

CONSUMER PROTECTION ACT, 1986

Salient Features of Consumer Protection Act 1986

The salient features of Consumer Protection Act (CPA) 1986 are as follows:

- (a) It applies to all goods, services and unfair trade practices unless specifically exempted by the Central Government.
- (b) It covers all sectors whether private, public or co-operative.
- (c) It provides for establishment of consumer protection councils at the central, state and district levels to promote and protect the rights of consumers and three tier quasi-judicial machinery to deal with consumer grievances and disputes.
- (d) It provides a statutory recognition to the six rights of consumers.

The main objective of the Consumer Protection Act 1986 is to provide better and all-round protection to consumers and effective safeguards against different types of exploitation such as defective goods, deficient services and unfair trade practices. It provides for establishment of consumer protection councils at the central, state and district levels to promote and protect the rights of consumers and a three tier quasi-judicial machinery to deal with consumer grievances and disputes.

What is a Complaint?

Complaint means any allegation in writing made by a complaint that:

as a result of any unfair trade practice adopted by any trader, the complainant has suffered loss or damage;

the goods mentioned in the complaint suffer from one or more defects;

the services mentioned in the complaint suffer from deficiency in any respect;

a trader has charged for the goods mentioned in the complaint a price in excess of the price fixed by or under any law for the time being in force or displayed on the goods or any package containing such goods,

with a view to obtaining any relief provided by or under this Act;

Who is a Consumer?

Consumer means any person who buys any goods for a consideration and when another person makes use of is made with the approval of such person,

Who is not a Consumer?

A person who obtains goods for resale or for any commercial purpose;

Or hires any services for a consideration

Who avails such Goods or services without the consent of the first mentioned person;

What is Defect in goods?

Defect in goods 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 as is claimed by the trader in any manner whatsoever in relation to any goods;

What is Deficiency in Service?

Deficiency in Service 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 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;

Who is a Person?

“Person” includes,
a firm whether registered or not;
a Hindu undivided family;
a co-operative society;
every other association of persons whether registered under the Societies Registration Act, 1860

What is Service?

“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, entertainment, amusement or the purveying or news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;

What is ‘Unfair Trade Practice’?

Unfair Trade Practice’ means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the purpose of promoting the sale, use or supply of any goods or for the provision of any services, adopts one or more of the following practices and thereby causes loss or injury to the consumers of such goods or services, whether by eliminating or restricting or competition or otherwise, namely,-

- falsely represents that the goods are of a particular standard, quality grade, composition, style or model;
- Represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;
- Gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on any adequate or proper test thereof;
- Gives false or misleading facts disparaging the goods, services or trade of another person.

What is ‘Restrictive Trade Practice’?

The Act defines ‘restrictive trade practice’ as 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 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; any trade practice which requires a

consumer to buy, hire or avail of any goods or services as condition to buying, hiring or availing of other goods or services.

Rights to Consumers under the Consumer Protection Act 1986:

John F, Kennedy, the former USA President, in his message to consumer had given six rights to consumers. These rights are (i) right to safety, (ii) right to be informed, (iii) right to choose, (iv) right to be heard, (v) right to redress and (vi) right to represent. These rights had paved the way for organised consumer movement in the USA and later it spread all over the world. In India, the Consumer Protection Act, 1986 has also provided for the same rights to consumers. Let us have a brief idea about these rights of consumers.

(a) Right to Safety

It is the right of the consumers to be protected against goods and services which are hazardous to health or life. For example, defective vehicles could lead to serious accidents. The same is true of electrical appliances with sub-standard material. Only recently, there were mass protests and boycott of soft drinks due to presence of hazardous pesticides beyond permissible limits. Thus, right to safety is an important right available to the consumer, which ensures that the manufacturers shall not produce and sell sub-standard and dangerous products.

(b) Right to be Informed

The right to be informed is an important component of consumer protection. The consumer must be provided with adequate and accurate information about quality, quantity, purity, standard and the price of the goods and services. Now-a-days the manufacturers provide detailed information about the contents of the product, its quantity, date of manufacturing, date of expiry, maximum retail price, precautions to be taken, etc. on the label and package of the product. Such information helps the consumers in their buying decision and use of the product.

(c) Right to Choose

The right to choose provides that the consumer must be assured, whenever possible, access to a variety of goods and services at competitive prices. If the market has enough varieties of products at highly competitive prices, the buyers have an opportunity of wide selection. However, in case of monopolies like railways, postal service and electricity supply etc. it implies a right to be assured of satisfactory quality of service at a fair price.

(d) Right to be Heard

The rights to safety, information and choice will be frivolous without the right to be heard. This right has three interpretations. Broadly speaking, this right means that consumers have a right to be consulted by Government and public bodies when decisions and policies are made affecting consumer interests. Also, consumers have a right to be heard by manufactures, dealers and advertisers about their opinion on production, marketing decisions and any grievances of the consumers. Now-a-days, most of the top manufacturers and firms have set up consumer service cells to attend to consumers' complaints and take appropriate steps for their redressal. Thirdly, consumers have the right to be heard in legal proceedings in law courts dealing with consumer complaints.

(e) Right to Seek Redressal

The consumers have been given the right of redressal of their grievances relating to the performance, grade, quality etc. of the goods and services. If required, the product must be repaired / replaced by the seller/ manufacturer. The Consumer Protection Act has duly provides for a fair settlement of genuine grievances of the consumers. It has also set up a proper mechanism for their redressal at

district, state and national levels.

