by means of self employment. The consideration may be:

- Paid
- Promised
- Partly paid and partly promised.

It also includes a beneficiary of such goods/services when such use is made with the approval of such person.

## 2. Who is not a Consumer ?

A person is not a consumer if he/she:

- purchases any goods or avails any service free of charge;
- purchases a good or hires a service for commercial purpose;
- avails any service under contract of service

## 3. What are Goods?

“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 the sale.

## 4. What is a Defect?

“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.

## 5. What are Services?

“Service” means service of any description which is made available to potential users and include, 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.

**Contract of Service** – It implies a relationship of a master and servant and involves to obey the order in the works to be performed and as to its mode and manner of performance. This does not come within the purview of CP Act.

**Contract for Service** – It implies a contract whereby one party undertakes to render services e.g., profession or technical services to or for another in the performance of which, he is not subject to detailed direction and control but exercises professional skills and uses his own knowledge and decisions.

## 6. What is Deficiency in Service?

“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.

## 7. What is Unfair Trade Practice?

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:

### False Representation

- When goods and services are not of stated standard, quality or grade;
- When second hand, renovated goods are sold as new ones;
- When goods and service do not have the claimed use, usefulness or benefit;
- When products / services do not have the claimed warranty / guarantee;
- When the price of product or service is misleading.
- False and Misleading Advertisement of selling at Bargain price.
- Offering gifts, prizes, etc. to lure customers with no intention of providing them.
- Selling goods which do not fall within the safety standards set up by competent authority.
- Hoarding or destroying goods with the intention of raising the cost of these or similar goods manufactured in greater number so as to manipulate higher prices.
- Manufacturing or offering spurious goods or adopting deceptive practices in the provision of services.

Do you know?

- “Goods once sold will not be taken back” or
- “No exchange”, or
- “No refund under any circumstances”

It amounts to Unfair Trade Practice and does not carry any legal weight.

## 8. What is Restrictive Trade Practice?

“Restrictive Trade Practice” means a trade practice which tends to bring about manipulation of price or conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions and shall include—

- a) Delay beyond the period agreed to by a trader in supply of such goods or in providing the services which has led or is likely to lead to rise in the price;
- b) Any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent to buying, hiring or availing of other goods or services;

## 9. What are the rights guaranteed under the Act?

### ✓ Right to Safety

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

### ✓ Right to be informed

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.

### ✓ Right to Choose

The right to be assured, wherever possible, access to a variety of goods and services at competitive prices.

### ✓ Right to be heard

The right to be heard and to be assured that consumer's interests will receive due consideration at appropriate fora.

### ✓ Right to Redressal

The right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers.

### ✓ Right to Consumer Education

## 10. What are Consumer Protection Councils?

The Act provides for establishment of Consumer Protection Councils at Centre, State and District levels. The purpose of these Councils are to review consumer related policies of the government and suggest measures for further improvements for protecting and promoting rights of the consumers. The composition of these councils is broad based. The Minister In-charge of Consumer Affairs in the Centre is the Chairman of the Central Consumer Protection Council and it has other official and non-official members. The State Consumer Protection Council is headed by Minister In-charge of Consumer Affairs in the State and the District Consumer Protection Council is headed by the Collector of the District. These Councils are advisory in nature and their object is to protect the rights of the consumers enshrined under the Act.

## 11. What are Consumer Disputes Redressal Agencies?

The Act provides for a three tier Consumer Disputes Redressal Agencies. These are: District Consumer Disputes Redressal Forum in the District, State Consumer Disputes

Redressal Commission at the state level and the National Consumer Disputes Redressal Commission at the national level.

## 12. When can complaint be made?

- A complaint may be made in writing under the following circumstances:
- Loss or damage is caused to the consumer due to unfair or restrictive trade practice of a trader or service provider;
- The article purchased by a consumer is defective;
- The services availed of by a consumer suffer from any deficiency;
- A trader or service provider, as the case may be, has charged for the goods or for the service mentioned in the complaint a price in excess of the stipulated price;
- Goods or services, which will be hazardous to life and safety, when used, are being offered for sale to the public.

## 13. Who can file a Complaint?

- Any consumer;
- Any voluntary consumer association;
- Central Government or any State Government;
- One or more consumers, where there are numerous consumers having same interest
- In case of death of a consumer, his legal heir or representative.

## 14. Where to file a Complaint?

As per the Consumer Protection Act, 1986 a complaint can be filed in:

- District Consumer Disputes Redressal Forum (DCDRF): If the value of the claim is upto ` 20 lakh
- State Consumer Disputes Redressal Commission (SCDRC): If the value of the claim exceeds ` 20 lakhs but is within ` one crore.
- National Consumer Disputes Redressal Commission (NCDRC) If the value of the claim exceeds ` one crore.

### I. District Forum:

- Each District has a District Forum.
- District Forum consists of three members.
- Out of the three, one is President, who is or has been or is qualified to be a District Judge.
- One of the members shall be a woman.
- It entertains complaints where the value of claim is up to 20 Lakhs.

### II. State Commission:

- Each state has one State Commission.
- It consists of a President, who is or has been a Judge of a High Court and two other members, one of whom shall be a woman.
- Complaints can be filed in State Commission where the value of claim is above 20 Lakhs upto one Crore.

- Appeals against the Orders of the District Forums can also be filed in the State Commission.

### III. National Commission:

- The National Commission is located in Delhi.
- It consists of a President who is or has been a Judge of the Supreme Court and not less than four other members, one of whom shall be a woman.
- Complaints for value of claim exceeding rupees one crore can be filed in the National Commission.
- The Orders of this Commission can only be challenged in the Supreme Court.

