CHAPTER I

INTRODUCTION
Introduction

In the 20th century, there has been a rapid increase in the supply of consumer goods, and the provision of consumer services as well as new methods of distribution of consumer products. The development of modern sales methods such as advertising, supermarkets, self service centres and pre-packing has made it difficult for the consumer to base a valid choice on his own unaided experience and judgment. The gap between the owners of the business and consumers has widened. It has made the marketing impersonal in nature. Consumers are now approached through various means which emerged as the outcome of sophisticated technology.

1.1 Consumer Exploitation

There are various benefits attached to the modern technology and modern marketing methods. But everything is not so pleasant and smooth, the marketers have taken undue advantage of the consumer ignorance and helplessness. They adopt various methods/techniques to meet their ends. They have made the consumers a target of their unscrupulous practices. Consumers do not get adequate response for settling their grievances from the producers. With this consumers have become victim of various types of exploitation. Such as spurious drugs, adulteration, misuse of colouring matters, short weights and measures, abuses of monopoly positions, dubious hire purchase plans; high prices of products, poor quality, non-standardised goods, costly spare parts and repairs, poor pre and post sale services; pressure-sellings, sale gimmicks; deceptive advertising; hoarding, black-marketing, illegal trading; hazardous products and product break down etc. Some of the methods of hoodwinking the consumer are advertising and selling which is not approved, over-stating employment opportunities after completion of certain courses, body building devices, height increasing gadgets, offering cures for incurable diseases, overstating products attributes, misrepresentation of the quantities, falsely photographing the products accomplishments, luring the customers to a store for a bargain that is downgraded by the salesman, exaggerating the contest of packaging through a subtle design, not filing the package to the top, advertising discount on the product when it is the normal price,
describing size in misleading term etc. Besides this, exploitation of consumers may be the result of restrictive and unfair trade practices.

In addition, the marketers are using highly sophisticated techniques, such as pressure salesmanship which is refined to such an extent that in the end, the customer invariably takes what is thrust on him. Use of various types of additives are generally used for preservative purposes and for flavoring the products, but most of these additives are found to be carcinogenic and affect the various parts of the body. These additives are antioxidant (i.e. butylated hydroxytoluene butylated hydroxy anisale). Some add artificial sweetness such as Saccharine. Artificial colouring (i.e.tar) is used for restoring the original colours. Similarly investors are also exploited by various financial institutions.

Adulteration is very common in India. The common types of adulterations are for instance, asafoedia (hing) is adulterated with resin or gum which is scented and coloured, burasugar is often adulterated with washing soda; from cardoman (elaichi) the essential oil is removed and the pods are sprinkled with the talcum powder. The same is the case with cloves and (laung ) Cumin (Jeera) seeds which are replaced by grass seeds which have been coloured with charcoal dust; papaya seeds are added to black pepper; Vanaspati is added to pure ghee and metanyle is added to both jaggery and turmeric.

Above mentioned practices have been observed both in private and public sector. Government has itself become a monopoly by itself.

The phenomenon of exploitation is not new. Even in the olden days, adulteration was the main problem. Before the machine age which is called agriculture era, though the voice of consumer was limited, he could contact the producers and specify what he wanted. Afterwards we saw second stage in the form of industrial era where mass production bewildered the consumers. Now we are passing through the post-industrial society under which the large scale production is manifested. A wide range of modern products are promptly available to the consumers.

The march of technology has increased the difficulties of consumers along with the opportunities. Rational choice between and among products would require various skills. There are certain products known as flat products, which have not established their utility and for which safety requirements are not established. All these types of
products create some sort of discontentment among the consumers in one way or other. The wide spread exploitation of consumers is quite common. Wherever we see there is rampant corruption, shortages of all essential commodities, disparities of income and wealth etc.

