

D.N.R.COLLEGE, (AUTONOMOUS): BHIMAVARAM
DEPARTMENT OF MANAGEMENT STUDIES



CORPORATE LEGAL FRAMEWORK
III SEMESTER

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CP - 303, CORPORATE LEGAL FRAMEWORK MBA III SEMESTER eNOTES

UNIT-IV: The Consumer Protection Act, 1986: Meaning of Consumer, Service, Goods, Deficiency, Defect, Unfair Trade Practices—Rights of Consumers—Machinery for redressal of Grievances—Remedies available to injured consumers

Introduction:

CONSUMER:

This statute is regarded as the Magna Carta in the field of consumer protection for checking the unfair trade practices and 'defect in goods' and 'deficiencies in services' as far as India is concerned. It led to the establishment of a widespread network of consumer forums and appellate courts all over India. It has significantly impacted how businesses approach consumer complaints and empowered consumers to a great extent.

RIGHTS OF CONSUMER

The objectives of the Central Council are to promote and protect the rights of the consumers such as:

- The right to be protected against the marketing of goods and services which are hazardous to life and property.
- 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.
- The right to be assured, wherever possible, access to a variety of goods and services at competitive prices.
- The right to be heard and to be assured that consumer's interest will receive due consideration at appropriate forums.
- The right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers and
- Right to consumer education

The Intangible products such as accounting, banking, cleaning, consultancy, education, insurance, expertise, medical treatment, or transportation. Sometimes services are difficult to identify because they are closely associated with a good; such as the combination of a diagnosis with the administration of a medicine. No transfer of possession or ownership takes place when services are sold, and they

- (1) cannot be stored or transported,
- (2) are instantly perishable, and
- (3) come into existence at the time they are bought and consumed.

Goods:

In economics, **goods** are materials that satisfy human wants and provide utility, for example, to a consumer making a purchase of a satisfying product. A common distinction is made between goods that are tangible property, and services, which are non-Physical. A good may be a consumable item that is useful to people but scarce in relation to its demand, so that human effort is required to obtain it. In contrast, free goods, such as air, are naturally in abundant supply and need no conscious effort to obtain them.

Personal goods are things such as televisions, living room furniture, wallets, cellular telephones, almost anything owned or used on a daily basis that is not food related. Commercial goods are construed as any tangible product that is manufactured and then made available for supply to be used in an industry of commerce. Commercial goods could be tractors, commercial vehicles, mobile structures, airplanes and even roofing materials. Commercial and personal goods as categories are very broad and cover almost everything a person sees from the time they awake in their home, on their commute to work and arrival in the work place.

Deficiency:

Commodities may be used as a synonym for economic goods but often refer to marketable raw materials and primary products.

Although in economic theory all goods are considered tangible, in reality certain classes of goods, such as information, only take intangible forms. For **example**, among other goods an

apple is a tangible object, while news belongs to an intangible class of goods and can be perceived only by means of an instrument such as print or television.

A **deficiency** is generally a lack of something. It may also refer to:

- Angular deficiency, in geometry, the difference between a sum of angles and the corresponding sum in a Euclidean plane
- Deficiency (medicine), including various types of malnutrition, as well as genetic diseases caused by deficiencies of endogenously produced proteins.
- A deficiency including various types of malnutrition, as well as genetic diseases caused by deficiencies of endogenously produced proteins.
- A deficiency in construction, an item, or condition that is considered sub-standard, or below minimum expectations
- Genetic deletion, in genetics, is also called a deficiency.

Defect:

General: Frailty or shortcoming that prevents an item from being complete, desirable, effective, safe, or of merit, or makes it to malfunction or fail in its purpose.

Law: Lack of legal sufficiency due to incorrect or incomplete following of a required or statutory procedure. See also perfect.

Manufacturing: Non-conformance of a product with the specified requirements, or non-full fulfillment of user expectations (including the safety aspects). Defects are generally classified into four classes:

- (1) **Class-1:** very serious, directly causes severe injury or catastrophic loss;
- (2) **Class-2:** serious, directly causes significant injury or economic loss;
- (3) **Class-3:** major, related to significant problems with respect to intended normal or reasonable use; and
- (4) **Class-4:** minor, related to minor problems with intended normal or reasonable use

Unfair trade practices:

An unfair trade practice consists of using various deceptive, fraudulent or unethical methods to obtain business. Unfair trade practices include misrepresentation, false advertising, tied selling and other acts that are declared unlawful by statute. It can also be referred to as deceptive trade practices.

Machinery for redressal of grievances:

Consumers play a key role in maintaining the economy of India. Each and every person constitutes a consumer because each one of us is engaged in some form of exchange of goods or services through money as a medium. Gradually, there arise many kinds of disputes among the consumers as well as consumers and the sellers.

In this context, it has to be stated that there lies a need for a statute which regulates the friction between the consumers and the sellers. For this purpose, **Consumer Protection Act** was enacted in the year **1986** to look after the various rights and duties of the consumers during the time of purchasing a product and even after that. The Act plays an important role in the fields where there arises an incidence of exchange of goods or services between two persons where money acts as a medium.

