Consumerism and Regulations

Chapter Objectives

- Consumerism
- Regulations and Organizations
5.1 Consumerism

5.1.1 Nature

Most of us live in a consumer culture. That is, instead of working to produce food, clothing, or other products for our own use, we work to earn money to purchase them. The term "consumerism" refers, most basically, to the promotion of consumer culture as good—for the economy, for society, for the individual—and sometimes to the processes and practices of people who value consuming or who consume many products. The term "consumerism" generally has negative connotations. For some critics, it suggests moral problems such as greed and gluttony and materialism. For others, it suggests political issues ranging from environmental pollution (resulting from the manufacture and disposal of products that are intended for frequent replacement) to social inequality (as some people amass spending money while others labor to produce products often under poor conditions).

Consumerism has also been seen as promoting a false sense of freedom. The freedom to choose among products, some argue, may be mistaken for freedom to choose the social and economic conditions in which we live.

Consumerism is the tendency of people to identify strongly with products or services they consume, especially those with commercial brand names and obvious status-enhancing appeal, e.g. an expensive automobile, rich jewellery. It is a pejorative term which most people deny, having some more specific excuse or rationalization for consumption other than the idea that they're "compelled to consume".

To those who accept the idea of consumerism, these products are not seen as valuable in themselves, but rather as social signals that allow them to identify like-minded people through consumption and display of similar products. Few would yet go so far, though, as to admit that their relationships with a product or brand name could be substitutes for the healthy human relationships lacking in dysfunctional modern societies.

"------------------- 171"
Consumerism in the sense of "the theory that a progressively greater consumption of goods is economically beneficial", "attachment to materialistic values or possessions", and materialism as "the theory or doctrine that physical well-being and worldly possessions constitute the greatest good and highest value in life", rather than "the movement that seeks to protect and inform consumers by requiring such practices as honest packaging and advertising, product guarantees, and improved safety standards" and "the theory that physical matter is the only reality and that everything, including thought, feeling, mind, and will, can be explained in terms of physical phenomena".

We live in a consumer society, a culture of the marketplace that necessitates a way of being increasingly unfamiliar with cooperation, civic participation, and sacrifice for the common good. Instead, we grow increasingly competitive, entitled, focused on acts of individual purchasing and consuming. It seems natural to ask whether you "buy" that idea, "own" your own feelings, or receives enough "benefit" from a relationship to continue, "investing" in it.

Common-sensically, being a consumer is about knowing one's needs and getting them satisfied: choosing, buying, using and enjoying – or failing in these. Need is often not seen as a particularly social concept: on the one hand, needs can be seen as natural and self-evident (for example, 'basic needs' for food, clothing and shelter); on the other hand, they are often seen as arbitrary and subjective – as 'wants', 'whims', 'preferences' or 'desires' that are entirely bound up with the peculiarities of individuals. Both of these approaches obscure the fundamentally social nature of 'needs'. This must be very clear: 'needs' are not social in the simple sense that there are 'social influences' or 'social pressures' or processes of 'socialization' through which 'society' 'moulds' 'the individual'.

There is nothing trivial about consumer culture – though arguments that it reduces social life to a trivial materialism have been common currency for several centuries. Rather, the great issue about consumer culture is the way in which it connects up central questions about how we
should or want to live with questions about how society is organized – and
does so at the level of everyday life: the material and symbolic structure of
the places we live in and how we live in them; the food we eat and clothes
we wear; the scarcities and inequities we suffer; the activities open to us in
our ‘free time’; the unfree nature of much of our time. Even (especially?)
the most trivial objects of consumption both make up the fabric of our
meaningful life and connect this intimate and mundane world to great fields
of social contestation. In the very process of helping to constitute ‘private
life’, consumer culture has tied the intimate world inextricably to the public,
the social, the macro and (as many of the charges against it recount)
allowed these to invade the private to an considerable degree. Consumer
culture is largely mundane, yet that mundanity is where we live and
breathe, and increasingly so as we sense that the public sphere of life has
become a consumable spectacle that is ever more remote as a sphere of
direct action. ‘Consumer culture’ is therefore a story of struggles for the
soul of everyday life, battles to control the texture of the quotidian.

