CHAPTER V

CONCLUSION AND SUGGESTIONS
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A BLUE PRINT FOR FUTURE

As a result of our study we have arrived at following conclusions:

The consumer policy is no longer restricted to be viewed solely at the national level. Since the world economy has become so interdependent, national consumer protection policies have now acquired international dimensions. Consequently, Economic and Social Council, International Co-operation and Co-ordination within the United Nations System; Consumer Protection Report of the Secretary General 1983, etc. have come into being. This is mostly due to the international character of business practices, in that the marketing of goods and services is often done on a multinational basis, and, in many cases by international corporations, and also to the fact that problems encountered by consumers are often not exclusive to any one country. With the advent of globalisation of commerce, consumerism and the disputes connected therewith have also taken a global and international shape.

The international consumer protection movement has been growing appreciably. The increase in the volume of international
trade and commerce has promoted the inter-government cooperation. The expanding role of transnational corporations in the production, distribution of goods and promotion of, services have raised a number of issues which call for international coordination.

These factors have invariably promoted international activities in the area of Consumer Protection. A majority of the consumers belongs to low income group and they face non-availability of food products and basic commodities of life of acceptable quality at a reasonable price. The consumer protection in developing countries is more of a necessity rather than of a matter of academic discussion. These developing countries need egalitarian consumerism, thereby meaning that essential commodities must be available to the vast majority of the people at a reasonable price so that they could improve to some extent their quality of life and protect themselves against hazardous or adulterated foodstuffs. Many international programmes deal with consumer protection and the emphasis is on providing basic goods and services. In this regard the United Nations' Guidelines for Consumer Protection and the comments of the United Nations' Secretary General are relevant.

"Finally, it may be noted that international cooperation with regard to consumer protection is needed because the development of consumer protection policy no longer requires to go with measures taken only at the national level."
Since the world economy has become so inter-dependent that National Consumer Protection Policy has now acquired international dimensions. This is mostly due to international character of business practices. In that the marketing of goods and services is often done on multinational basis and in many cases by transnational corporations and also due to the fact that problems encountered by consumers are often not exclusive to any country. As a result, measures adopted to protect the consumers in one country can have implications for consumers in other countries. For instance, consumer protection measures such as, national standards, intended to protect consumers in one country, can become barriers to international trade by making it more difficult for consumers in that country to choose among various goods and to purchase those goods at the lowest possible price, and, they may also affect consumers in exporting countries by depriving them of the income generated by exports. Another area where international co-operation is required is the exchange of information on banned and severally restricted products in order to enable importing countries to protect themselves adequately”.

The guidelines adopted by the General Assembly of the United Nations on 9th April 1985 should be taken seriously by all the member States. These guidelines include -
1. Physical safety of consumers;
2. Protection of economic interests of consumers;
3. Consumers’ access to information needed to make informed choices;
4. Measures enabling consumers to obtain redress;
5. Distribution of essential goods and services;
6. Satisfactory production and performance standard;
7. Adequate business practices and informative marketing;
8. Proposal for international co-operation in the field of consumer protection.

The origin of these guidelines can be traced in the late 1970s when the Economic Social Council recognised that consumer protection had an important bearing on economic and social development. These guidelines included measures in the essential areas of food, water and pharmaceuticals emphasising for product quality control, adequate distribution facilities, standards, labelling and education and research programmes. They also suggest that the Government adopt appropriate measures in areas such as pesticides and chemicals. These guidelines are not binding, they serve as a beacon light to serve the cause of consumers. Therefore, it is the prerogative of each Government to implement them as they deem fit in accordance with their priority and needs.
Similarly regarding the Code of Conduct for Transnational Corporations the general consensus arrived at by the working groups at the 4th Session about consumer protection speaks as follows:

(1) Transnational Corporations should perform their operations in a way that does not cause danger to the health and safety of consumer and maintain consistent quality of products;

(2) Transnational Corporations should disclose, to the appropriate authorities of the country in which they operate, information relating to features of their products which are directly related with the health and safety of consumers;

(3) Transnational Corporations should disclose all information relating to prohibitions, restrictions, warnings and other regulatory measures imposed in other countries on grounds of health and safety, protection on products which they produce or market or propose to market and on processes which they use or propose to use in the countries concerned;

(4) Transnational Corporations should disclose appropriate information relating to experimental aspects and uses of products which they propose to use or market in the country concerned;
(5) Transnational Corporations should disclose to the public all necessary information on the contents and the possible dangers or other adverse effects of the products they produce or market or propose to produce or market in the countries concerned by means of proper labeling, informative and not misleading advertisement and other appropriate methods;

(6) Transnational Corporations should co-operate with the Governments of the countries in which they operate with a view to promoting standards for protection of the health and safety of the consumers in relations with their production or marketing in the countries concerned.

We have observed that the programme of World Intellectual Property Organisation (WIPO) also did some good work which include matter relating to consumer protection. World Intellectual Property Organisation (WIPO) also studied on how intellectual can be used to improve the protection of consumers between developed and developing countries.

Non-Government Organisations and many consumer groups such as labor organisations, business communities and their representatives, industrial groups have organised themselves at international level to advance the cause of consumers. International Organisation of Consumer’s Union
(IOCU) the prominent and internationally known organisation, has done remarkable work in the field. It is a non-profit independent foundation which is having membership from over 50 countries, as well as Government financed Consumer Councils, Labor Unions and similar groups. It also enjoys consultative or liaison status with a number of International Agencies. International Chamber of Commerce established in 1920 in Paris has also deliberated on the issues of consumer protection. It also established an International Council on Advertising Practice and drafted a Code in this regard. Its Commission on marketing, advertising and distribution has evolved certain fair competition and business standards and ethics to ensure fair competitive practices. It's code of market research practice worked for laying down standard for enterprises specialising in marketing research. There are other international agencies which have promoted the interest of consumers.

However, there is no international law of consumer protection. It is therefore necessary to make joint efforts of the various international agencies to promote the development of such international law. A number of countries all over the world have laws to regulate and control unfair trade practices and to provide adequate protection to consumers. It is desirable to
frame a common international model of laws based on the experiences of the various countries. As the war criminals are dealt with, internationally, the criminals in commerce and business should also be dealt with on the basis of the international law.

It is needless to point out that the Consumer Protection Act is for the benefit of the consumers and one finds the definition of 'consumer' in Sec. 2(1)(d)(i) and (ii) of the Act. Provisions appearing in Sec. 2(1)(d)(i) are relating to 'goods'; while those in Section 2(1)(d)(ii) refer to 'services'. This chapter restricts its scope by merely referring to the latter half of the definition of 'consumer' as stated under Sec. 2(1)(d)(ii) of the Consumer Protection Act and obviously with reference to the definition of 'service' as per Sec. 2(1)(o) of the Act. The more one wants to be liberal while interpreting the definition of 'service', the larger is the scope of the operation of the Consumer Protection Act. The moot question is as to what extent the interpretation of the definition could be made wider. The more one makes it wide, the more civil disputes would start pouring in because as per Section 3 of the Consumer Protection Act the provisions of the Act are in addition to and not in derogation of the provisions of any other law for the time being in force. Thus, the Consumer Protection Act, 1986 is not an exclusive Act.
The definition of 'service' is undoubtedly an illustrative one and not exhaustive or restrictive. Naturally, one is tempted to bring various items or subjects within the definition and, making thereby, the scope of the Act wider and wider. Should the scope of the Act be made wide to such an extent as if 'only the sky is the limit?' One has to keep in mind that Consumer Protection Act is no substitute for civil courts but it is just supplementary. In case, floodgates of civil litigation are channelised through the Consumer Protection Act, the very purpose of the Act of getting speedy relief to the consumer would be frustrated. There appears a potential danger of the Consumer Protection Act becoming nugatory for practical purposes, if 'services' are interpreted too broadly without keeping in view the main objects of the Act.