Unfortunately all types of social system dominating the world have not been able to eliminate consumer exploitation. Capitalism created a materially minded greedy man who is never satiated. Aggressive communism created a violent frustrated man, ever jealous and envious. Socialism created anarchist, characterless, without personality consumer. None of them viewed man in his entirety with respect to his psychological, spiritual needs besides his economic needs. They were concerned with his economic needs, which in isolation has created distorted picture of man and thus the theories propounded on this distorted promises have proved fallacious. This has actually results in new ways of exploitation of consumers and the consumer is suffering more consequently" (B.M. Joshi, 1985). According to Ralph Nader (1974, 56) exploitation reduces real income and misallocates resources by way of frauds, shoddy merchandise and deceptions or bilking scheme and secondly, they inflict violence on consumers by way of hazardous products, unprovided services or environmental pollutants.

1.2 Marketing development vis-a-vis consumerism

The emergence of consumerism is directly related to the change in the marketing concept. According to P. Kotler (1980), there are four alternative concepts under which organisation conducts its marketing activities. Under the product oriented concept marketers believe that if we have good product, customer response is bound to be favourable and it will need very little promotional efforts. This was the marketing philosophy till 1930. Production was meant for consumption purpose, and product differentiation and technicalities were absent.

Under the sales orientation concept, there cannot be enough customers response without promotional efforts. The selling concept gives stress on high pressure salesmanship to marketing success. In this, it is seen that salesmanship is the paramount consideration and customers are seen as passive receivers of sales literature, sales talks, advertising and the other similar communication directed towards selling. Third one is marketing concept or customer oriented concept. It was introduced in marketing philosophy only after 1950. This approach points out that the
primary task of a business enterprise is to study needs, desires and values of the potential customers and on the basis of latest and accurate knowledge of market demands to produce and offer the products, which will give the desired satisfaction and services to the customer much better than its competitors. The customer will be the center of the entire business. Felton (1959) defines marketing concept as a corporate state of mind that exists on integration and coordination of all the function, which in turn are welded with all the other corporate functions for the basic objective of producing maximum long range corporate profits. It, thus, implies three basic elements (a) customer orientation (b) integrated effort and (c) attention to long term profits rather than sales volume. Marketing concept is the business philosophy of the western countries. where philosophers talk of "greatest good to the-greatest number". Societal concept has developed for providing maximum satisfaction to the consumers and welfare to the society as a whole.

According to P. Drucker (1969), consumerism challenges four important premises of marketing concept (1) consumers know their needs, (2) business cares about the needs and knows exactly how to find out them (3) business provides useful information about the product (4) the products and services really fulfill expectation as well as business promises.

In 1930s marketing sought more consumer designed products, information on how to buy, case for, and use various goods, legal protection and enforcement activities against misleading advertising, labeling of consumer goods and so on. The trend continued in 1940's. In 1950's marketing experienced the complete reversal of its orientation. Until that time the role of marketing has been 'selling hard' to the affluent and impassionable consumer the self styled product, of the firm (Vance Packard, 1957). Thereafter it began responding efficiently and satisfactorily to expressed and implied wants of a more discriminating consumer with suitable and desirable product of his choice (P. Kotler and Levy 1969). Ralph Nader added new dimension to the marketing by making consumer more vital. In 1962 a bill of right was passed by the American president 'Kennedy'. The period of 1960's and 1970's witnessed rapidly changing expectations with respect to the performance of business and the other institutions.

The marketing philosophy got a new term from 1969 idea such as the extravagant stimulation of consumption and the broadening of the concept of marketing to all
organisation were being advocated (P.Kotler and levy, 1969). In 1971, the central ideas were the ultimate benefit to society of what was sold and marketing's new responsibility to sell less is some circumstance rather more (L.P.Feldman, 1971).

Subhash. C. Mehta et al. (1980) observed that marketing concept is the offshoot of consumer dissatisfaction. Moreover, the marketing concept and forces labeled consumerism are incompatible. The consumerism is actually the result of prostitution of the marketing concept rather than malfunction of it (Richard H. Buskirk et al. 1970, 63). Different criticism were also imposed on marketing. a) Marketing's impact on Society - excessive materialism, manipulation in demand, neglect of social good and costs, cultural pollution; (b) Marketing's impact on business competition anticommmunist acquisition, barrier to entry, predatory competitions. (c) Marketing's impact of consumer welfare- high prices, deceptive practices, high pressure selling, shoddy and unsafe products, planned obsolescence and minority discrimination (P.Kotler,1976).