The thing, the product, becomes a longed for goal, a means of
justifying their existence, a way of envisioning themselves in a different
world with possession of the thing being the key tenant. There are a
growing number of people who are aware that these aspects of
consumerism are some of the main obstacles to living in a pleasant safe
community, seeing their children well-educated and living long healthy
productive lives, without squander and waste.

The framework of this discussion is indeed modernity. The issues
and concepts central to thinking about consumer culture are the same
ones, which have been central to modern intellectual life in general since
the Enlightenment. Neither consumer culture as a social experience nor
the issues through which that experience has been addressed are new or
even recent: consumer culture is a motif threaded through the texture of
modernity, a motif that recapitulates the preoccupations and characteristic
styles of thought of the modern west.
This way of introducing the field of consumer culture is a response to an endemic problem with this 'field': consumer culture is rediscovered every few decades, or—to be uncharitable—it has been redesigned, repackaged and relaunched as a new academic or political product every generation since the sixteenth century. The latest relaunches—by postmodernism and neo-liberalism in the 1980s—have constituted a particularly profound 'year zero' of the consumer revolution. Postmodernism in particular has produced astonishing insights and productive disruptions. Because of its very nature however it has tended to define consumer culture in opposition to modernity, as itself constituting a disruption of modernity. A newcomer to the field, digging their way through the avalanche of new material, might well have difficulty connecting either consumer culture or postmodernism itself to the longer-term context of modern thought which alone can make sense of either of them.

Consumerism, already having captured death as a consumer obligation whereby sadness and regret are quenched by spending lots of money, now turns major life events like weddings and births into consumer events with their own hierarchy of demands for the things which assume a life of their own. Recreation has become commercialized. Special leisure clothing, sporting equipment and attendance at expensive sporting events rife with advertising and corporate sponsorship are the manifestation of consumerism in recreation.

The constant cycle of work and consumption is destructive enough of values, but when extra hours must be worked to maintain the same level of consumption, or when insufficient work, or no work at all is available, and a family goes into debt to accumulate more things, or feels worthless because of a lack of the "right" possessions, consumerism is slow societal suicide.

Time, the precious shrinking commodity of our lives, is exchanged for money to buy things that there usually is little time to enjoy. What time is left after work is often devoured by television, basically a series of ever-
more mediocre filler programs inserted between ever-more-spectacular commercials whose purpose is to stoke further desire for more things.

When these insatiable material desires fail to be satisfied, people grow unhappy with their lives and in extreme cases riot and loot to get that they have been "programmed" to want." Quality Time" has become a commodity unto itself. Unfortunately, there is no marketplace for quality time; you have to preserve it for yourself. Why not use the time in your life, skip the money and the taxation and go straight for the happiness that usually comes from the non-material? This process is part of overcoming consumerism.

5.1.2 TRENDS

Green consumerism creates a balance between the expectations of consumer behaviour and businesses' profit motives. Markets don't wait for slow movers. Businesses that innovate and respond quickly to consumer demands survive best.

A consumer has to realize that he/she not just buys 'a' product, but everything that went into its production, and everything that will happen in the future as a result of that product. Consumers have been asking for green products, i.e. there has been a clear raise in demand for such products. Businesses have looked into the green process - generating corporate environmental profiles, monitoring and evaluating green performance, and improving corporate image as a result. Green products have also increased competition among businesses to generate more environmentally friendly products.

The new age consumer trends

As businesses progress into the age of choice and leap into the virtual world, it is critical that marketers learn new approaches for introducing products and services to markets. Changing lifestyles and psyche dictate consumer trends. These trends determine product design and promotion.
The changing consumer psyche and lifestyles will keep marketers engaged. Technology will enable marketers to record changing consumer needs to a large extent. Technology should be able to provide the tools that can predict the change and make transition easier for the marketer. The consumer of the 21st century is wandering in search of an identity!

The understanding of 'consumer' has evolved through a series of stages. Ranging from the marginalized consumer to the multi-headed one, the way we understand the term has come a long way. None of these models have been proven incorrect, and they all are used as static factors depending on the scenario a marketer seeks to address.

Models of consumer behaviour have looked upon consumers as "people" who make a "purchase" or "buy". The person who buys is the focus for sellers. The person who uses and causes a repurchase or influences another purchase is the centre of the marketer's universe and understanding that "person" translates into success. The "person" has an identity — he can think independently, and has behaviour and emotions that are his own.