With regard to 'Services' it is our submission that; the jurisdiction of the Consumer Disputes Redressal Agencies while giving relief to the consumer should not be extended too widely only because the definition of 'service' is merely illustrative and not exhaustive. The Consumer Disputes Redressal Agencies (C.D.R.A.) cannot, and should not act as civil courts for all purposes. It is significant that certain powers which are vested in civil courts have been given to the District Fora as mentioned in Section 13(4)(i) and (v). Clause (vi) refers to such powers as
may be prescribed. If additional powers are not prescribed by
the concerned authorities, the powers given to the District Fora
will be limited and only the powers mentioned in clauses (i) to (v)
in Section 13(4) of the Act would remain. Even otherwise, who
are said to be victims of the traders and manufacturers, would
be frustrated, if it is taken for granted that only 'sky is the limit'
while extending the dimensions of the term 'service'. Hence Fora
are required to be clothed with powers accurately prescribed.

Coming now to Consumer Protection Act, 1986 (hereinafter
the Act) which is a step forward on protection to the consumers
interest provide for better protection of the interests of
consumers and for that purpose make provision for the
establishment of Consumers' Council and other authorities for
the settlement of consumers' dispute. The Act has many
relieving features. The Act applies to all goods and services (The
Consumer Protection Act, 1986, Section 1(4) covers public,
private and co-operative sectors. In fact under this Act
immediate remedy is available to the consumer against the
goods supplied or service provided by the Government. Sections
6 and 8 of the Act imposes on the Central and State Councils the
statutory duties to protect and promote the rights of the
consumer.

The Act envisages a three-tier grievance redressal agencies
viz., District Forum, State Commission and National Commission respectively.

According to the Consumer Protection Act, 1986 provisions have been made to establish the Consumer Fora at District levels and such fora have jurisdiction to decide the complaints valuation of rupees five lakhs. But it is practically difficult for the consumers who are residing in villages and for their petty consumer disputes to knock the doors of the District Fora. Therefore, consumer fora shall be established at taluka places and their jurisdiction shall be up to valuation of three lakh rupees. It will give expediency as well as availability of justice to a consumer hailing from remote rural areas also.

The State Government through its Selection Committee has power to appoint two Honorary Members (Non-Judicial Members) out of which one is a lady member at each District Consumer Dispute Redressal Forum as well as at State Commissions. But it is not expected that these members should be the law graduates or well versed in law. Here, we suggest that, these members must be the law graduates or law knowing persons, such qualification should be prescribed for the members of District Fora and State Commissions.

A proposal is advised for expedient trial of the consumer cases. There are thousands of the consumer cases pending with
the Fora and Commissions. One State Commission is not sufficient for a big State like Maharashtra. On par with the Bench of the High Court, there is a need of State Commissions more than one. Sec.16 of the Consumer Protection Act, 1986 provides for the composition of the State Commission but there appears strong need to increase the number of the members at the State Commission and establishment of State Commission's office at more than one places in the State. At least one State Commission should be formed at each such place of the State, where there is Bench of the High Court.

Many times the parties, clients, applicants and non-applicants coming to District Consumer Fora and State Commissions, are directly or indirectly acquainted with the Members or President which adversely may affect the judicial proceedings, decisions etc. In order to remedy this difficulty there appears a need to make certain provisions in the Consumer Protection Act, 1986, to transfer the cases from one Dist. Forum to another one or from one State Commission to another one on par with the provisions depicted under Section 24 of the Code of Civil Procedure, 1908.

The District Fora need to be empowered to issue the interim stay orders (Stay Orders), as such powers are with
the State Commissions and National Commission.

According to Rule (4)(9) of Maharashtra Consumer Protection Rules of 1987 and also Rule (4) (8) of the Maharashtra Consumer Protection Rules, 2000, every District Consumer Forum shall decide or dispose of the complaint within (90) days. But practically it is too difficult. Due to many reasons, applicants, non-applicants, Advocates and witnesses fail to attend the Forum on genuine personal difficulties. Considering such difficulties and after following the principles of natural justice, I personally feel that the period of ninety days shall be extended upto 120 or 150 days in exceptional situations, where justice claims extension of time. For example, (i) where the case involves an extraordinary legal point and appointment of an Advocate appears to the Court strongly needful, or (ii) where the case consist of certain intrications and complications etc. in regard of any law point.

The Presidents of District Consumer Fora and State Commissions or National Commission as they are Departmental Heads, Government shall provide perks on par with judges of the regular courts.

CONSUMER EDUCATION:

One of the most fruitful areas specifically given to the Central Council is to promote the right to Consumer Education.
It should devise programmes to consumer education and ensure that these are implemented.

The success of one is dependent on the co-operation of another person in the society, hence life of one is dependent on other in a society of human beings interaction is must; which gives rise to different cultural institutions like, education, trade, commerce, politics and various peoples' movements for the material progress of the society.

Inspite of the plethora of measures, legislative and administrative, consumer protection still remains a myth. The consumer is exploited quite often. He is helpless and an easy prey in the hands of the commercial and industrial leviathans wielding economic and political power. In a society like ours, with the bulk of people illiterate and still suffering from acute poverty, the battle for consumer protection has to be fought on different fronts, hence, I would suggest the following measures:

(i) If the consumers are not aware of their rights and remedies, the effectiveness of the Consumer Protection Legislation would be diminished. So mass education of the consumer is very much necessary to make them conscious of their rights. Lack of
awareness is a big hindrance in the way of improvement of consumers.

(ii) In the application of the laws and to organise the consumer education vigorously, voluntary organisations have a major part to play. To take up the cause of the consumerism most effectively, Government should provide all assistance required by such voluntary consumer associations.

(iii) Legal literacy must be propagated by the newspapers and other stronger media like Television, and Radio regularly and also by publishing books and monographs on consumer rights. These agencies should take up the task of enlightening and educating the consumers.

(iv) One grave omission of the Consumer Protection Act is that there is no specific mention at all of the number of non-official representation in the State Consumer Protection Council. Though there are specific provisions regarding formation of the Central Consumer Protection Council in the Act, The Act appears to be silent on the composition of the State Consumer Protection Council. The State Government is
advised to frame exhaustive and elaborated rules regarding it so that there will be proper and effective representation of the non-officiels. Unless larger public participation and cooperation of enlightened citizens is encouraged, the State Council will never yield effective results. Therefore, the Act should be suitably amended to provide for non-official representation, including voluntary consumer associations at the State level.

(v) The Industrial Law in India permits collective bargaining.

In the context of Indian scenario, it will be collective in the true sense when all the parties in the matter, namely capital, labor and consumer take part in the decision making process. In other words consumers must be given a due place in the socio-economic setup of the country.

There is a dearth of laws to control the price hike. Barring certain essential commodities and drugs, no law is there to regulate the fixation of prices of the consumable goods. Further lack of the consumer's view point at various policy decisions, indirectly go to raise inflation. Consumer movement primarily demands a check on price rise in the present atmosphere.

When the consumers above the poverty line raise hue and
future in India. Apart from Governmental seriousness in the matter, consumer activists, organisations, like Akhil Bhartiya Grahak Panchayat and Grahak Panchayats at State, District and Taluka levels and other Voluntary Associations have also to play their part in the furtherance of consumer movement. After a decade of coming into force of the Consumer Protection Act, consumers in India have the satisfaction that separate tribunals exist to agitate their claims. Alert consumers are able to secure justice but the original intention of the framers of this legislation that a consumer shall get speedy and inexpensive remedy has not been realized. Consumer awareness is still on the whole lacking in the absence of grass root consumer organisations. It varies with the economic, social and educational conditions of consumers residing in different regions of this vast country. There is total ignorance of important remedies available such as action against the unfair and restrictive trade practices. Significantly, provision relating to hazardous goods and their recall from the market have not been invoked. Nor have representative actions been filed in any Consumer Forum. The provisions of Sec.14(1) (g) “not to offer the hazardous goods for sale” and Sec. 14 (1) (h) “to withdraw the hazardous goods from being offered for sale” are still found untouched by the people at large while there is a need on the one way to cultivate awareness
cry for their protection then the plight of those below the poverty line can be well imagined. India has its major population below poverty line. They suffer the most from fraud, excessive prices, exorbitant credit charges, poor quality of merchandise and service. They lack education and consumer education in particular and are unable to improve their purchase decisions. Consumer education for our country is a must for -

a. Creation of critical awareness
b. Active consumer involvement
c. Imbibing social responsibility
d. Realising ecological responsibility
e. Solidarity of consumers.

