

Consumer Protection Movement: Evolution Through Ages

Abstract

Humans have mastered the art of availing services that fulfill their daily needs. Our day to day lives revolve around exploiting the goods and services around us with an aim to lead a comfortable and hassle-free life. By availing these amenities, we become 'consumers'. The term effectively means that we consume the assets around us. We seem to have a peace with a fact, and, for the most part, are not ashamed of describing our society as a consumers society, even if, at times, we regret that many cherished things especially human beings and human relations are treated as just another consumer good; even if we are progressively aware of the danger that the aggregate effect of our peacefully enjoyed consumer practices may have on the environment and the working conditions of people living on the other side of the world.

Keywords: CPA, Redressal Mechanism, Appeal, Protection, Rights, Deficiency.

Introduction

The concept of protection of rights of the consumers is not new. Rather it is a practice that has been present in the society and also in various countries in one form or the other. An early form of movement in defence of consumers was born in the United States, where the basis for the birth and development of monopoly and oligopolistic capitalism had started. The first consumer organizations were born in Denmark in 1947 and Great Britain in 1955 where the Government created the Consumer Council in order to enable consumers to express themselves on issues reserved to producers and traders. But the real normative innovation came with the Single European Act which modified the Treaty of Rome by solidifying the role of the Economic and Social Committee, to whom the powers were attributed to safeguard the consumers. Over the years, some important changes are made to these legislations that paved the way for a wider consumer policy. But despite these additions, it still lacks a solid ground that allows of getting real consumer protection.

Aim of the Study

1. To understand the evolution of Consumer Protection concept worldwide and how it spread across world.
2. The importance of being a consumer and how a consumer can protect its rights for deficiency and defect in services.

Historical Development in the International Scenario

U.S.A.

United States of America, paved the way for consumer rights in the year 1962, when President John F. Kennedy called upon the U.S. Congress to accord its approval to the Consumer Bill of Rights. The key elements that were recognized by the Bill were:

Right to Choice

Consumers must be provided free choice and alternatives when it comes to choosing commodities and services offered by various companies.

Right to Information

Businesses must provide customers with accurate information, permitting them to make informed decisions about products and services.

Right to Safety

Consumers have the right to safeguard against merchandises that have caused physical harm (excluding automobiles). This right was formally enacted in 1972 and is enforced by the federal Consumer Product Safety Commission (CPSC).

Right to Be Heard

Consumers have the right to voice criticisms, grievances and concerns regarding company practices and products in order to make sure that their interests are not harmed by such practices. The U.S. Attorney



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General, the Federal Trade Commission (FTC) and the Better Business Bureau (BBB) represents such platforms where consumers can be heard.

Later on, Right to consumer education was also added in the Bill. The President decided to call upon the Congress on the day of 15th March 1962 and thus the day is celebrated as World Consumer Day.

United Kingdom

United Kingdom formulated various legislations between the year 1948 and 1973 as follows to codify the redressal in case of complaints from consumers :-

1. Monopolies and Restrictive Practices Enquiry and Controls Act – 1948
2. Monopolies and Restrictive Practices Act - 1953
3. Restrictive Trade Practices Act – 1968
4. Resale Price Act – 1964
5. Monopolies and Mergers Act – 1965
6. Fair Trading Act - 1973.

The Consumer Protection Act was enacted in the year 1961 which aimed at empowering the executive to promulgate regulations. Unfair Contracts Terms Act, enacted in 1977 deals with the situation of consumer being exploited by way of standard form of contracts.

Germany

A detailed anti-monopoly legislation was enacted in Germany in the year 1957, termed as an Act against Restraints of Competition Act. Since then there were number of amendments. It does not make monopoly illegal but promotes the idea that such dominance in a market place must not be used to cause harm to others. In other words, the legislation states that there must be no abuse of the dominance that a monopoly enjoys in a market. The Act also prohibits coercion, boycott and discrimination, whether the one arising out by unilateral or concerted action of enterprises.

United Nations Guidelines For Consumer Protection

Since its establishment the United Nations was vigilant to safeguards the interest of consumers around the world against malpractices which result in any kind of injury to them by prescribing a minimum required standard to be strictly complied by in manufacturing and packaging of various commodities, tightening the punishments for those who indulge in such practices, providing certification for products such as jewellery, diamonds etc.