*Identity:*

Contrary to existing models, the consumer today, does not have one central identity but continuously changes it. The consumer (the subject) through the process of consumption is in search of his identity.

When the consumer sees a product, its advertising and other peripherals he is in some ways looking into a mirror. What he sees reflected is an 'identity'. If the product contributes to what he perceives as his identity, he will be favourable towards it. The identity is also influenced by the 'image' that a person has. The 'image' is determined by how the consumer wants to be perceived by the world. Going back to the example of the person wearing a helmet, he sees an 'image' of a big sporty motorcycle under his control, tearing down highways at dangerously fast speeds and always in full control... this 'social image' is how he wants the world to see him.
Consumer Stability:

When the consumer has found his identity he is in a state of stability. In such a state, the consumer understands how he wants to be perceived by the rest of the world. This will trigger a purchase decision. The consumer is constantly shifting roles seesawing between a state of flux and a state of stability.

Language:

The language of communication need not be restricted to the spoken word. It integrates five senses - smell, sound, taste, touch and sight. The consumers’ tryst with a brand has to start at the “moment of identity”. The brand has to communicate through multiple discourses and provide an image, which the consumer feels, is his. The consumer is in a state of mutability and is looking for stability. The marketer has a tough challenge ahead! He has to ensure that in the days of clutter and shake-out with minimum time to make an impact the consumer is persuaded to see the product/brand as fitting his identity. This has to be done quickly and consistently, thence for sustained brand relationships.

Times, they are a changing! Indian Consumers are not the same anymore]

A decade ago, any detergent ad aimed at men would have meant the shortcut to disaster. Now, Ariel runs an ad with a professionally attired young man washing his son’s dirty clothes when his wife is out. Pillsbury atta had run an ad portraying a man attempting to make the perfect roti. Whisper had girls urging their mothers against the use of cloth. These ads signify a shift in the consumer profile.

The past few years have changed the Indian market to a great extent. The most important among them is the ‘changing consumer’. In most product categories, the customer’s need has reached the augmented stage and above.

The family structure in India has moved from that of a joint family to that of an NUF, the Nuclear Urban Family. The NUF family in all probability will have different toothpastes, different soaps and even separate brand of chocolates for each member.
The main characteristics of a NUF family are:

- The members are highly individualistic.
- The members have divergent tastes.
- They have adequate spending power.

Despite the above characteristics, marketers are discovering that it's not just the man, woman or the kid but the family that makes the purchase decisions. Herein lies the paradox. Though the family members consume separate products, the choice is taken as one. Also more and more products are being purchased for collective consumption. If a family plans for an evening out, each member's choice is taken into account and a collective decision taken.

The family set-up is witnessing a distinct shift from a strict, authoritarian structure to a more democratic set-up. Marketers have to target the family as a unit, ironically in an increasingly individualised society.

"After exhaustive research.............it has been identified major consumer and socio-economic trends,"

- Desire for quality time.
- Heightened awareness about personal health!
- Shift from self-denial to affordable indulgence!
- Besides the NUF, companies that have satisfied the urban markets are now shifting their attention to the rural rich!
- The rural market is, now, an unexplored opportunity!

These combined with trends like globalizations and changing regulatory framework means that the consumer today has more choice than ever before. Given the heightened awareness and media exposure, the consumer demands not only world-class quality at 'desk' prices but also more out of it. All these trends signify not only a shift in economic patterns but also in the cultural fiber of the Indian consumer.

The rising use of economic power by women is the next big trend on the horizon.
TABLE 5.1.2 INCOME DISTRIBUTION OF HOUSEHOLDS FOR THE PERIOD DURING THE STUDY IN % RESPONDENCE.