The Act also provides certain guidelines as to what measures must be complied with during the time of such exchange, what are the various rights available to both the buyer and seller etc. It also provides certain provisions regarding the need and formulation of various **‘Consumer Redressal Centres’** both at the central as well as states level.

The Act lays down certain provisions regarding the definition of consumer, various consumer protection councils, and provisions in connection with various consumer redressal agencies in India as well as other miscellaneous provisions. Among this, provisions relating to consumer redressal agencies demand a lot of attention in the present Indian scenario. Many people are still not aware that there are such agencies working in favor of consumers in every district. Due to this reason, many of them are not getting proper solutions for their problems as consumers. A District forum established by the State Government in each district of the State by its notification.

- A State Commission established by the State Government in each state by its notification and
- A National Commission established by Central Government by notification.

District Forum

Each District Forum shall consist of a person who is or has been qualified as a District judge, as the President. There must be two other persons who are not less than thirty-five years of age and also possesses a degree from a recognized university. The persons must have adequate knowledge in the field of economics, commerce, industry, public affairs, and administration.

The district forum must have the jurisdiction to entertain such complaints where the value of goods or services and the compensation, does not exceed Rs. twenty lakhs. The need for district forums for consumer redressal is that majority of the people who face any consumer rights violation are unable to file a complaint in a state or national forum because such has to look at matters concerning various other district forums which result in a large number of pending cases.

District forums are also enabled with a faster way of dispensing consumer redressal as the amount of claim is pretty less than that of State/National redressal forums which enables normal people to seek a solution for their problems.

State Commission

Each State Commission shall consist of a person who is or has been a judge of High Court as its president. The Commission also consists of not less than two members, who are above thirty-five years of age and also possesses a degree from a recognized university. The persons must have adequate knowledge in the field of economics, commerce, industry, public affairs, and administration. The Act also states that not less than fifty percent of the members shall be from amongst the persons having a judicial background.

The State Commission has a jurisdiction to entertain cases where the value of goods or services or the compensation claimed, if any, exceeds the number of Rs. twenty lakhs but does not exceed Rs. one crore. It also entertains appeals against any District Forum within the state and also looks after any pending disputes or cases decided by any of the District forums

in which the forums have exercised a jurisdiction not vested in them by the law, or has been exercised illegally or with any material irregularity.

National Commission

The National Commission shall consist of a person, who is or has been a judge of the Supreme Court, to be appointed by the Central Government, shall be the President, provided that no appointment shall be made except after the consultation with the Chief Justice of India. The commission shall consist of not less than four members of its executive committee who shall not be less than thirty-five years of age and must be graduates from a recognized university. They must also be specialized in the areas of commerce, economics, and administration.

The jurisdiction of the commission shall extend to any case where the compensation amount might exceed Rs. one crore and the Commission shall also entertain appeals against State Commissions. The Commission also has the power to check any pending disputes or cases decided by any of the State Commissions where the State Commission has exercised a jurisdiction not vested in it by law or it has been exercised illegally or with any material irregularity.

Power of Redressal forums

There are various powers for all of the redressal forums with regards to its jurisdiction. Some of them include:

1. Examining, enforcing as well as summoning the witness on oath;
2. Discovering and producing any material evidence;
3. Receiving evidence on affidavit;
4. Requesting for report or test analysis from the concerned authorities and laboratories;
5. Issuing commission for examining the witness;
6. Enforcing any other powers prescribed by the Central or State Government.

Essential Remedies Available to Consumers under Indian Consumer Protection Act

Under this Act, the remedies available to consumers are as follows:

- **Removal of Defects:**

If after proper testing the product proves to be defective, then the 'remove its defects' order can be passed by the authority concerned.

- **Replacement of Goods:**

Orders can be passed to replace the defective product by a new non-defective product of the same type.

- **Refund of Price:**

Orders can be passed to refund the price paid by the complainant for the product

- **Award of Compensation:**

If because of the negligence of the seller a consumer suffers physical or any other loss, then compensation for that loss can be demanded for.

- **Removal of Deficiency in Service:**

If there is any deficiency in delivery of service, then orders can be passed to remove that deficiency. For instance, if an insurance company makes unnecessary delay in giving final touch to the claim, then under this Act orders can be passed to immediately finalise the claim.

- **Discontinuance of Unfair/Restrictive Trade Practice:**

If a complaint is filed against unfair/restrictive trade practice, then under the Act that practice can be banned with immediate effect. For instance, if a gas company makes it compulsory for a consumer to buy gas stove with the gas connection, then this type of restrictive trade practice can be checked with immediate effect.

- **Stopping the Sale of Hazardous Goods:**

Products which can prove hazardous for life, their sale can be stopped.

- **Withdrawal of Hazardous Goods from the Market:**

On seeing the serious adverse effects of hazardous goods on the consumers, such goods can be withdrawn from the market. The objective of doing so that such products should not be offered for sale.

- **Payment of Adequate Cost:**

In the end, there is a provision in this Act that the trader should pay adequate cost to the victim concerned.

Model Questions from UNIT -IV

I. Short Notes

1. Define Consumer
2. Unfair Trade Practice
3. Features of District Forum
4. Duties of Consumers.

II. Essays

1. Enumerate Rights of Consumers.
2. Discuss the various machineries available for redressal of consumer Grievances.
3. Explain features of National Commission.