The UN has been endeavoring to promote cooperation among the member nations on various issues. In the context of consumer protection, the UN and its subsidiaries like General Agreement on Tariffs & Trade (GATT), the Organization for Economic Cooperation and Development (OECD), the United Nations Conference on Trade and Development (UNCTAD), and the United Nations Commission on Transnational Corporations (UNCTC) have been actively involved over the years.

On 9th Apr 1985 the United Nations with consensus of the Economic & Social Council and the General Assembly adopted certain guidelines for consumer protection. These guidelines were meant to provide the framework for countries, particularly

developing countries, to be used in elaborating and strengthening consumer protection, policies, legislations to protect consumers and also to promote international cooperation in this field.

Development of Consumer Protection Laws In India

Vedic Period

In ancient society, human relations with each other and with nature were guided by principles of the Dharma, which derived its origins from the Vedas. The belief system had put the Vedas on the top of everything and considered the word of the Vedas as the words of the God himself and thus the Vedas can be considered as the primary source of law in Indian society like : Tell the truth / Never tell the untruth / Never hurt anyone and / Perform the acts which are not forbidden..

The laws regarding weights and measures have been depicted in Kautilya's Arthshastra. Similarly, Yajnavalkya also presented his views in Yajnavalkya – Samhita related to sale and purchase transactions. Manu Smriti contains punishments for adulteration in the measures and weights. The sale of samples is also regulated by "Yajnavalkya", where there is an instance of giving punishment to a trader who had deceived a purchaser by showing a different article and at the time of sale delivers another article . This depicts that an elaborate mechanism for pricing policy and profit sharing ratio charged by the traders on the goods sold was there in the Yajnavalkya-Samhita.

Medieval Period

Albeit Ancient Hindu Law focuses on overseeing Hindu masses especially in the field of individual law, the lawful standards of Muhammadan laws were engrafted in the Indian legal framework with the coming of Islam in India. The Holy Quran mentions the problems faced by consumers today and condemns the use of unjust weights and measures. Laws have been formulated to protect consumers from this jeopardy known as USURY. In India, the Usurious Loans Act, 1918 and the Hire-purchase Act, 1972, intend to protect the consumers from unjustified excessive rates of interest.

With the advent of British rule in India, the common law system of administration of justice was also implanted on the Indian soil during 17th, 18th early 19th century. The rights and interest of consumers were mainly regulated and protected by the common law of Tort or Law of Contracts.

Pre-Independence

With the advent of the British rule several legislations were formulated in India that aimed at protecting the interest of the public at large. These legislations did not exclusively talk about consumers, but in application indirectly covered their interests.

The Indian Penal Code, enacted in the year 1860 contains the provisions that deal with "offence relating to weights and measures" under Chapter XIII.-Sec. 272 & 273 prescribing punishments for the offence of adulteration of food and drink. The Drugs and Cosmetics Act-1940 also played a crucial role in the regulation of import, manufacture, distribution and sale of adulterated or misleading drugs and

cosmetics. The Indian Contract Act:1872 governs the contractual aspects of transactions entered between two parties.

Post-Independence

Post-independence, India becomes more aware of the fact that the interest of consumer is a priority in a democracy. The following legislations were enacted and are currently applicable which govern consumer laws in India:

1. The Drugs (Control) Act, 1950;
2. The Prevention of Food Adulteration Act, 1954.
3. The Essential Commodities Act, 1955.
4. The Monopolies and Restrictive Trade Practices Act, 1969.
5. The Bureau of Indian Standard Act, 1986.
6. The Consumer Protection Act, 1986.

Consumer Protection through The Constitution

The Constitution of India, which came into force on 26th January 1950 is the primary document that governs the legislative environment of the country by the virtue of its Articles, Schedules and Parts. The People of India have solemnly resolved, through the Constitution to secure fellow citizens. Justice Social economic, political, Liberty of thought, expression, faith and worship, Equality of status and opportunity and to promote among them all Fraternity, thus, assuring dignity of the individual and the unity and integrity of the nation. By virtue of Article 14 , all are treated equal in the eyes of law.

Further, vide Article 38, a consumer is entitled to enjoy constitutional protection. It reads:

“The state shall strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice, social, economic, and political, shall inform all the institution of the national life. Under clause (b) and (c) of Article 39, the state is duty bound to direct its policy towards securing the distribution of the ownership and control of the material resources of the community in such away as “to serve the common good”

Art. 42 and 43 further extends the duties of the State making State responsible to provide equal and human conditions for work to everyone.

Art. 46 deal with the consumers of educational services of the State and prohibit any kind of exploitation and injustice.