Making consumers aware of their rights and taking consumer movement to the rural India is the most important problem and challenge before the Consumer Organisations. As is well known, most consumers are still ignorant of their rights, much less of being assertive about them. Though the Government appears to be serious on this issue; much however depends upon the Consumer Organisations. They have, still to cover a long distance so far as taking the movement to rural area is concerned.

In conclusion, I would like to submit that the Consumer Protection Act, 1986 and Consumer Movement have got a bright
among consumers, there is, on the other way, an equal need to create sincere sense of responsibility among the traders. Mahatma Gandhi, the father of nation had categorically stressed the importance of the consumer or customer's in these words (1934)........

"A consumer is the most important visitor in our premises. He is not dependent on us. We are dependent on him. He is not interruption in our work. He is the purpose of it. We are not doing him a favour by serving him. He is doing us a favour by giving us an opportunity to do so."

Consumer Organisations and State Consumer Protection Councils and the Central Consumer Protection Council must strive to bring about greater awareness among the consumers so that remedial reforms made in 1993 are effectively implemented.

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ANNEXURE

ORDINANCE PROMULGATED TO AMEND
CONSUMER PROTECTION ACT

An Ordinance has been promulgated on 18.6.1993 to make
the Consumer Protection Act more effective. The Ordinance has been
brought to replace the existing Consumer Protection Act. Though the
Government had introduced a bill for the amendment in the Act but it
could not be taken for consideration due to paucity of time. The
Ordinance provides following amendments in the existing Act:-

It would enable consumers/organisations to file complaints in respect
of goods whose use could be hazardous to life and safety like drugs or
food products being sold after expiry dates;

Against traders who adopt restrictive practices like forcing the
consumers to purchase a gas stove from the same gas dealer who
releases the gas connections;

On behalf of a group of consumers with a common interest, e.g. over
charging in parking lots or as in the two wheeler manufacturers case,
where they did not refund the advance deposit of Rs.500 inspite of
cancellation of the booking to lakhs of depositors.

In respect of services relating to housing, it has been made clear that
these services are within the purview of the Act. Such services
include issues arising out of allotment, defects in construction,
occupation relating services and maintenance issues.

Self employed persons wouldbe able to seek redressal in respect of the
goods purchased by them in order to earn their living. Hitherto, they
were excluded on the basis that such transactions were commercial,
e.g., if a widow buys a sewing machine for sewing the customers’
clothes to earn a living for herself, or a taxi-driver buys a vehicle for
using as a taxi, now will not be treated as commercial purposes.

In keeping with the enlarging of the scope of the Act, the redressal fora
have also been conferred additional powers to order:-

- withdrawal of goods likely to endanger life and safety;
- discontinuance of an unfair / restrictive trade practice;
- removal of deficiency from services;
- to award costs; and
- to impose punishment in case of frivolous complaints.
In addition it has provided for a limitation period of one year for filing complaints and empowers the State Governments to constitute more than one forum in a District, wherever necessary.

The Ordinance also provides for constitution of Selection Committees at the State and National Level to choose non-judicial members of the redressal agencies. This will ensure that appointments of these posts would be done in a fair and just manner and after due consideration.
THE CONSUMER PROTECTION ACT, 1986

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TEXT OF THE CONSUMER PROTECTION ACT,
1986
[68 of 1986]
as amended by the Consumer Protection (Amendment)
Ordinance, 1993
[UP TO DATE]
(24 December, 1986)

An act to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers’ disputes and for matters connected therewith.

BE IT ENACTED BY PARLIAMENT IN THE THIRTY-SEVENTH YEAR OF THE REPUBLIC OF INDIA AS FOLLOWS:

CHAPTER I

PRELIMINARY

1. Short Title, extent, commencement and application.— (1) This Act may be called the Consumer Protection Act, 1986.
(2) It extends to the whole of India except the State of Jammu and Kashmir.
(3) It shall come into force on such date as the Central Government may, by notification appoint and different dates may be appointed for different States and for different provisions of this Act.
(4) Save as otherwise expressly provided by the Central Government by notification, this Act shall apply to all goods and services.

2. Definitions. (1) In this Act, unless the context otherwise requires,—
[(a) “appropriate laboratory” means a laboratory or organisation —
(i) recognised by the Central Government;
(ii) recognised by a State Government, subject to such guidelines as may be prescribed by the Central Government in this behalf; or
(iii) any such laboratory or organisation established by or under any law for the time being in force, which is maintained, financed or aided by the Central Government or a State Government for carrying out analysis or test of any goods with a view to determining whether such goods suffer from any defect;]
[(aa) “branch office” means —
(i) any establishment described as a branch by the opposite party; or]
(ii) any establishment carrying on either the same or substantially the same activity as that carried on by the head office of the establishment;]
(b) "complainant" means —
(i) a consumer; or
(ii) any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956), or under any other law for the time being in force; or
(iii) the Central Government or State Government who or which makes a complaint;
(iv) one or more consumers, where there are numerous consumers having the same interest, who or which makes a complaint.
(c) "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,
(ii) the goods bought by him or agreed to be bought by him suffer from one or more defect,
(iii) the services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect;
(iv) a trader has charged for the goods mentioned in the complaint price in excess of the price fixed by or under any law for time being in force or displayed on the goods for any package containing such goods.
1 [v] goods which will be hazardous to life and safety when used, are being offered for sale to the public in contravention of the provisions of any law for the time being in force requiring traders to display information in regard to the contents, manner and effect of use such goods, with a view to obtaining any relief provided by or under this Act;
(d) "consumer" means any person who, —
(i) buys any goods for a consideration which has been paid or promised or partly paid or partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or partly paid or partly promised, or under any system or deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or
(ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly 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;
[EXPLANATION.— FOR THE PURPOSES OF SUB CLAUSE (l),
"COMMERCIAL PURPOSE" DOES NOT INCLUDE USE BY A
CONSUMER OF GOODS BOUGHT AND USED BY HIM EXCLUSIVELY
FOR THE PURPOSE OF EARNING HIS LIVELIHOOD, BY MEANS OF
SELF-EMPLOYMENT;]
(e) "consumer dispute" means a dispute where
the person against whom the complaint has been made, denies or
disputes the allegations contained in the complaint;
(f) "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 1[under
any contract, express or implied, or] as is claimed by the trader in any
manner whatsoever in relation to any goods;
(g) "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 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;
(h) "District Forum" means a Consumer Disputes Redressal Forum
established under clause (a) of Section 9;
(i) "goods" means goods as defined in the Sale of Goods Act, 1930 (3 of
1930);
(j) "manufacturer" means a person who —
   (i) makes or manufactures any goods or parts thereof; or
   (ii) does not make or manufacture any goods but assembles
       parts thereof made or manufactured by others and claims the
       end-products to be goods manufactured by himself; or
   (iii) puts or causes to be put his own mark on any goods made
       or manufactured by any other manufacturer and claims such
       goods to be goods made or manufactured by himself.
EXPLANATION.- WHERE A MANUFACTURER DISPATCHES ANY
GOODS OR PART THEREOF TO ANY BRANCH OFFICE MAINTAINED
BY HIM, SUCH BRANCH OFFICE SHALL NOT BE DEEMED TO BE
THE MANUFACTURER EVEN THOUGH THE PARTS SO DISPATCHED
TO IT ARE ASSEMBLED AT SUCH BRANCH OFFICE AND ARE SOLD
OR DISTRIBUTED FROM SUCH BRANCH OFFICE;
[[j] "member" includes the President and a member of the National
Commission or a State Commission or a District Forum, as the case
may be:]
(k) "National Commission" means the National Consumer Disputes
Redressal Commission established under clause (c) of section 9:
(l) "notification" means a notification published in the official gazette;