Similarly, David L.Kurtz et al. (1986) cited the various indictments highlighted by various writers against the competitive marketing system such as (1) marketing costs are too high, (b) the marketing system is inefficient, (c) marketers are guilty of collusion and price fixing (d) product quality and after sale service are poor (e) the marketing system has produced health and safety hazards (f) consumers do not receive complete information. Besides, marketing and its practices, especially advertising and selling have always been subject to criticism and controversy.

Criticism of marketing focuses largely on two areas i.e excesses and expertness. "Excesses" are about purposefully shoddy and objectionable products, inadequate warranties, deceptive or objectionable advertising, on tawdry values. These are the bases of consumerism. "Expertness" refers to the special ways marketing thinks about and approaches consumers. They think how the product perform in terms of consumer's psychological and psycho-social needs and wishes. These tend to be complex, subtle and manipulable. Individuals often do not perceive any need for particular products until they have been persuasively exposed to the possibility of having them and it is market experts who exactly do the persuading. Indeed, it can be argued that many social discontents and even ethical issues, associated with marketing arise not from excesses, inappropriate definition of needs and wants or from greed or
but rather from functional limitation on the implementability of the marketing concept" (Steven H. Star 1989, 149).

With the passage of time marketing has become broader in function and scope. Now environmental trend like public welfare, concern for better living environment or quality of life etc. indicate the organisation would have to adapt socially responsible marketing policies and plans in order to assume social welfare in addition to consumer welfare. As stated by P. Kotler (1975): "Social marketing provides a richer conceptual system for thinking the problems of bringing about changes in the idea or practice of a target public. The adoption of an idea, like the adoption of any product, requires a deep understanding of the needs, perceptions, preferences, reference groups and behavioural pattern of the target audience and the tailoring of messages, media costs and facilities to maximise the case of adopting the ideas".

P. Kotler and Levy (1971) originated the concept and coined the term "creative demarketing" as that aspect of marketing that deals with discouraging customer in general or a certain class of customers in particular on either a temporary or a permanent basis. So the public is to be enlightened with regard to the harmful effects of the modern marketing, because emphasis on increasing consumption however brought expending production and a concomitant mounting waste and depletion of natural resources. This has created problem not only to consumers but also to public at large, therefore public has to be made aware of these problems, such as wastages, environmental degradation and depletion of natural resources. With this three factors in the environment of marketing have emerged as forces acting to change its role: These are consumerism, clean up and conservation.

To conclude, the role of marketing has widened from mere production oriented to societal oriented concept. These changes are consistent with underlying necessity of consumerism in which consumer satisfaction is the prime responsibility of the marketeers. The rationalized utilization of resources and environmental conservation have emerged as main concerns in late 80s.

1.3 The Concept of Consumerism

Consumer protection is an age old concept but has assumed a greater relevance today in view of increased malpractices at the market place such as fraudulent or deceptive advertising, non functional packaging, unsafe products and poor warranties
etc. These practices have affected the sentiments and eroded the sovereignty of consumers. Persistent infringement of consumer rights led them to unite together to defend their interest and as a result whereof unscrupulous business firms became the target of these interest groups (P.Kotler, 1976).

The emergence of consumer was noticed in 1960s and early 1970s within the environment of increasing production. At the time consumerism was labeled as "baby of prosperity" (Lee and Preston et al. 1983, 101) Even G.W.H. Scherf (1977) has noted consumerism that was born out of the gratitude of consumers for their fortune but out of a desire for 'more'. According, Robert. J. Lavidge (1970) consumerism is related to 'sins of omissions' as well as those of 'commissions' which had been growing in 1970's. Besides above, the following three aspects have been identified for the rise of consumerism.

(a) consumer scepticism (b) anti-hypocracy (c) concern about the environment (Elizabeth Nelson; 1978, 89). Moreover, the word consumerism connotes two meanings (a) protection of interest of consumers and (b) advocacy of high rate of consumption as a basis of sound economy.