<table>
<thead>
<tr>
<th></th>
<th>RURAL</th>
<th>RURAL</th>
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<th>URBAN</th>
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<tr>
<td></td>
<td>PERIOD 1</td>
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TABLE 5.1.3 Monthly trend

**Consumer Index**

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<td>149</td>
<td>8.2</td>
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<td>May</td>
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</tr>
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<td>12.5</td>
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<td>136</td>
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</tr>
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<td>November</td>
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<td>149</td>
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**Durables**

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<th>2003</th>
<th>% yoy</th>
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<td>June</td>
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<td>July</td>
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<td>October</td>
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<td>November</td>
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TABLE 5.1.4 Media Reach - Age Group (Urban + Rural)(sample)

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<tr>
<th>Age Group</th>
<th>Distribution%</th>
<th>Press%</th>
<th>TV%</th>
<th>Radio %</th>
<th>Cinema%</th>
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<tr>
<td>12-14</td>
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<td>15-19</td>
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<td>35-44</td>
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<td>45-54</td>
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<td>23.0</td>
<td>47.0</td>
<td>18.0</td>
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5.1.3 EFFECT

Consumerism affects society, the economy and the Environment. Consumerism is economically manifested in the chronic purchasing of new goods and services, with little attention to their true need, durability, product origin or the environmental consequences of manufacture and disposal. Consumerism is driven by huge sums spent on advertising designed to create both a desire to follow trends, and the resultant personal self-reward system based on acquisition. Materialism is one of the end results of consumerism.

Consumerism interferes with the workings of society by replacing the normal common sense desire for an adequate supply of life's necessities, community life, a stable family and healthy relationships with an artificial ongoing and insatiable quest for things and the money to buy them with little regard for the true utility of what is bought. An intended consequence of this, promoted by those who profit from consumerism, is to accelerate the discarding of the old, either because of lack of durability or a change in fashion. Landfills fill with cheap discarded products that fail early and cannot be repaired. Products are made psychologically obsolete long before they actually wear out. A generation is growing up without knowing what quality goods are. Friendship, family ties and personal autonomy are only promoted as a vehicle for gift giving and the rationale for the selection of communication services and personal acquisition.
Everything becomes mediated through the spending of money on goods and services.

It is an often-stated catechism that the economy would improve if people just bought more things, bought more cars and spent more money. Financial resources better spent on Social Capital such as education, nutrition, housing etc. are spent on products of dubious value and little social return. In addition, the purchaser is robbed by the high price of new things, the cost of the credit to buy them, and the less obvious expenses such as, in the case of automobiles, increased registration, insurance, repair and maintenance costs.

Malls have replaced parks, churches and community gatherings for many who no longer even take the trouble to meet their neighbors or care to know their names. People move frequently as though neighborhoods and cities were products to be tried out like brands of deodorant.

Consumerism sets each person against them self in an endless quest for the attainment of material things or the imaginary world conjured up and made possible by things yet to be purchased. Weight training, diet centers, breast reduction, breast enhancement, cosmetic surgery, permanent eye make-up, liposuction, collagen injections, these are are some examples of people turning themselves into human consumer goods more suited for the "marketplace" than living in a healthy balanced society.

a) COSTS OF CONSUMERISM

The more consumerism spreads, the weaker is the incentive to manufacture long-lasting, quality products, and the greater the likelihood that cheaply made products will instead be imported from the lowest-wage, environmentally unregulated overseas manufacturer that mobile capital, ever seeking the highest return, can find.

The actual manufacture of products becomes almost a nuisance for conglomerates anxious to grow their capital and maximize profits through buying and closing factories, raiding pension plans, firing workers and using the paper losses to offset profits made elsewhere.
b) ENVIRONMENTAL

Consumerism causes the wasteful use of energy and material far above and beyond that needed for everyday living at a comfortable level. Money is not the only way to measure the cost of an item. When one adds up all the raw materials and energy that go into the goods and services consumed over an individual's lifetime, the toll on the environment is staggering. When this cost is multiplied out over the lifespan of families, cities and countries, the proportions are incredible.

An example: 200 Billion cans, bottles, plastic cartons and paper cups, are thrown away each year in the "developed" world. "Disposable" items exemplify this. Rather than compete on quality or reliability, products are made for a one-time use. "Fun" is a catchword discarding notions of inherent value, longevity, and the environmental consequences of manufacture and disposal of the product. Buying quality products that are warranted against failure or wearing out, learning about the materials that things are made of, their national origin and the conditions of the workers that make them, are some ways of resisting consumerism and waste.

While there may be some new appliances and cars that are more productive and energy efficient, discarding the old often leads to an almost total waste of the energy and material already invested in these products. This alone may more than nullify the energy savings of the new.