(m) "person" includes,—

(i) a firm whether registered or not;

(ii) a Hindu undivided family;

(iii) a co-operative society;

(iv) every other association of persons whether registered under the Societies Registration Act, 1860 (21 of 1860) or not;

(n) "prescribed" means prescribed by rules made by the State Government, or as the case may be, by the Central Government under this Act;

(nn) "restrictive trade practice" means any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as a condition precedent for buying, hiring or availing of other goods or services;

(o) "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 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;

(p) "State Commission" means a Consumer Disputes Redressal Commission established in a State under clause (b) of section 9;

(q) "trader" in relation to any goods means a person who sells or distributes any goods for sale and includes the manufacturer thereof, and where such goods are sold or distributed in package form, includes the packer thereof;

(rr) "unfair trade practice" means a trade 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 including any of the following practices, namely:—

(i) the practice of making any statement, whether orally or in writing or by visible representation which,—

(i) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model;

(ii) falsely represents that the services are of a particular standard, quality or grade;

(iii) falsely represents any re-built, second hand, renovated, reconditioned or old goods as new goods;

(iv) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;
(v) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;
(vi) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;
(vii) 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 an adequate or proper test thereof:
Provided that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence;
(viii) makes to the public a representation in a form that purports to be —
(i) a warranty or guarantee of a product or of any goods or services; or
(ii) a promise to replace, maintain or repair an article or any part of thereof or to repeat or to continue a service until it has achieved a specified result.
if such purported warranty or guarantee or promise is materially misleading or if there is no reasonably prospect that such warranty, guarantee or promise will be carried out;
(ix) materially misleading the public concerning the price at which a product or like products or goods or services, have been or are, ordinarily sold or provided and, for this purpose, a representation as to price shall be deemed to refer to the price at which the products or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made;
(x) gives false or misleading facts disparaging the goods, services or trade of another person.
Explanation.- For the purpose of clause(1), a statement that is.—
(a) expressed on an article offered or displayed for sale, or on its wrapper or container; or
(b) expressed on anything attached to, inserted in, or accompanying, an article offered or displayed for sale, or on anything on which the article is mounted for display or sale; or
(c) contained in or on anything that is sold, sent, delivered, transmitted, or in any other manner whatsoever made available to a member of the public, shall be deemed to be a statement made to the public by, and only by, the person who had caused the statement to be so expressed, made or contained;
(2) permits the publication of any advertisement whether in any newspaper or otherwise, for sale or supply at a bargain price, of goods
or services that are not intended to be offered for sale or supply at the
bargain price, or for a period that is, and in quantities that are
reasonable, having regard to the nature of the market in which the
business is carried on, the nature and the size of business, and the
nature of the advertisement.
Explanation.— For the purposes of clause (2), "bargaining price"
means—
(a) a price that is stated in any advertisement to be a bargain price,
by reference to an ordinary price or otherwise; or
(b) a price that a person who reads, hears or sees the advertisement
would reasonably understand to be a bargain price regard to the
prices at which the product advertised or like products are ordinarily
sold;
(3) permits—
(a) the offering of gifts, prizes or other items with the intention of not
providing them as offered or creating impression that something is
being given or offered free of charge when it is fully or partly covered
by the amount charged in the transaction as a whole;
(b) the conduct of any contest, lottery, game of chance or skill, for the
purpose of promoting, directly, the sale, use or supply of any product
or any business interest;
(4) permits the sale or supply of goods intended to be used, or are of a
kind likely to be used, by consumers, knowing or having reason to
believe that the goods do not comply with the standards prescribed by
competent authority relating to performance, composition, contents,
design, constructions, finishing or packaging as are necessary to
prevent or reduce the risk of injury to the person using the goods;
(5) permits the hoarding or destruction of goods, or refuses to sell the
goods or to make them available for sale or to provide any service, if
such hoarding or destruction or refusal raises or tends to raise or is
intended to raise, the cost of those or other similar goods or services.
(2) Any reference in this Act to any other Act or provisions thereof
which is not in force in any area to which the Act applies shall be
constructed to have a reference to the corresponding Act or provisions
thereof in force in such area.
3. Act not in derogation of any other law.— The provisions of this
Act shall be in addition to and not in derogation of the provisions of
any other law for the time being in force.
CHAPTER II

CONSUMER PROTECTION COUNCILS

4. The Central Consumer Protection Council—(1) The Central Government may, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as Central Protection Consumer Council (hereinafter referred to as the Central Council).

(2) The Central Council shall consist of the following members, namely:—

(a) the Minister in charge of Consumer Affairs in the Central Government, who shall be its Chairman, and
(b) such number of other official or non-official members representing such interests as may be prescribed.

5. Procedure for meetings of the Central Council.— (1) The Central Council shall meet as and when necessary, but at least one meeting of the Council shall be held every year.

(2) The Central Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed.

6. Objects of the Central Council.— The objects of the Central Council shall promote and protect the rights of the consumers such as,—

(a) the right to be protected against the marketing of goods and services which are hazardous to life and property;
(b) the right to be informed about the quality, potency, purity, standard and price of goods or services, as the case may be] so as to protect the consumer against unfair trade practices;
(c) the right to be assured, wherever possible, access to a variety of goods and services at comparative prices;
(d) the right to be heard and to be assured that consumers’ interest will receive due consideration at appropriate forums;
(e) the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumer; and
(f) the right to consumer education.

7. The State Consumer Protection Councils.— (1) The State Government may, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Consumer Protection Council for ....... (hereinafter referred to as State Council).
(2) The State Council shall consist of the following members, namely:—
(a) the Minister incharge of Consumer affairs in the State Government who shall be its Chairman;
(b) such members of other official or non-official members representing such interest as may be prescribed by the State Government.
(3) The State Council shall meet as and when necessary but not less than two meetings shall be held every year.
(4) The State Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.

8. Objects of the State Council.— The objects of every State Council shall be to promote and protect within the State the rights of the Consumers laid down in clauses (a) to (f) of section 6.

CHAPTER III

CONSUMER DISPUTES REDRESSAL AGENCIES

9. Establishment of Consumer Disputes Redressal Agencies.— There shall be established for the purposes of this Act, the following agencies, namely:—
(a) a Consumer District Redressal Forum to be known as the “District Forum” established by the State Government 1[with the prior approval of the Central Govt.] in each District of the State by notification:
2[Provided that the State Government may, if it deems fit, establish more than one District Forum in a District.]
(b) a Consumer District Redressal Commission to be known as the “State Commission” established by the State Government 3[with the prior approval of the Central Govt.] in the State by notification; and
(c) a National Consumer Disputes Redressal Commission established by the Central Government by notification.

10. Composition of the District Forum.— [(1) Each District Forum shall consist of,—
(a) a person who is, or has been, or is qualified to be District Judge, who shall be its President;
(b) two other members, who shall be persons of ability, integrity and standing, and have adequate knowledge or experience of, or have show capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman.]
(1A) Every appointment under sub-section (1) shall be made by the State Government on the recommendation of a selection committee consisting of the following namely:—

(i) The President of the State Commission - Chairman
(ii) Secretary, Law Department of the State - Member
(iii) Secretary incharge of the Department dealing with consumer affairs in the State - Member.

(2) Every member of the District Forum shall hold office for term of five years or upto the age of 65 years, whichever is earlier, and shall not be eligible for reappointment:

Provided that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by the appointment of a person possessing any of the qualification mentioned in sub-section (1) in relation to the category of the member who has resigned.