Although consumerism is the name given to consumer protection movement. 'Consumerism' like most 'ism' varied in definition depending on who is doing the defining. Consumerism is a kind of people's movement. As labour movement confronts capital and enterprise about labour conditions, so consumerism faces capitalists and capitalistic constitution about living from a national view point and on national scale. It is not a movement of politics but that of people's living. It is originated within the frame of mild democracy although sometimes severe poses or steps have been taken. The matter is not 'poverty amid poverty' but 'poverty amid affluency' (Noriaki Niwata, 1977). The monopoly of big enterprises gave a sense of solidarity among consumer class, thus business became target of consumerism.

Vance Packard coined the term 'consumerism'. This term was not put to wide use until 1963 or 1964 when a variety of commenters identified it with the very visible concern triggered indirectly by Rachel Carson, and directly by Ralph Nader and Kennedy. It has given a new emphasis to consumer's right to full and correct information on prices, on quality of commodity, and on costs and efficiency of distribution. The movement displays the efforts of consumers themselves. Aware of
their ignorance in buying, sceptical of the guardianship of private business, and
doubtful as to whether or not they are getting their money's worth, they have become
articulate.

It is not a concerted movement. In reality it is a series of efforts having in
common the feeling of dissatisfaction with goods and services and the marketing
practices involved in their distribution. Coupled with the protest in a demand for
information and for protection in the market (K. Dameron, 1939).

In the following pages an attempt has been made to examine various definitions
by putting them under two main groups:

(a) **Traditional group** of definitions includes those definitions which restricted
the meaning of consumerism only up to the welfare of individual and the main thrust of
consumerism was on the achievement of 'rights' through regulation.

(b) **Modern group** of definitions consists of definitions which go beyond the
interest of consumers to include general interest, the initiative of government and
other aspect.

(a) **Traditional Group:**

According to L. Barder et al. (1938) consumerism is a collective action of
consumers to secure protection from commercial terrorism. K. Dameron (1939) defines
consumerism as the attitude and activities of consumers to secure a balance of strength
between them and products.

According to Richard H. Buskirk et al. (1970) consumerism is 'an organised
effort of consumers seeking redress, restitution and remedy for dissatisfaction they have
accumulated in the acquisition of their standard of living'.

David W. Cravans and Hill (1970) describes consumerism 'as a social force within
the environment designed to aid and protect the consumer by exerting legal, moral and
economic pressure on business. W. J. Stanton (1971) states that consumerism is an
organised reaction of consumers to have business unfair practices remedied.

According to A. C. Shah (1976) organised movement of consumers is known as
consumerism. It emerged as countervailing defensive force to safeguard the interest of
consumers from the abuses of economically powerful sellers.
From the above mentioned definitions, we can understand that that (1) an organised effort on the part of consumers.

(2) a reaction against business class.

(3) a need for adequate relief in case of any dissatisfaction experienced while using the product.

(4) rectification of business malpractices.

(5) the product of powerlessness among the consuming class.

(6) a saviour of economic interest of consumers.

(7) an attempt to guarantee the achievement of consumer rights through regulations.

We observe the following limitations in these definitions:

(1) They concentrate only on consumers' interest.

(2) They consider market interaction only the outcome of sellers and buyers interactions.

(3) They do not highlight the impact of market place on general public.

(4) They ignore the nature of consumerism whether it is a political, social or economic etc.

(5) They advocate the protection of economic and physical interest of consumers.

Modern Definitions

With the increase in the complexity of marketing transactions, and spurting up of marketing malpractices, and excessive emphasis on individual satisfaction certain new dimensions have emerged in the consumerism. Various thinkers have understood consumerism as given below:

P. Kotler (1972) defines consumerism as the social movement seeking to augment the rights and powers of the buyers in relation to the sellers. Senator Charles Percy says, "Consumer movement is a broad public reaction against bureaucratic neglect and corporate disregard of public" (William T.Kelly, 1973).

John A. Cappett (1974) offers a behaviourly oriented definition. He says "consumerism is a form of psychological projection engaged in by consumers who as a result of repeated failure to attain a desired life style, have accumulated negative attitude
toward marketeers in the form of criticism that seem to be socially acceptable to those who hear the complaints.