Art. 47 of the Constitution imposed a duty upon the state to improve public health and keeping in view this mandate and to make drugs available at reasonable price to all the persons without any discrimination

Consumer Protection Act, 1986

The Consumer Protection Act was enacted in the year 1986 with an aim to provide more protection to consumers against the evil market practices. It effectively deals with the problems faced by an individual consumer and has no express provisions regarding “maintaining or increasing supplies of any essential commodity or for securing their equitable distribution, and availability at fair prices or dealing with persons indulging in hoarding and black-marketing of, and profiteering in, essential commodities and with the evil of vicious inflationary prices”.

The Consumer Protection Act establishes a legal framework for safeguarding the rights and interests and to accord socio-economic justice to the people of the Indian Republic. The CPA opens up the traditional rule of standing and allows consumers to proceed under the CPA.

In the Act, the consumers, defects, services & deficiency are defined as under :-

Consumer

Consumer is a person who buys any goods for a consideration or hires or avails of any services for a consideration which has been paid or promised or partly paid and part by promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person. Sec 2(1) (f)

Defect

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 under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods. Sec 2(1) (f)

Deficiency

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 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. Sec 2(1) (g)

Services

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, but does not include the rendering of any service free of charge or under a contract of personal service. Sec2(1)(o)

Redressal Mechanism

The CPA Act of 1986 prescribes for a quasi-judicial machinery for the purpose of redressal of consumer related disputes. The fundamental principles upon which the working of these quasi-judicial body rests are the principles of natural justice.

CPA has provided for three tier quasi-judicial consumer dispute redressal mechanism:

District Consumer Dispute Redressal Forum :

1. Pecuniary jurisdiction: up to Rs. 20 Lakhs
2. Appeal lies to the State commission within 30 days of receipt of the order.

State Consumer Dispute Redressal Commission

1. Pecuniary jurisdiction: Rs. 20 Lakhs to 1 Crores.
2. Appeal lies to the National commission within 30 days of receipt of the order.

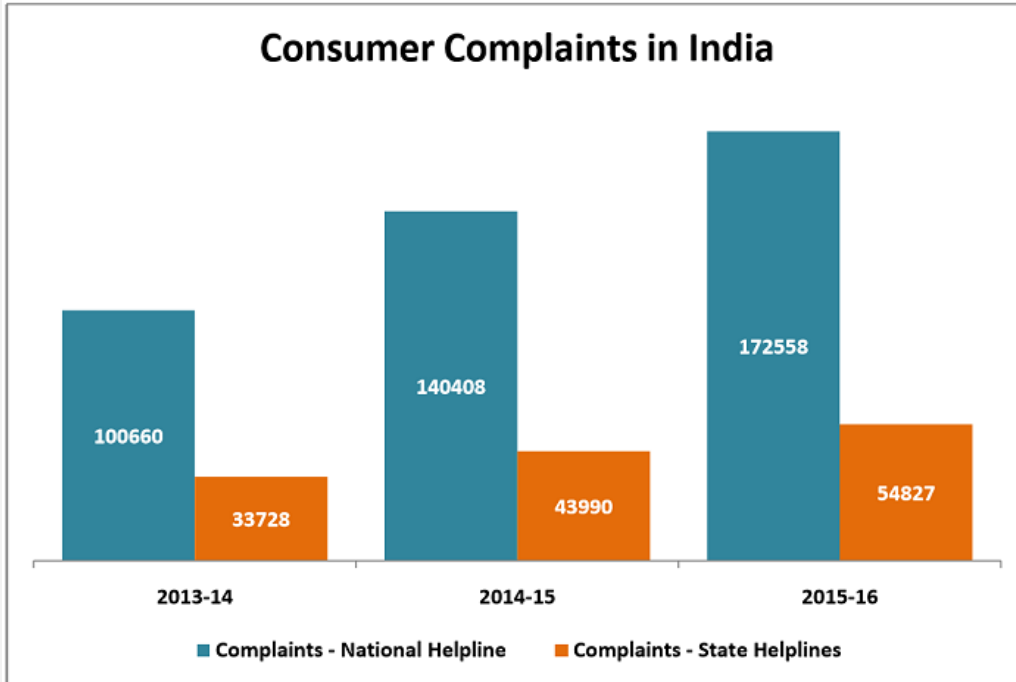
National Consumer Dispute Redressal Commission

1. Pecuniary jurisdiction: Rs.20 Lakhs to 1 Crores.
2. Appeal lies to the Supreme Court within 30 days of receipt of the order.