(3) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the members of the District Forum shall be as may be prescribed by the State Government.

11. Jurisdiction of the District Forum.— (1) Subject to the other provisions of this Act, the District Forum shall have jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed does not exceed Rupees five lakhs.

(2) A complaint shall be instituted in a District Forum within the local limits of whose jurisdiction,—

(a) the opposite party or 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 personally works for gain; or

(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, carries on business or has a branch office personally works for gain, provided that in such case either the permission of the District Forum is given or the opposite parties who do not reside or carry on a business or have a branch office personally work for gain, as the case may be, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

12. Manner in which complaint shall be made.— A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum, by —

(a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;
(b) any recognised consumer association, whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;
(c) one or more consumers, where there are numerous consumer having the same interest, with
(a) the consumer to whom such goods are sold or delivered or such service provided;
(b) any recognised consumer association, whether the consumer to whom the goods sold or delivered or service provided is a member of such association or not; or
(c) the Central or the State Government.
Explanation.— For the purpose of this section “recognised consumer association” means any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956), or any other law for the time being in force.”

13. Procedure on receipt of complaint.— (1) The District Forum shall, on receipt of a complaint, if it relates to any goods,—
(a) refer a copy of a complaint to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;
(b) where the opposite party on receipt of a complaint referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Forum, the District Forum shall proceed to settle the consumer dispute in the manner specified in clauses (c) to (g);
(c) Where the complaint alleges a defects in the goods which cannot be determined without proper analysis or test of the goods, the District Forum shall obtain a sample of the goods from the complainant, seal it and authenticate it in the manner prescribed and refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory make an analysis or test whichever may be necessary, with a view to finding out whether such goods suffer from any defect alleged in the complaint or from any other defect and to report its findings thereon to the District Forum within a period of forty-five days of the receipt of the reference or within such extended period as may be granted by the District Forum;
(d) before any sample of the goods is referred to any appropriate laboratory under clause (c), the District Forum may require the complainant to deposit to the credit of the Forum such fees as may be specified, for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question;
(e) the District Forum shall remit the amount deposited to its credit under clause (d) to the appropriate laboratory to enable it to carry out the analysis or test mentioned in clause (c) and on receipt of the report from the appropriate laboratory, the District Forum shall forward a copy of the report along with such remarks as the District Forum may feel appropriate to the opposite party;

(f) if any of the parties disputes the correctness of the findings of the methods of analysis or test adopted by the appropriate laboratory, the District Forum shall require the opposite party or the complainant to submit in writing his objections in regard to the report made by the appropriate laboratory;

(g) the District Forum shall thereafter give a reasonable opportunity to the complainant as well as the opposite party of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the objection made in relation thereto under clause (f) & issue an appropriate order under section 14.

(2) The District Forum shall, if the complaint received by it under section 12 relates to goods of which the procedure specified in subsection (1) cannot be followed, or if the complaint relates to any services,-

(a) refer a copy of a complaint to the opposite party directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;

(b) where the opposite party, on receipt of a copy of a complaint, referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Forum, the District Forum shall proceed to settle the consumer dispute.

(i) on the basis of evidence brought to its notice by the complainant and the opposite party, where the opposite party denies or disputes the allegations contained in the complaint, or

(ii) on the basis of evidence brought to its notice by the complainant where the opposite party omits or fails to take any action to represent his case within the time given by the Forum.

(3) No proceedings complying with the procedure laid down in subsection (1) and (2) shall be called in question in any court on the ground that the principles of natural justice have not been complied with.

(4) For purposes of this section, the District Forum shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely:—

(i) the summoning and enforcing attendance of any defendant or witness and examining the witness on oath;
(ii) the discovery and production of any document or other material object producible as evidence;
(iii) the reception of evidence on affidavits; (iv) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
(v) issuing of any commission for the examination of any witness; and
(vi) any other matter which may be prescribed.

(5) Every proceeding before the District Forum shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code (45 of 1860), and the District Forum shall be deemed to be a Civil Court for the purposes of section 195 ad chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

[(6) Where the complainant is a consumer referred to in sub-clause (iv) of clause (b) of sub-section (1) of section 2, the provisions of rule 8 of order I of the First Schedule to the code of Civil Procedure, 1908 (5 of 1908) shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to a complaint or the order of the District Forum thereon.]

14. Finding of the District Forum.— (1) If, after the proceeding conducted under section 13, the District Forum is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in shall issue an order to the opposite party directing him to do one or more of the following things namely:

(a) to remove the defect pointed out by the appropriate laboratory from the goods in question;
(b) to replace the goods with new goods of similar description which shall be free from any defect;
(c) to return to the complainant the price, or, as the case may be, the charges paid by the complainant;
(d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party.
(e) to remove the defects or deficiencies in the services in question;
(f) to discontinue the unfair trade practice or the restrictive trade practice or not to repeat them;
(g) not to offer the hazardous goods for sale;
(h) to withdraw the hazardous goods from being offered for sale;
(i) to provide for adequate costs to parties.]

Every proceeding referred to in sub-section (1) shall be conducted by the President of the District Forum and at least one member of thereof sitting together:
Provided that where the member, for any reason, is unable to conduct the proceeding till it is completed, the President and the other member shall conduct such proceedings de novo.

(2A) Every order made by the District Forum under sub-section (1) shall be signed by its President and the member or members who conducted the proceeding:

Provided that where the proceeding is conducted by the President and one member and they differ on any point or points, they shall state the point or points on which they differ and refer the same to the other member for hearing on such point or points and the opinion of the majority shall be the order of the District Forum.

(3) Subject to the foregoing provisions, the procedure relating to the conduct of the meeting of the District Forum, its sittings and other matters shall be such as may be prescribed by the State Government.

15. Appeal: Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission within a period of thirty days from the date of order, in such form and manner as may be prescribed:

Provided that the State Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient causes for filing it within that period.

16. Composition of the State Commission.—Each State Commission shall consist of—
(a) a person who is or has been a Judge of a High Court, appointed by the State Government, who shall be its President:

[Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of the High Court:]
(b) two other members, who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, 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:

[Provided that every appointment made under this clause shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely:—
(i) The President of the State Commission - Chairman
(ii) Secretary, Law Department of the State - Member
(iii) Secretary in charge of the Department dealing with consumer affairs in the State]

(2) The salary or honorarium and other allowances payable to, and the other terms and the conditions of service [including tenure of office] of, the members of the State Commission shall be such as may be prescribed by the State Government.
Every member of the State Commission shall hold office for a term of five years or up to the age of sixty-seven years, whichever is earlier and shall not be eligible for reappointment.

Notwithstanding anything contained in sub-section (3), a person appointed as a President or as a member before the commencement of the Consumers Protection (Amendment) Act, 1993, shall continue to hold office as President or member, as the case may be, till the completion of his term.

17. Jurisdiction of the State Commission.— Subject to the other provisions of this Act, the State Commission shall have jurisdiction

(a) to entertain —

(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees \(1 \text{ five lakhs but does not exceed rupees twenty lakhs} \); and

(ii) appeals against the orders of any District Forum within the State; and

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Forum within the State where it appears to the State Commission that such District Forum has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity.

18. Procedure applicable to State Commission.— [The provisions of sections 12, 13 and 14 and the rules made thereunder] for the disposal of complaints by the District Forum shall, with such modification as may be necessary, be applicable to the disposal of disputes by the State Commission.

18A. Vacancy in the office of the President.— When the office of the President of the District Forum or of the State Commission, as the case may be, is vacant or when any such President is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such person, who is qualified to be appointed as President of the District Forum or, as the case may be, of the State Commission, as the State Commission may appoint for the purpose.