Consumerism is concerned with truth in advertising, safety and quality of ingredients and full and reliable labeling. It is acting to direct marketing's concern away from how much of a product can be sold to how well that product is made and how faithfully it is represented to the consuming public. Its effect, therefore, is essentially to direct the marketer from considerations of commercial gain to those of human welfare (F. Kelley et al. 1975). J. Mandana (1977) observes consumerism as a citizens activity towards fighting trade injustice and scrutinizing of public conscience.

According to A. Fazal (1978) consumerism is a phenomenon of group awakening ushered in a social movement to fight injustice and seek a fair deal in the exchange process.

According to McMillian dictionary (1985) "consumerism is concerned with protecting consumers from all organisations with which there is an exchange relationship. It encompasses the set of activities of government business, independent organisations and concerned consumers that are designed to protect the rights of the consumer. In the version of H.C Chaudhary (1986) 'consumerism is a wide range of activities to protect individual from business malpractices which infringe upon their rights as consumers and to put buyers on parity with the sellers.

Consumerism is a movement or polices aimed at regulating the products or services, methods and standards of manufacturers, sellers and advertisers in the interests of the buyers, such regulation may be institutional statutory or embodied in a voluntary code accepted by a particular industry, or it may result more indirectly from the influence of consumer organisations (Encyclopedia of Britannica, 1990).

The consumer protection movement, popularly known as "consumerism" is a recent and universal phenomenon. It is a social movement of buyers. Consumerism is a social phenomenon caused by the strains of shortages and inflation in India (D. Himachalam; 1990, 7).

The most common understanding of consumerism is in reference to the widening range of activities of government, business and independent organisations that are designed to protect individuals from practice that infringe upon their rights as consumers.
There are three groups of consumers protectionists: (a) Adaptionists are concerned with the education of consumers, (b) Protectionists concentrate on protecting the health and safety of consumers and, (c) Reformists are concerned with increasing the consumer's voice in government (Robert O. Hermann; 1970, 59).

From the above definitions we note the following shifts from the traditional definitions:

(1) The responsibility of providing satisfaction to the consumers lies on sellers. Sellers have to supply complete information on the commodities and bear some responsibilities even after sales.

(2) Change in the emphasis of protection of enterprise to consumer protection.

(3) Shift of confrontation of "enterprise Vs individual" to that of enterprise Vs consumer organisation in view of the emerging mass market.

(4) From mere accusation of business exploiting the consumer shift to attending to the needs and aspirations of consumers (Noriaki Niwata, 1977).

(5) Shift from economic interest to behavioural interest.

The following foci in modern definitions of consumerism are:

(1) Consumerism highlights the role of public and private concern.

(2) Consumerism is a social movement.

(3) Interest of third party i.e. society needs protection along with the consumer satisfaction.

(4) The empowerment of the consumer with adequate means such as legislation, representation in decision making and logistical support to consumer.

(5) The importance of self regulation by the business

(6) Group awakening ushered by pressure groups.

(7) Optimum utilization of country's natural resources.

(8) Shift in the motive of producer from commercial gain to human welfare.

(9) Protection of economic interest as well as other interest of consumers.

To conclude, from the above definitions it is clear that the meaning of consumerism has changed over the different years. It is also apparent from the close
scrutiny of various definitions as each definition has been given in certain context that was prevailing at that time. Certain new concepts such as paper consumerism, cooperative consumerism, reverse consumerism and green consumerism have emerged. Earlier consumerism involved protection of consumer against overcharging, dangerous/false/fake product, issues of safety and deception that affect public at large. The new movement has added certain sociological aspects. It is aimed at improving health services, utilities, safety, consumer representation, purity, trust and social issues etc. The ultimate goal of consumer movement is the monitoring of exchange system to improve the quality of life of individual and the public at large.