Key issues for the future include:

c) Health: A sentary lifestyle combined with health impacts of environmental pollution and emissions, use and abuse of pesticides, antibiotoics etc.
d) Population and consumption: Population increases, aging populations, consumption patterns - living beyond means, etc.
e) Globalization: Trans-boundary effect and free trade have both advantages (efficiency, profits, opportunities, demand) and disadvantages (unemployment, footloose companies, weaker controls, unfair trade, small scale loses out) etc.
f) **Energy**: Every source of energy has an environmental impact. Energy efficiency is not just technology, but also cutting back. There are enough cars to create a six-lane traffic jam to the moon.

g) **Water**: Water use is increasing at twice the rate of population increase. Much can be done at the individual level.

h) **Chemicals**: Use of pesticides and other hazardous chemicals. PCB/DDT has been found in mother's milk too! Ozone depleting chemicals, hormone-disrupting chemicals have long-term effects on human health and well being.

i) **Genetic engineering**: Includes many ethical and moral issues, including misinformation. Not that genetic engineering is bad - but the consumer should be given the choice.

j) **Natural World**: Considerable pressures put on the natural world due to population increases and rise in consumption. 40% of all plant growth consumed by humans! Somewhere, something should stop.

k) **Ethics**: The treatment of other peoples. Issues of gender, children, animal welfare. Ethics of cloning, fertility et al.

l) **Fair Trade**: Need to look into working conditions (child labour, low wages, long hours, lack of safety, mass production v/s craft industries.

m) **Neighborhoods**: Development of a sense of community. Increase in financial wealth, but also of quality of life. Measure "gross national happiness"!!

n) **Childhood**: Loss of 'childhood' due to societal pressures and expectations, knowledge and skills, etc.

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**TABLE 5.1.5 CONSUMERISM EFFECTS**

<table>
<thead>
<tr>
<th>Loan Products</th>
<th>FY1996</th>
<th>FY2002</th>
<th>CAGR (%)</th>
<th>FY2005E</th>
<th>FY2007E</th>
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<td>2wheeler</td>
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<td>Consumer Durable</td>
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<td>22.7</td>
<td>11.9</td>
<td>30.2</td>
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Source: Asian Demographics
5.2 REGULATIONS AND ORGANIZATIONS

5.2.1 Background

One of the most important milestones in the consumer movement in the country has been the enactment of the Consumer Protection Act, 1986. This Act was necessitated because the well organized sectors of manufacturers, traders and service providers, armed with knowledge of the market and manipulative skills, often attempt to exploit the gullible consumers, despite the existence of provisions in different laws protecting their interests. Various factors including increase in the population resulted in enormous pungency and delay in disposal of cases in the civil courts. Moreover, consumers cannot be asked to wait for years for settlement of even small claims. Hence, the Consumer Protection Act was enacted to better protect the interest of the consumers. The importance of the Act is now felt much more than ever before in view of the increase in consumerism and opening up of the economy. The Act is one of the most progressive and comprehensive pieces of legislation, which covers all goods and services.

Through various legislations (such as the Consumer Protection Act, 1986; the Essential commodities Act, 1955; Weights and Measures Act and Rules etc.), Government have taken several initiatives for the welfare of the consumers. However, the level of awareness among the general public especially at grass-root level, about the schemes and measures adopted for their welfare, is grossly inadequate. This does not enable them take full advantage of the programmes. There is an urgent need to undertake a concerted campaign by the Government, through Voluntary Consumer Organizations and other agencies aimed at generating awareness among the people including the poorest sections in the rural areas, in an integrated manner about the available programmes/facilities which would assist in empowering them.
Objectives

The main objective of the act is to provide for the better protection of consumers. Unlike existing laws, which are punitive or preventive in nature, the provisions of this Act are compensatory in nature. The act is intended to provide simple, speedy and inexpensive redressal to the consumers' grievances, and relief's of a specific nature and award of compensation wherever appropriate to the consumer. The act has been amended in 1993 both to extend its coverage and scope and to enhance the powers of the redressal machinery.

To develop a performance oriented/revamped consumer affairs mechanism to suit the motto set by Government of India, "an alert consumer is the need of the hour".