19. Appeals: Any person aggrieved by an order by the State Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of section 17 may prefer an appeal against such order to the National Commission within a period of thirty days from the date of the order in such form and manner as may be prescribed:

Provided that the National Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.
20. Composition of the National Commission.- (1) The National Commission shall consist of-
(a) a person who is or has been a judge of the Supreme Court, to be appointed by the Central Govt., shall be its President:
[Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of India:]
(b) four other members who shall be persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman:
[Provided that every appointment made under this clause shall be made by the Central Govt. on the recommendation of a Selection Committee consisting of the following, namely:-
(a) a person who is a Judge of the Supreme Court to be nominated by the chief justice of India - Chairman,
(b) the Secretary in the Department of Legal Affairs in the Government of India - Member,
(c) Secretary of the Department dealing with consumer affairs in the Govt. of India - Member.]
(2) The salary or honorarium and other allowances payable to and the other terms and conditions of services \[**\] of the members of the National Commission shall be such as may be prescribed by the Central Government.
[(3) Every member of the National Commission shall hold office for a term of five years or up to the age of 70 years, whichever is earlier and shall not be eligible for re-appointment.
(4) Notwithstanding anything contained in subsection (3), a person appointed as a President or as a member before the commencement of the Consumer Protection (Amendment) Act 1993, shall continue as President or member, as the case may be, till the completion of his term.]

21. Jurisdiction of the National Commission.- Subject to the other provisions of this Act, the National Commission shall have jurisdiction-
(a) to entertain-
(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees [twenty lakhs]; and
(ii) appeals against the orders of any State Commission; and
(b) 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 exercised a jurisdiction not vested in it by
law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.

[22. Power of and procedure applicable to the National Commission.- The National Commission shall, in the disposal of any complaints or any proceedings before it, have—
(a) the powers of a civil court as specified in subsections (4),(5) and (6) of section 13;
(b) the power to issue an order to the opposite party directing him to do any one or more things referred to in clauses (a) to (i) of subsection (1) 14,
and follow such procedure as may be prescribed by the Central Government.]

23. Appeal: Any person aggrieved by an order made by the National Commission in exercise of its conferred by sub-clause (i) of clause (a) of section 21, may prefer an appeal against such order to the Supreme Court within a period of 30 days from the date of the order.

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for not filing it within that period.

24. Finality of orders.- Every order of a District Forum, State Commission or the National Commission shall, if no appeal has been preferred against such order under the provisions of this Act, be final.

[24A. Limitation period.— (1) The District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen.

(2) Notwithstanding anything contained in sub-section (1), a complaint may be entertained after the period specified in sub-section (1), if the complaint satisfies the District Forum, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period:

Provided that no such complaint shall be entertained unless the National Commission, the State Commission or the District forum, as the case may be, records its reasons for condoning such delay.

24B. Administrative Control.— (1) The National Commission shall have administrative control over all the State Commissions in the following matters, namely:-

(i) calling for periodical returns regarding the institutions, disposal, pendency of cases;
(ii) issuance of instructions regarding adoption of uniform procedure in the hearing of matters, prior service of copies of documents produced by one party to the opposite parties, furnishing of English translation of judgments written in any language, speedy grant of copies of documents.
(iii) generally overseeing the functioning of the State Commissions or the District Forum to ensure that the objects and purposes of the Act are best served without in any way of interfering with the quasi-judicial freedom.

(2) The State Commission shall have administrative control over all the District Forum within its jurisdiction in all matters referred to in sub-section (1).

25. Enforcement of orders by the Forum, the State Commission or the National Commission.— Every order made by the District Forum, the State Commission or the National Commission may be enforced by the District Forum, the State Commission or the National Commission, as the case may be, in the same manner as if it were a decree or order made by a court in a suit pending therein and shall be lawful for the District Forum, the State Commission or the National Commission to send, in the event of its inability to execute it, such orders to the court within the local limits of whose jurisdiction,—

(a) in the case of an order against a company, the registered office of a company is situated, or
(b) in the case of an order against any other person, the place where the person concerned voluntarily resides or carries on the business or personally works for gain, is situated,

and thereupon, the court to which the order is so sent, shall execute the orders as if it were a decree or order sent to it for execution.

[26. Dismissal of frivolous or vexatious complaints.— Where a complaint instituted before the District Forum, the State Commission or, as the case may be, the National Commission is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, dismiss the complaint and make an order that the complainant shall pay to the opposite party such cost, not exceeding 10,000 rupees, as may be specified in the order.]

27. Penalties.— Where a trader or a person against whom a complaint is made [or the complainant] fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, such trader or person [or the complainant] shall be punishable with imprisonment for a term which shall not be less than one month but which may be extended to three years, or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees, or with both: Provided that the District Forum, the State Commission or the National Commission, as the case may be, may if it is satisfied that the circumstances of any case so require, impose a sentence of imprisonment or fine, or both, for a term lesser than the minimum term and the amount lesser than the minimum amount, specified in this section.
CHAPTER IV

MISCELLANEOUS

28. Protection of action taken in good faith.— No suit, prosecution or other legal proceedings shall lie against the members of the District Forum, the State Commission or the National Commission or any officer or person acting under the direction of the District Forum, the State Commission for executing any order made by it or in respect of anything which is in good faith done or intended to be done by such member, officer or person under this Act or under any rule or order made thereunder.

29. Power to remove difficulties.— (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Govt. may, by order in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appears to it to be necessary or expedient for removing the difficulty:
Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.
(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

[29 A. Vacancies or defects in appointment not to invalidate orders.— No act or proceeding of the District Forum, the State Commission or the National Commission shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.]

30. Power to make rules.— (1) The Central Govt. may, by notification, make rules for carrying out the provisions contained in [clause (a) of sub-section (1) of section 2] clause (b) of sub-section (2) section 4, sub-section (2) of section 5, clause (vi) of sub-section (4) of section 13, section 19, sub-section (2) of section 20 and section 22 of this Act.
(2) The State Govt. may, by notification make rules for carrying out the provisions contained in clause (b) of sub-section (2) and sub-section (4) of section 7] sub-section (3) of section 10, clause (c) of sub-section (1) of section 13, sub-section (3) of section 14, section 15, and sub-section (2) of section 16.

31. Laying of rules.— (1) Every rule made by the Central Government under this Act will be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the sessions or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that rule should not be made, the rule shall
thereafter have effect only in such modified form or be of no effect, as
the case may be; so, however, that any such modification or
annulment shall be without prejudice to the validity of anything
previously done under that rule.
(2) Every rule made by the State Government under this Act shall be
laid down as soon as may be it is made, before the State legislature.
THE MAHARASHTRA CONSUMER PROTECTION RULES, 2000

NOTIFICATION

No. CPC. 5598/CR/1668/CP-3. - In exercise of the powers conferred by sub-section (4) of section 7, sub-section (3) of section 10, clause (c) of subsection (1) of section 13, subsection (3) of section 14, section 15 and sub-section (2) of section 16 of the Consumer Protection Act, 1986 (68 of 1986) and of all the other powers enabling it in that behalf, and in supersession and of all the other powers enabling it in that behalf, and in supersession of all previous rules, notificaitons orders, in this behalf, the Government of Maharashtra hereby makes the following Rules, namely :-

1. **Short title and commencement** : (1) These Rules may be called the *Maharashtra Consumer Protection Rules, 2000.*

(2) It shall come into force on the 16th February 2000.

2. **Definition** - In these rules, unless the context otherwise requires,

(a) “Act”, means the Consumer Protection Act, 1986 (68 of 1986);

(b) “Agent” means a person duly authorised by a party to present any complaint appeal or reply on its behalf before the State Commission or District Forum ;

(c) “Appellant” means a party preferring an appeal against the order of the District Forum;

(d) “Defendant” means a person responding to the complaint or the claim;

(e) “Memorandum” means the memorandum of appeal filed by the appellant;
(f) "President" means the president of the State Commission or as the case may be, the District Forum;

(g) "Respondent" means a person who answers to the memorandum

(h) "Section" means the Section of the Act;

(i) Words and expressions used but not defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Salaries and other allowances and terms and conditions of the president and other members of the District Forum -

(1) The President of the District Forum shall receive the salary at the minimum stage, of the District Judge appointed in the State Judicial Service, if appointed on whole time basis. However, if on a part time basis, i.e. on a sitting basis the President shall be paid Rs. 200 per day as honorarium. Such of the President who is appointed after selection from the retired District Judges, shall get his pay fixed as per Rule 157 (2) of the Maharashtra Civil Services (Pension) Rules, 1982.