1.4 World Consumer Movement

The history of consumer movement is not so old. The concept of consumerism can be traced back to Adam Smith. In his 'Wealth of Nations.' Smith pointed out flaws in capitalism. The United States has been a leader in consumerism in the world since consumers first began to recognise that they had rights in the market place. Perhaps this awareness dates back to the Boston Tea Party in 1773, in which American patriots boarded British ships and tossed incoming tea board in protest of unfair taxes. (Virginia H. Knauer 1987,2). It is noted that some consumer groups existed in the United States as early as the middle of the 19th century. "In the United States, business scene has been shaken by three distinct consumer movements being early 1900's, mid 1930's and mid 1960's (P.Kotler; 1972,27)

The formation of National Consumer League in 1899 was an indication of the growing strength of consumer movement. The Jungle, Upton Sinclair's novel about the stockyards published in 1906 brought demand for regulation of Food and Meat processing. The consumer movement consisted mainly of sporadic local activities until mid 1920's. Also in the twentieth century there was a growth in consumer consciousness stimulated by the so called 100,000,00 Guinea Pig and general debunking of claim made by many producers for them for their product in a buyers' market (A.Kallet et al.1923).

The second phase of American consumer movement in the mid 1930's was fanned by various factors. The ideological background of the growth of consumer movement was provided by a series of writings beginning with R.H.Tawney's "Acquisitive Society" followed by T. Vebtin's Theory of the Leisured Class' and more
especially the joint work of Stuart Chase and F.J. Flinch's *Your Money's Worth* crystallized widespread consumer discontent (S. Chase et al. 1936).

The third wave of consumerism was started in 1960's. E.B. Weiss (1967,8) and other observed that this period had attributed consumer unrest to rising public standards of business conduct and social responsibility brought about by increasing education and sophistication. Reinforcing and interacting with current consumer unrest, there were a number of books. Galbraith's *The Affluent Society*, Jessica Mitford's *American Way of Death* and *Silent Spring* by Rachel Carson's brought out the topics with regard to environmental pollution and use of chemical in food items.

The late 1960's also saw the rise of a charismatic consumer champion Ralph Nader, whose efforts coupled with an increasing public awareness of consumer problems, led the consumer movement to the present state as a growing social, economic and potential force. Ralph Nader's book *Unsafe at any Speed* (1965) brought the consumer safety issue to the fore. The major gains on behalf of consumers were affected during the late 1960's and early 1970's. (Eather Peterson, 1979).

According to L.P. Feldman (1976,20) the main factors responsible for consumer protection in U.S.A. were (a) Market practices, (b) Technological change, and (c) Social development. They arose from the civil right movement. Due to these factors consumer movement gained tremendous momentum in the 1960's. It was President Kennedy who appointed the first consumer council and proclaimed the Consumer Bills of Rights in 1962.

The American consumer movement is intensified due to four elements (a) the existence of private lawyers who take up consumer issue on contingency bases. Secondly government control on consumer issues, thirdly the involvement of press media, and voluntary consumer organisations (David Averbuck; 1989,23).

In U.S.A., the early 70s saw the beginning of pay off for consumer movement worth for fairness in the market place. For example, consumers advocates in the retail food industry were leading the way with more specific pricing products and consumers education programmes aimed at super marke customer. They proved to all that consumerism was indeed good for the bottom line. Further, as the consumer movement headed into the middle of the decade (1975), there was a growing diffuseness- various consumer groups began to branch off into specialists. Although
they began to tackle different problems, all were striving toward the common goal of representing customer interest (Esther Peterson, 1979).

Consumer organisations sprouted in Norway and Ireland in 1939 and 1942 respectively. In 1935, a formal 'consumer union' came into existence in Britain. It built a laboratory for regular testing of products and published consumer reports thereon and enlightened the public about misleading claims (K. Basrur; 1974, 30).

Before the first war, 'Laissez faire' served to bring about the rule of 'Caveat Emptor'. Common law was the protection against aggressive salesmanship, fraud and breach of promises. British National Institute in U.K. played a significant role in assessing the interests of consumers in 1925. Similar consumer awakening was witnessed in Netherlands in 1926. Public clamour began to arise against unscrupulous sellers of certain products with the demand for new laws and government interventions to protect the consumer (L.P. Feldman; 1978, 3).