Methodology

2. A status paper on consumer right issues and comparison with the best practices internationally (July 2003)
3. Preparation of detailed action plan for selected initiatives including changes in administrative/legal framework (September 2003)
4. Discussions with Judicial Members/experts, Local bodies, Civil Society, Voluntary Consumer Organizations and other agencies (October 2003)
5. Production and distribution of literature in regional language for spreading consumer awareness at grass-root level and organizing campaigns through seminars and public functions (December 2003)
8. Setting up of a full-fledged consumer information center in Food, Civil Supplies and Consumer Affairs Department in Government (May 2004)


10. Effective steps to introduce Consumer Protection as a subject in Schools/Colleges (September 2004)

11. Setting up of District Consumer Information Centers (DCICs) through District Panchayaths/Voluntary Consumer Organizations (December 2004)


Outputs Expected

- Revamped Consumer information mechanism
- Booklet on citizens’ rights
- Outcomes Expected
- Consumer Education and prompt information to consumers
- Verifiable Indicators
- Surveys of public perception/perception of investors through carefully prepared questionnaires
- Risks Associated
- Resistance from some traders prone to violating consumer rights
- Resistance from Government Staff

5.2.2 Introduction & Definitions

A consumer is a user of goods and services. Any person paying for goods and services, which he uses, is entitled to expect that the goods and services be of a nature and quality promised to him by the seller.

The earlier principle of "Caveat Emptor" or "let the buyer beware" which was prevalent has given way to the principle of "Consumer is King". The origins of this principle lie in the fact that in today's mass production economy where there is little contact between the producer and consumer,
often sellers make exaggerated claims and advertisements, which they do not intend to fulfill. This leaves the consumer in a difficult position with very few avenues for redressal. The onset on intense competition also made producers aware of the benefits of customer satisfaction and hence by and large, the principle of "consumer is king" is now accepted.

The need to recognize and enforce the rights of consumers is being understood and several laws have been made for this purpose. In India, we have the Indian Contract Act, the Sale of Goods Act, the Dangerous Drugs Act, the Agricultural Produce (Grading and Marketing) Act, the Indian Standards Institution (Certification Marks) Act, the Prevention of Food Adulteration Act, the Standards of Weights and Measures Act, the Trade and Merchandise Marks Act, etc which to some extent protect consumer interests. However, these laws required the consumer to initiate action by way of a civil suit which involved lengthy legal process proving to be too expensive and time consuming for lay consumers. Therefore, the need for a more simpler and quicker access to redressal to consumer grievances was felt and accordingly, it lead to the legislation of the Consumer Protection Act, 1986.

**Objects of the Consumer Protection Act, 1986**

The preamble to the Act states that the Act is legislated 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 consumer’s disputes and for matters connected therewith.

The basic rights of Consumers as per the Consumer Protection Act (CPA) are:

1. The right to be protected against marketing of goods and services, which are hazardous to life and property
2. The right to be informed about the quality, quantity, potency, purity, standard and price of goods, or services so as to protect the consumer against unfair trade practices
3. The right to be assured, wherever possible, access to variety of goods and services at competitive prices
4. The right to be heard and be assured that consumers' interests will receive due consideration at appropriate forums
5. The right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers
6. The right to consumer education

The CPA extends to the whole of India except the State of Jammu and Kashmir and applies to all goods and services unless otherwise notified by the Central Government.

Definitions of Important Terms

Before studying the provisions of the CPA, it is necessary to understand the terms used in the Act. Let us understand some of the more important definitions.

**Complainant** means: -

1. A consumer; or
2. Any voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force; or
3. The Central Government or any State Government, who or which makes a complaint; or
4. One or more consumers where there are numerous consumers having the same interest

Complaint means any allegation in writing made by a complainant that: -

1. An unfair trade practice or a restricted trade practice has been adopted by any trader.
2. The goods bought by him or agreed to be bought by him suffer from one more defects.
3. The services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect.

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

5. 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 of such goods; with a view to obtaining any relief provided by law under the CPA.

**Consumer** means any person who:

1. Buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment (eg hire purchase or installment sales) and includes any other user of such goods when such use is made with the approval of the buyer, but does not include a person who obtains such goods for resale or for any commercial purpose; or

2. 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 when such services are availed of with the approval of the first mentioned person.

For the purposes of this definition "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.

**Goods** mean goods as defined in the Sale of Goods Act, 1930. Under that act, goods means every kind of movable property other than actionable claims and money and includes stocks and shares, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

**Service** is defined to mean service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, transport, processing,
supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information but does not include the rendering of any service free of charge or under a contract of personal service.