(f) Right to Consumer Education

It means the right to receive knowledge and skill to become informed consumer. In this direction the consumer associations, educational institutions and the policy makers can play an important part. They are expected to impart information and knowledge about (i) the relevant laws which are aimed at preventing unfair trade practices, (ii) the ways and means which dishonest traders and producers

may adopt to deceive the consumers, (iii) insistence on a bill or receipt at the time of purchase, and (iv) the procedure to be followed by consumers while making complaints. Effective consumer education leads to an increased level of consumer awareness and help them to enforce their rights more effectively, and protect themselves against fraudulent, deceitful and grossly misleading advertisement, labeling, etc.

GOODS AND SERVICES COVERED UNDER CPA 1986

The term 'goods' under this Act has the same meaning as under the sale of goods Act. Accordingly it covers all types of movable property other than money and includes stocks and shares, growing crops, etc. The term 'service' means service of any description made available to potential users and includes banking, financing, housing construction, insurance, entertainment, transport, supply of electrical and other energy, boarding and lodging, amusement, etc. The services of doctors, engineers, architects, lawyers etc. are included under the provisions of Consumer Protection Act.

FILING OF COMPLAINTS

For redressal of consumer grievances a complaint must be filed with the appropriate forum.

Who can file a complaint?

The following persons can file a complaint under Consumer Protection Act 1986:

- (a) A consumer;
- (b) Any recognised voluntary consumer association whether the consumer is a member of that association or not;
- (c) The Central or any State Government; and
- (d) One or more consumers where these are numerous consumers having same interest.
- (e) Legal heir or representative in case of death of a consumer.

What complaints can be filed?

A consumer can file a complaint relating to any one or more of the following:

- (a) An unfair trade practice or a restrictive trade practice adopted by any trader or service provider;
- (b) Goods bought by him or agreed to be bought by him suffer from one or more defect;
- (c) Services hired or availed of, or agreed to be hired or availed of, suffer from deficiency in any respect;
- (d) Price charged in excess of the price
 - (i) fixed by or under the law for the time being in force, (ii) displayed on the goods or the package, (iii) displayed in the price list, or (iv) agreed between the parties; and (e) goods or services which are hazardous or likely to be hazardous to life and safety when used.

Where to file a complaint?

If the value of goods and services and the compensation claimed does not exceed Rs. 20 lakh, the complaint can be filed in the District Forum; if it exceeds Rs. 20 lakh but does not exceed Rs. One crore, the complaint can be filed before the State Commission; and if it exceeds Rs. One crore, the complaint can be filed before the National Commission.

How to file a complaint?

A complaint can be made in person or by any authorised agent or by post. The complaint can be written on a plain paper duly supported by documentary evidence in support of the allegation contained in the complaint. The complaint should clearly specify the relief sought.

It should also contain the nature, description and address of the complainant as well as the opposite party, and so also the facts relating to the complaint and when and where it arose.

What are the reliefs available to consumers?

Depending on the nature of complaint the and relief sought by the consumer, and the facts of the case, the Redressal Forum/Commission may order one or more of the following reliefs:

- (a) Removal of defects from the goods or deficiencies in services in question.
- (b) Replacement of the defective goods.
- (c) Refund of the price paid.
- (d) Award of compensation for loss or injury suffered.
- (e) Discontinuance of unfair trade practices or restrictive trade practice or not to repeat them.
- (f) Withdrawal of hazardous or dangerous goods from being offered for sale.
- (g) Provision of adequate costs to aggrieved parties.

What is the time limit for filing the case?

The consumer can file the complaint within two years from the date on which the cause of action had arisen. However, it may be admitted even after the lapse of two years if sufficient cause is shown for the delay.

Time limit for deciding the case

Every complaint must be disposed off as speedily as possible within a period of three months from the date of notice received by the opposite party. Where the complaint requires laboratory testing of goods this period is extended to five months.

What are the various Dispute Resolution Agencies under the CPA 1986?

The judicial machinery set up under the Consumer Protection Act, 1986 consists of consumer courts (forums) at the district, state and national levels. These are known as District forum, State Consumer Disputes Redressal Commission (State Commission) and National Consumer Disputes Redressal Commission (National Commission) separately.

1. District Forum

This is established by the state governments in each of its districts.

- (a) Composition: The district forums consist of a Chairman and two other members one of whom shall be a woman. The district forums are headed by the person of the rank of a District Judge.
- (b) Jurisdiction: A written complaint can be filed before the District Consumer forum where the value of goods or services and the compensation claimed does not exceed Rs. 20 lakh.
- (c) Appeal: If a consumer is not satisfied by the decision of the District forum, he can challenge the same before the State Commission, within 30 days of the order.

2. State Commission

This is established by the state governments in their respective states.

- (a) Composition: The State Commission consists of a President and not less than two and not more than such number of members as may be prescribed, one of whom shall be a woman. The Commission is headed by a person of the level of High Court judge.

- (b) Jurisdiction: A written complaint can be filed before the State Commission where the value of goods or services and the compensation claimed exceeds Rs. 20 lakh but

does not exceed Rs. One crore.

(c) Appeal: In case the aggrieved party is not satisfied with the order of the State Commission he can appeal to the National Commission within 30 days of passing of the order.

3. National Commission

The National commission was constituted in 1988 by the central government. It is the apex body in the three tier judicial machinery set up by the government for redressal of consumer grievances. Its office is situated at Janpath Bhawan (Old Indian Oil Bhawan), A Wing, 5th Floor, Janpath, New Delhi.

(a) Composition: It consists of a President and not less than four and not more than such members as may be prescribed, one of whom shall be a woman. The National Commission is headed by a sitting or retired judge of the Supreme Court.

(b) Jurisdiction: All complaints pertaining to those goods or services and compensation whose value is more than Rs. one crore can be filed directly before the National Commission.

(c) Appeal: An appeal can be filed against the order of the National Commission to the Supreme Court within 30 days from the date of order passed.

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