Spearheading of Consumer Protection Movement & Related Data

As per data available with the government, consumer complaints increased by 70% in the last

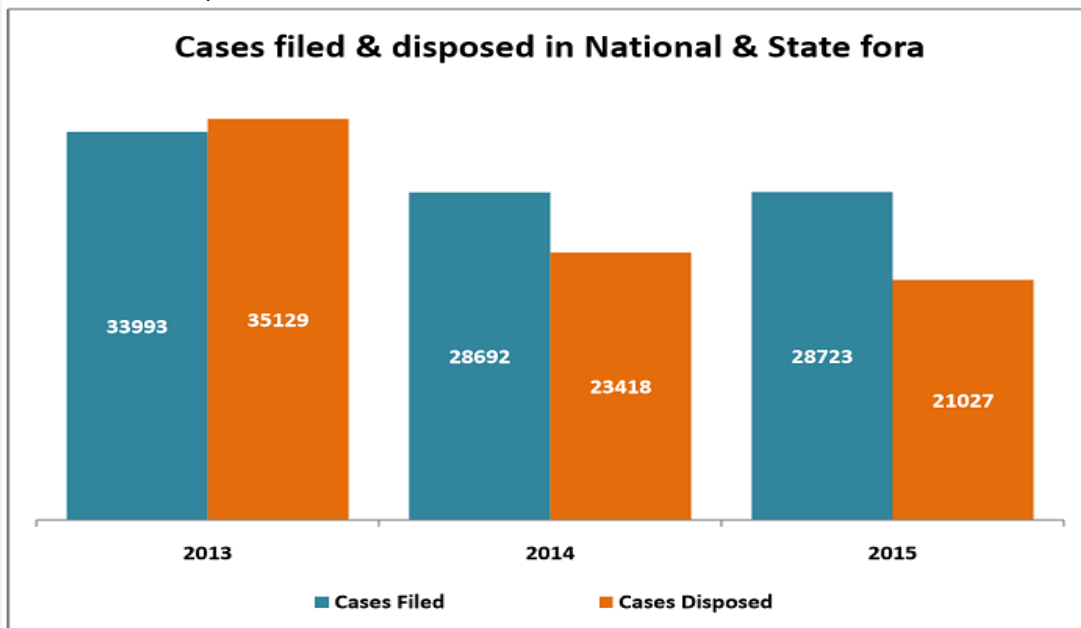
two years. The complaints received through the national consumer helpline reached 1.72 lakh in 2015-16. In an era where selling and buying of goods & services has grown exponentially with the help of technology, it is important that the consumer's rights are protected. The government after a recent review has decided to augment the capacity of the national helpline to deal with increasing number of consumer complaints.



More than 90000 complaints were filed in the National & State Consumer forums in 03 years

Consumers who are not satisfied with the response of the respective company usually approach the consumer forum setup at the district, state and

national level. In the district consumer forum across the country, 1.21 lakh cases were filed in 2015 compared to 1.45 lakh in 2013. This may be because of non-availability of data from over states.



Consumers can lodge complaints through various modes

Consumers can lodge a complaint about a good or service through various modes like the

1. National Consumer Helpline
2. Any of the 28 State Consumer Helplines
3. Lodging a complaint online
4. Approaching the National/ State/ District Consumer Forum

The government has also been working towards consumer awareness through the "Jago Grahak Jago" campaign for many years now. It has also established Grahak Suvidha Kendras in various states to help consumers.

National Consumer helpline and State Consumer helplines provide telephonic advice, information, guidance and grievance redressal procedure to consumers relating to their complaints and forward their complaints to companies and regulators concerned for taking necessary action.

National Consumer Helpline has tied up with more than two hundred companies as part of its convergence programme for resolution of consumer complaints. Convergence is an alternate dispute resolution mechanism to resolve grievances expeditiously. As per government data, 53185 consumer complaints were sent to companies as a part of the convergence programme and 80% of these complaints have received full or partial response from the respective companies.

Conclusion

The consumer protection Act, 1986 is unique in coverage and compensatory in nature. Consumer protection measures need more awareness. But, the

success of the legislation would depend on removing the lacunae in the act and considering the wealthy suggestions and ultimately on its effective implementation by the Central and State Government. Strong and effective consumer movement is the need of the hour. It should be the way of life for all the sections of the society to be a being a real consumer. Consumerism is not going to be a threat but only a better opportunity for better business.

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