## 15. What is the Jurisdiction of Consumer Fora?

A complaint shall be instituted in a Consumer Forum within the local limits of whose jurisdiction the opposite party resides or carries on business or has a branch office or personally works for gain, or where the cause of action, wholly or in part, arises.

## 16. Is there any Fee for filing Complaint?

Every complaint filed shall be accompanied by a fee as specified in the table given below in the form of crossed Demand Draft drawn on a nationalized bank or through a crossed Indian Postal Order drawn in favour of the Registrar of the State Commission and payable at the respective place where the State Commission or the National Commission is situated.

Sl. No.	Total Value of goods or services and the compensation claimed (in `)	Amount of fee
	<b>District Forum</b>	
(1)	Upto one lakh rupees – For complainants who are Below Poverty Line holding Antyodaya Anna Yojana Cards	Nil
(2)	Upto one lakh rupees – For complainants other than Antyodaya Anna Yojana card holders	100
(3)	Above one lakh and upto five lakh rupees	200
(4)	Above five lakh and upto ten lakh rupees	400
(5)	Above ten lakh and upto twenty lakh rupees	500
	<b>State Commission</b>	
(6)	Above twenty lakh and upto fifty lakh rupees	2000
(7)	Above fifty lakh and upto one crore rupees	4000
	<b>National Commission</b>	
(8)	Above one crore rupees	5000

### **17. Is there any exemption from payment of Fee?**

The complainants who are Below the Poverty Line shall be entitled for the exemption of payment of fee for complaints upto rupees one lakh on production of an attested copy of the Antyodaya Anna Yojana card.

### **18. How to file a Complaint?**

- The complaint can be filed on a plain paper.
- Stamp paper is not required for declaration.
- It should contain the details of the complainant and the opposite party.
- Complaint can be registered, in person, by the complainant or through his authorized agent or by post addressed to the Redressal Agency.
- It is not compulsory to engage a lawyer to file a case.
- The fees charged are very nominal according to the value of the claim.

### **19. What is the Procedure to file complaint in Consumer Fora?**

A complaint when made in District Forum or State Commission shall be filed in three sets and where it is filed in the National Commission, it shall be filed in four sets with additional sets equal to the number of opposite party(s).

Every complaint shall clearly contain particulars of dispute and the relief claimed and shall also be accompanied by copies of such documents as are necessary to prove the claim made in the complaint. A Consumer can argue his own case or can be represented through authorized person or agency.

### **20. Is there a need to engage a lawyer for filing a complaint in the fora?**

There is no need to engage a lawyer or any other pleader and consumer can himself or through his representative file and represent his complaint.

### **21. What are the particulars that should be furnished along with the complaint?**

- The complaint should contain the following particulars:
- Name and complete address of the complainant.
- Name and complete address of the opposite party/parties.
- Date of purchase of goods or services availed.
- Amount paid for the above purpose.
- Particulars of goods purchased with numbers or details of services availed.
- Details of complaint, whether it is against Unfair Trade Practice / supply of defective goods / deficiency in service provided / collection of excess price, should explicitly be mentioned in the complaint petition.
- Bills / receipts and copies of connected correspondence, if any.
- Relief sought for under this Act.
- Complaint should be signed by the complainant or his authorized agent.

## **22. What is the time limit for filing a complaint?**

A complaint has to be filed within two years from the date on which the cause of action/ deficiency in service/defect in goods arises. However, a complaint may also be filed after two years, if the complainant satisfies the District Forum that he/she has sufficient reasons for not filing the complaint within such period.

## **23. What is the provision for appeal?**

- Aggrieved by the Order issued by the District Forum, appeal petition may be filed before the State Commission **within 30 days** from the date of receipt of Order.
- Aggrieved by the Order issued by the State Commission, appeal petition may be filed before the National Commission **within 30 days** from the date of receipt of Order.
- Aggrieved by the Order issued by the National Commission, appeal petition may be filed before the Supreme Court of India **within 30 days** from the date of receipt of Orders.

## **24. What are the Reliefs available to Consumers from Consumer Fora?**

- Removal of defects from the goods;
- Replacement of the goods;
- Refund of the price paid;
- Removal of defects or deficiencies in the services;
- Award of compensation for the loss or injury suffered;
- Discontinue and not to repeat unfair trade practice or restrictive trade practice;
- To withdraw hazardous goods from being offered for 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 the forum;
- To issue corrective advertisement to neutralize the effect of misleading advertisement;
- To provide adequate costs to parties.

## **25. Which is the Nodal Agency for Consumer Protection?**

The Department of Consumer Affairs (DCA), one of the two Departments under the Ministry of Consumer Affairs, Food and Public Distribution is the nodal agency for consumer protection. The mandate of the Department is consumer advocacy. Translating this mandate into action entails:

- Enabling consumers to make informed choices;
- Ensuring fair, equitable and consistent outcomes for consumers; and
- Facilitating timely and effective consumer grievance redress.

The Department seeks to empower consumers through awareness and education; enhance consumer protection through prevention of unfair trade practices; enable quality assurance and safety through standards and their conformity; and ensure access to an affordable and effective grievance redress mechanism. The Department has been entrusted with administering:

- The Consumer Protection Act, 1986
- The Legal Metrology Act, 2009
- The Bureau of Indian Standards Act, 1986
- The Essential Commodities Act, 1955
- The Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980
- National Test Houses
- Consumer Cooperatives

The Department also monitors the Prices and the Availability of Essential Commodities. Website of the Department: <http://consumeraffairs.nic.in>