Deputation allowance in addition to pay and allowances shall be payable to such of the President who is appointed from the cadre of sitting District Judges. The members of the District Forum, if appointed on whole / time basis, shall be paid a consolidated honorarium offers 4,000 per mensem. For attending sittings of the Forum on per sitting basis a sitting fee of Rs. 200 or such amount as the Government may decide, from time to time, shall be paid.

Explanation :-

(i) Whenever the President attends the work of the Forum, it shall be treated as a sitting

(ii) When a member is present and attends the work of the Forum like giving dates, admitting cases, etc., it shall be treated as a sitting
(2) The President and the members of the District Forum shall be
entitled for such conveyance allowance and daily allowance, on
official tour at such rate, as may be specified by the State
Government, from time to time : 
Provided that, the members of the District Forum, except the members
of the Mumbai District Forum, shall be entitled to conveyance
allowance at the rate that Government decides from time to time.

(3) Before appointment, the President and members of the District
Forum shall have to make an undertaking that he does not and
will not have any such financial or other interests, as is likely to
affect prejudicially, his functions as a President or a member,
and he shall not have any association with any political party.

(4) In addition of provisions of sub-section (2) of section 10, State
Government may remove from the office, the President and
Member of a District Forum who, --
(a) has been adjudged an insolvent ; or
(b) has been convicted of an offence which in the opinion of the
State Government, involves moral turpitude; or
(c) has become physically or mentally incapable of acting as
such member ;
(d) has acquired such financial or other interest as is likely to
affect prejudicial to the public interest; or
(e) has so abused, his position as to render his continuance in
office prejudicial to the public interest ; or
(f) has remained absent for not less than three consecutive
sittings of the District Forum, without permission, of the
President of the State Commission, in case he is President of
the District Forum and of the President of the concerned
District Forum, in case he is a member. Under special
circumstances such permission may be obtained post facto,
however, strictly within thirty days from the first day of such
absence, failing which he shall be treated as absent :
Provided that the President or member shall not be removed from his office on the ground specified in clauses (d) and (e) of this sub-rules except on an inquiry held by the State Government in accordance with such procedure as it may specify in this behalf and finds the member to be guilty of such ground.

(5) The terms and conditions of service of the President and the members of the District Forum shall not be varied to their disadvantage during their tenure of office.

(6) Where any vacancy occurs in the office of the President of the District Forum, by resignation, removal or he is unable to discharge the functions owing to absence, illness or any other cause, the senior most (in order of appointment) member of the District Forum, who is qualified to be appointed as President of the Forum under clause (a) of sub-section (1) of section 10, holding office for the time being, shall discharge the functions of the President until the person appointed to fill such vacancy assume the office of the President of the District Forum. In absence of both the members of the District Forum, or if none of the member is qualified to hold the office of the President, the President or any senior most (in order of appointment) member of the District Forum of adjacent district, qualified to be appointed as a President shall discharge the functions of the president of the District Forum:

Provided that, if the member of the District Forum of and adjacent District is qualified to be appointed as President, preference shall be given to such member over the President of such adjacent district:

Provided further that the Government shall, by order specify the District which shall be treated as adjacent District for such purposes:

Provided also that, where there are more than one Forum in the District, the President of any other Forum, in the District or any member of any other Forum in the District, who is qualified to be appointed as a President shall discharge the functions of the President:
Provided also that, where the President or member of the adjoining District Forum attends the work of the District Forum such President or the member shall be paid traveling allowance and daily allowance in accordance with these Rules.

Explanation. – If the members, are not eligible under clause (a); of subsection (1) of section 10 of the Act, such members shall attend the work of the Forum like giving of dates for hearing of complaints, accepting applications, complaints, etc., and bring the same to the notice of the President. Every such work shall be deemed to be a sitting. However, they shall not hear and dispose of the complaints.

It shall be the duty of the Registrar and the other members of the staff to assist the members in discharging such functions.

(7) The President or any member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organization which have been the subject of any proceeding under the Act during his tenure for a period of 5 years from the date on which he ceases to hold such office.

(8) The President of the District Forum shall discharge the judicial functions, while the Registrar of the District Forum shall discharge the administrative functions.

4. Place of sitting and other matters relating to District Forum :-

(1) The Office of the District Forum shall be located at the headquarter of the District, where the State Government decides to establish a single District Forum having jurisdiction over more than one district, it shall notify the place and jurisdiction of the District Forum so established.

(2) The working days and the office hours of the District Forum shall be the same as that of the State Government:

Provided that, if any of the members of the Forum is a part-timer, the President shall fix the timings in consultation with such member. However, while fixing such timings the President shall ensure that two
of the members shall be present at one time at least for two hours in a
day.

(3) The official seal and emblem of the District Forum shall be such
as the State Government may specify.

(4) Sitting of the District Forum, as and when necessary, shall be
convened by the President.

(5) State Government shall appoint such staff, as may be necessary
to assist the District Forum in its day to day work and perform
such other functions as are provided under these rules, or
assigned to it by the President.

(6) Where the opposite party (Defendant) admits the allegation
made by the complainant, the District Forum shall decide the
complaint on the basis of the merit of the case and documents
present before it.

(7) If during the proceedings conducted under section. 13, District
Forum fixes a date for hearing of the parties, it shall be
obligatory on the complainant and opposite party (Defendant) or
its authorised agent to appear before the District Forum on such
date of hearing or any other date to which hearing could be
adjourned. Where the complainant or his authorised agent fails
to appear before the District Forum on such day, the District
Forum may in its discretion either dismiss the complaint for
default or decide it on merit. Where the opposite party
(Defendant) or its authorised agent fails to appear on the day of
hearing, the District Forum may decide the complaint *ex-parte*.

(8) While proceeding under sub-rule (7), the District Forum may, on
the reasonable grounds at any stage, adjourn the hearing of the
complaint but not more than one adjournment shall ordinarily
be given and the complaint should be decided as far as possible
within 90 days from the date of notice received by the opposite
party (Defendant) where complaint does not require analysis or
testing of the goods and as far a possible within 150 days if it
requires analysis or testing of the goods.
(9) Orders of the District Forum shall be signed and dated by the members of the District Forum constituting the Bench and shall be communicated to the parties free of charge.

(10) When the hearing takes place at the time when all members of the District Forum are present, the opinion of the majority shall be the order of the Forum.

5. Procedure to be adopted by District Forum for analysis and testing of goods. –

(1) Under clause (c) of sub-section (1) of section 13, if considered necessary, the District Forum may direct the complainant to provide more than one sample of the goods in clean containers with stopper properly fixed on them.

(2) On receiving the samples of such goods, the District Forum shall seal it and fix labels on the containers carrying following information:

(i) name and address of the appropriate laboratory to whom sample will be sent for analysis and test;

(ii) name and address of the District Forum.

(iii) case number;

(iv) seal of the District Forum.

(2) The sample will be sent to the appropriate laboratory by the District Forum for report within 45 days or within such extended time as may be granted by the District Forum after specifying the nature of the defect alleged and date of submission of the report.


Explanation: - For the purposes of this sub-rule language includes language of hearings, and orders.

(2) The complaint before the District Forum shall be made in writing and may be filed in the District Forum or sent by post. The complaint and the documents shall be in triplicate and shall be accompanied by as many copies of the complaint and
documents as the number of defendants. The Registrar shall on receipt of the complaint scrutinize the same and file the same in the Register maintained for this purpose.