**Consumer dispute** means dispute where the person against whom a complaint has been made, denies or disputes the allegation contained in the complaint.

**Restrictive Trade Practice** means any trade practice which requires a consumer to buy, hire, or avail of any good or as the case may be, services as a condition precedent for buying, hiring or availing of any other goods or services.

**Unfair Trade Practice** means unfair trade practice as defined under the Monopolies and Restrictive Trade Practices Act. The MRPT act has defined certain practices to be unfair trade practices.

**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 under any contract, express or implied, or as is claimed by the trade in any manner whatsoever in relation to any goods.

**Deficiency** means any fault, imperfection or 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.

### 5.2.3 Redressal Machinery under the Act

**Consumer Protection Councils**

The interests of consumers are enforced through various authorities set up under the CPA. The CPA provides for the setting up of the Central Consumer Protection Council, the State Consumer Protection Council and the District Forum.
Central Consumer Protection Council

The Central Government has set up the Central Consumer Protection Council which consists of the following members:

(a) The Minister in charge of Consumer Affairs in the Central Government who is its Chairman, and

(b) Other official and non-official members representing varied interests

The Central council consists of 150 members and its term is 3 years. The Council meets as and when necessary but at least one meeting is held in a year.

State Consumer Protection Council

The State Council consists of:

(a) The Minister in charge of Consumer Affairs in the State Government who is its Chairman, and

(b) Other official and non-official members representing varied interests

The State Council meets as and when necessary but not less than two meetings must be held every year.

Redressal Machinery under the Act

The CPA provides for a 3 tier approach in resolving consumer disputes. The District Forum has jurisdiction to entertain complaints where the value of goods / services complained against and the compensation claimed is less than Rs. 5 lakhs, the State Commission for claims exceeding Rs. 5 lakhs but not exceeding Rs. 20 lakhs and the National Commission for claims exceeding Rs. 20 lakhs.

District Forum

Under the CPA, the State Government has to set up a district Forum in each district of the State. The overnment may establish more than one District Forum in a district if it deems fit. Each District Forum consists of:

(a) a person who is, or who has been, or is qualified to be, a 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 shown capacity in dealing with problems relating to economics, law, commerce,
accountancy, industry, public affairs or administration, one of whom shall be a woman.

Appointments to the State Commission shall be made by the State Government on the recommendation of a Selection Committee consisting of the President of the State Committee, the Secretary - Law Department of the State and the secretary in charge of Consumer Affairs.

Every member of the District Forum holds office for 5 years or up to the age of 65 years, whichever is earlier and is not eligible for re-appointment. A member may resign by giving notice in writing to the State Government whereupon the vacancy will be filled up by the State Government.

The District Forum can entertain complaints where the value of goods or services and the compensation, if any, claimed is less than rupees five lakhs. However, in addition to jurisdiction over consumer goods services valued upto Rs. 5 lakhs, the District Forum also may pass orders against traders indulging in unfair trade practices, sale of defective goods or render deficient services provided the turnover of goods or value of services does not exceed rupees five lakhs.

A complaint shall be instituted in the District Forum within the local limits of whose jurisdiction -

(a) The opposite party or the defendant actually and voluntarily resides or carries on business or has a branch office or personally works for gain at the time of institution of the complaint; or

(b) any one of the opposite parties (where there are more than one) actually and voluntarily resides or carries on business or has a branch office or personally works for gain, at the time of institution of the complaint provided that the other opposite party/parties acquiescence in such institution or the permission of the Forum is obtained in respect of such opposite parties; or

(c) The cause of action arises, wholly or in part.
State Commission

The Act provides for the establishment of the State Consumer Disputes Redressal Commission by the State Government in the State by notification. Each State Commission shall consist of:-

(a) A person who is or has been a judge of a High Court appointed by State Government (in consultation with the Chief Justice of the High Court) 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 shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom must be a woman.

Every appointment made under this shall be made by the State Government on the recommendation of a Selection Committee consisting of the President of the State Commission, Secretary -Law Department of the State and Secretary in charge of Consumer Affairs in the State.

Every member of the District Forum holds office for 5 years or upto the age of 65 years, whichever is earlier and is not eligible for re-appointment. A member may resign by giving notice in writing to the State Government whereupon the State Government will fill up the vacancy.

The State Commission can entertain complaints where the value of goods or services and the compensation, if any claimed exceed Rs. 5 lakhs but does not exceed Rs. 20 lakhs;

The State Commission also has the jurisdiction to entertain appeal against the orders of any District Forum within the State.

The State Commission also has the power to call for the records and appropriate orders in any consumer dispute which is pending before or has been decided by any District Forum within the State if it appears that such District Forum has exercised any power not vested in it by law or has failed to exercise a power rightfully vested in it by law or has acted illegally or with material irregularity.
**National Commission**

The Central Government provides for the establishment of the National Consumer Disputes Redressal Commission. 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 Government (in consultation with the Chief Justice of India) who be its President;

(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.

Appointments shall be by the Central Government on the recommendation of a Selection Committee consisting of a Judge of the Supreme Court to be nominated by the Chief Justice of India, the Secretary in the Department of Legal Affairs and the Secretary in charge of Consumer Affairs in the Government of India.

Every member of the National Commission shall hold office for a term of five years or up to seventy years of age, whichever is earlier and shall not be eligible for reappointment.

The National Commission shall have jurisdiction:

- To entertain complaints where the value of the goods or services and the compensation, if any, claimed exceeds rupees twenty lakhs;
- To entertain appeals against the orders of any State Commission; and
- 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 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.

Complaints may be filed with the District Forum by:
1. 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
2. Any recognized consumer association, whether the consumer to whom 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
3. One or more consumers, where there are numerous consumers having the same interest with the permission of the District Forum, on behalf of or for the benefit of, all consumers so interested
4. The Central or the State Government.

On receipt of a complaint, a copy of the complaint is to be referred to the opposite party, directing him to give his version of the case within 30 days. This period may be extended by another 15 days. If the opposite party admits the allegations contained in the complaint, the complaint will be decided on the basis of materials on the record. Where the opposite party denies or disputes the allegations or omits or fails to take any action to represent his case within the time provided, the dispute will be settled in the following manner:

In case of dispute relating to any goods: Where the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, a sample of the goods shall be obtained from the complainant, sealed and authenticated in the manner prescribed for referring to the appropriate laboratory for the purpose of any analysis or test whichever may be necessary, so as to find out whether such goods suffer from any other defect. The appropriate laboratory would be required to report its finding to the referring authority, i.e. the District Forum or the State Commission within a period of forty-five days from the receipt of the reference or within such extended period as may be granted by these agencies.

Remedies Granted under the Act

The District Forum / State Commission / National Commission may pass one or more of the following orders to grant relief to the aggrieved consumer: -
1. To remove the defects pointed out by the appropriate laboratory from goods in question;
2. To replace the goods with new goods of similar description, which shall be free from any defect;
3. To return to the complainant the price, or, as the case may be, the charges paid by the complainant;
4. 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 negligence of the opposite party;
5. To remove the defects or deficiencies in the services in question;
6. To discontinue the unfair trade practice or the restrictive trade practice or not to repeat them;
7. Not to offer the hazardous goods for sale:
8. To withdraw the hazardous goods from being offered for sale:
9. To provide for adequate costs to parties.

5.2.4 Appeals AND Penalties

Any person aggrieved by an order made by the Forum may prefer an appeal to the State Commission in the prescribed form and manner. Similarly, any person aggrieved by any original order of the State Commission may prefer an appeal to the National Commission in the prescribed form and manner. Any person aggrieved by any original order of the National Commission may prefer an appeal to the Supreme Court.

All such appeals are to be made within thirty days from the date of the order provided that the concerned Appellate authority may entertain an appeal after the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period. The period of 30 days is to be computed from the date of receipt of the order by the appellant.

Where no appeal has been preferred against any of the orders of the authorities, such orders would be final. The District Forum, State Commission or National Commission may enforce respective orders as if it were a decree or order made by a Court and in the event of their inability
to execute the same; they may send the order to the Court for execution by it as if it were a Court decree or order.

Failure or omission by a trader or other person against whom a complaint is made or the complainant to comply with any order of the State Commission or the National Commission shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to 3 years, or with fine of not less than Rs. 2,000 but which may to Rs. 10000 or with both. However, if it is satisfied that the circumstances of any case so requires, then the District Forum or the State Commission or the National Commission may impose a lower fine or a shorter term of imprisonment.

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