(3) The District Forum is the authority to decide any complaint, including the preliminary hearing, necessary, if any.

(4) The defendant shall give his reply and documents in quadruplicate.

(5) The president and member of the District Forum shall endeavour the speedy trial for disposal of the matters.

(6) The President of the District Forum shall, after receipt of the execution application of the judgment, forward the same to the Civil Court for necessary execution.

(7) The Registrar shall provide the members of the Forum information with regard to official work and correspondence of the Forum with the Government. It shall be the duty of the Registrar to place with the members the files with respect to the matters with the Forum so that the members can devote their time for the working of the Forum.

7. **Salary and allowances and terms and conditions of the President and members of the State Commission:**

(1) President of the State Commission shall receive the salary at par of the salary of the Judge of the High Court, if appointed on whole time basis or a consolidated honorarium of Rs. 400 per day for the sitting, if appointed on part-time basis. Other members, if sitting as whole time basis shall receive a consolidated honorarium of Rs. 4,000 per mensem and if sitting on a part-time basis a consolidated honorarium of Rs. 400 or such sum as may be decided by the Government, from time to time.

(2) The President and the members of the State Commission shall be entitled for such conveyance allowance and daily allowance on official tour, at such rate; as specified by the State Government, from time to time.
(3) President and the member of the State Commission shall hold office for a term of five years or upto the age of 67 years whichever is earlier and shall not be eligible for re-appointment. Provided that President and member may -
    (a) by writing under his hand and addressed to the State Government resign his office any time:
    (b) be removed from his office in accordance with provisions of sub-rule(4).

(4) The State Government may remove from office, President or a member of the State Commission who, --
    (a) has been adjudged an insolvent; or
    (b) has been convicted of an offence which in the opinion of the State Government, involves moral turpitude; or
    (c) has become physically or mentally incapable of acting as such member, or
    (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or
    (e) has so abused; his position as to render his continuance in office prejudicial to the public interest; or
    (f) has remained absent from three consecutive sittings of the State Commission, without permission of the State Government, in case he is President of the Commission and of the President of the State Commission in case he is a member under special circumstance such permission may be obtained post facto, however, strictly within 30 days from the first day of such absence, failing which, he shall be treated as absent:

Provided that the President or a member shall not be removed from his office on the ground specified in clauses (d) and (e) of this sub-rule except on an inquiry held by State Government in accordance with such procedure as it may specify in this behalf and finds the member to be guilty of such ground.
(5) Before appointment, the President and members of the State Commission shall have to make an undertaking that he does not have and will not have any such financial or other interests, as is likely to affect prejudicially his functions as a President or a member and he shall not have any association with any political party:

(6) The terms and conditions of the service of the President and the members of the State Commission shall not be varied to their disadvantage during their tenure of office.

(7) Every vacancy caused by resignation and removal of the president or any other member of the State Commission under sub-rule (3) or otherwise shall be filled by fresh appointment.

(8) Where any vacancy occurs in the office of the president of the State Commission, by resignation, removal or he is unable to discharge the functions owing to absence, illness or any other cause, the senior most (in order of appointment) member of the State Commission, holding office for the time being; shall be the acting President until a person appointed to fill such vacancy assumes the office of the President of the State Commission. However, such acting President and the other member shall not hear and decide contested matters. They can dispose of ex-parte matters and can give further dates of hearing. However, in the ex-parte matters, the opinion of such acting President and Member should be unanimous.

(9) The President or any member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organisation which have been the subject of any proceeding under the Act during his tenure for a period of 5; years from the date on which he ceases to hold such office.

8. **Place of sitting and other matters relating to State Commission**:

(1) Office of the State Commission shall be located at Mumbai.
[2] The working days and the office hours of the State Commission shall be the same as that of the State Government.

[3] The official seal and emblem of the State Commission shall be such as the State Government may specify.

[4] Sitting of the State Commission, as and when necessary, shall be convened by the President.

[5] State Government shall appoint such staff, as may be necessary to assist the State Commission in its work and perform such other functions as are provided under these rules or assigned to it by the President.

[6] Where the opposite party (defendant) admits the allegation made by the complainant, the State Commission shall decide the complaint on the basis of the merit of the case and documents present before it.

[7] If during the proceedings conducted under section 13, State Commission fixes a date for hearing of the parties, it shall be obligatory on the complainant and opposite party (Defendant) or his authorised agent to appear before the State Commission on such date of hearing or any other date to which hearing could be adjourned. Where the complainant or his authorised agent fails to appear before the State Commission on such day, the State Commission may in its discretion either dismiss the complaint for default or decide it on merits. Where the opposite party (Defendant) or its authorised agent fails to appear on the day of hearing, the State Commission may decide the complaint ex-parte.

[8] While proceeding under sub-rule (8), the State Commission may on such terms as it may think fit at any stage, adjourn the hearing of the complaint but not more than one adjournment shall ordinarily be given and the complaint should be decided within 90 days from the date of notice received by the opposite party (Defendant) where complaint does not require analysis or
testing of the goods and within 150 days if it requires analysis or testing of the goods.

(9) Orders of the State Commissions shall be signed and dated by the members of the State Commission constituting the Bench and shall be communicated to the parties free of charge.

9. Procedure for hearing appeal. — (1) Memorandum shall be presented by the appellant or his authorised agent to the State Commission in person or sent by the registered post addressed to the Commission.

(2) Every memorandum filed under sub-rule (1) shall be in legible handwriting preferably typed and shall set forth concisely under distinct heads, the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively.

(3) Each memorandum shall be accompanied by the certified copy of the order of the District Forum appealed against and such of the documents as may be required to support grounds of objection mentioned in the memorandum.

(4) When the appeal is presented after the expiry of period of limitations as specified in the Act, memorandum shall be accompanied by an application supported by an affidavit setting forth the fact on which appellant relies to satisfy the State Commission that he has sufficient cause for not preferring the appeal within the period of limitation.

(5) The appellant shall submit four copies of the memorandum to the State Commission for official purposes.

(6) On the date of hearing or any other day to which hearing may be adjourned, it shall be obligatory for the parties or their authorised agents to appear before the State Commission. If appellant or his authorised agent fails to appear on such date, the State Commission may, in its discretion, either dismiss the appeal or decide it on the merit of the case. If respondent or his authorised agents fails to appear on such date, the State Commission shall
proceed *ex-parte* and shall decide the appeal *ex-parte* on merits of the case.

(7) The appellant shall not, except by leave of the State Commission, urge or be heard in support of any ground of objections not set forth in the memorandum, but the State Commission, in deciding the appeal, shall not confine to the grounds of objection set forth in the memorandum or taken by leave of the State Commission under this rule:

Provided that the Commission shall not rest its decision on any other grounds unless the party who may be affected there by, has been given at least one opportunity of being heard by the State Commission.

(8) State Commission may, on such terms as it may think fit and at any stage, adjourn the hearing of appeal if there are reasonable ground but more than one adjournment shall ordinarily be given and the appeal should be decided as far as possible within 90 days from the first date of hearing.

(9) Order of the State Commission on appeal shall be signed and dated by the members of the State Commission constituting the Bench and shall be communicated to the parties free of charge.

10. *Repeal and savings* :- on the commencement of these rules, the Maharashtra Consumer Protection Rules, 1987, in so far as they relate to matters provided by these rules, are hereby repealed:

Provided that,---
(a) such repeal shall not affect previous operation of any notifications or orders made; or anything done or any action taken under the rules so repealed;

(b) any proceedings under the rules so repealed which were pending at the commencement of these rules shall be continued and disposed off as far as may be, in accordance with the provisions of these rules, as if, such proceedings were proceedings under these rules.

By order and in the name of the Governor of Maharashtra.

N. B. DHANORKAR
Executive Secretary

(Consumer Protection) to Government.