Actually in Great Britain the consumer movement began to gather momentum during the years following the second world war through voluntary action mostly taken by woman's organisations. For the first time one of the leading political parties came into the picture in a significant manner when in 1955 the labour party put out a pamphlet entitled "Battle for the Consumer." It not only argued the case for quality marketing of goods but also the setting up of a consumers' council. Another significant development of the late fifties was the establishment of a Retail Trading Standards Association with the primary objective of helping to resolve disputes between retailers and their consumers. In fact a consumer revolution was gradually taking place in Britain. It was this development that compelled the government to appoint the Molony Committee in late fifties to report on what changes in the law were desirable for further protection of consuming public and to make recommendations. On the basis of this report the government appointed a consumer council in 1963. A ministry for consumer protection as well as several legislative enactments were passed in the following years (M.V Pylee; 1981, 18).

Moreover, in Britain the main consumer realities of the 70s which were in existence had intensified the consumer movement were viz scepticism, knowledge and professionalism (Esther Peterson; 1978, 209). Consumer protection in Britain is an established concern, addressing itself to the matter of consumer protection in a very
different way. Consumer advice is a major focus. Much of this advice is preventive counseling rather than redressable of actual grievances, (Werner. F.Menski 1987,4).

The Consumer Protection Act 1987 was passed by the British Parliament after extensive debate on it. It is a wide ranging piece of legislation, creating both civil and criminal Liability and it will be of major importance throughout industry and commerce (Surendra Kumar;1989,13).

Right from 1947 to 1957 there was consumer's Revolution in Denmark, GFR, Switzerland, Japan, Kenya, France, Hungary, Itlay, Canada and Belgium. Press campaign in favour of the consumer in these countries played a significant role in the creation of the concept of consumerism (K.Basrur; 1974 40).

Among the Asian countries Japan has demonstrated how consumer revolution can take place along with rapid economic development and the emergence of a mass consumption society. Although Japanese Housewives Association was founded in 1948 in Tokyo, after a series of administrative and legislative measures in 1968, the basic law for the protection of consumer was established as an organ directly responsible to the Prime Minister. In Japan consumer protection is not confined to the national government alone. It is the responsibility of all the municipalities and other local government. A large number of voluntary consumer organisations have also sprung up devoting increasing attention to the other aspects namely, information, education and guidance. The movement in Japan took its roots through the various forms or measures of protection of consumer taken by the government. In addition to organisation like Japanese ’SHUFUREH’ other main current of movement were consumer union, grassroots consumer groups and Government Sponsored consumer groups. While functioning autonomously they combined from time to time for joint action (K. Namura; 1980,102).

The other government that is now taking a keen interest in developing consumer awareness in the Asia Pacific region is the government of Japan. The Japan consumer information centre (JCIC) quasi-government body is engaged in providing aid for projects related to consumer affairs in overseas. Other efforts are being made in regards to setting up of regional training centre and a testing laboratory. (Rajeshwari Kanniah, 1990).

A survey on the Asia Pacific region reveals the increasing number of private
consumer organisations that have emerged on the scene in the late seventies and throughout the eighties. It is because of the pressure exerted by these organisations that governments in this region have been forced to respond to the consumer protection agencies and reviewing consumer laws. For example, in Malaysia, the consumer affairs department was recently upgraded to the status of a division and consumer groups are presently studying alternative government model and legislation for consumer protection. In Indonesia and Thailand, consumer groups are reaching out rural consumers and empowering them with knowledge of consumer laws. In India, the consumer movement was resorted to social action litigation to further the consumer cause and the Consumer Protection Act 1986. The Ohmiya Declaration August. 1989, which resulted in an agenda for action by government and consumer in this region to consumer products and services based on ethics, ecology and equity, and called for consumption with a conscience and more assertive use of the right to boycott.

Perhaps the most interesting development from the point of view of consumer protection has taken place in mid-fifties in New Zealand where the influence of the consumer’s movement is reflected not only in legislation but also in the organisation of consumers. In 1959 a consumer’s council was established under the Ministry of Industry and Commerce. By 1966, to the council was added a consumer institute. The council was also taken out the administrative control of the Ministry. The oldest Consumer Association was in existence in 1960. e.g. Dunedin Consumer Association (M.V Pylee; 1981, 19).


Similar movement has grown in Australia and Europe. Consumer protection received significant attention both at federal and state levels in Australia. Australian Consumer Association (1959) is largest and produce monthly magazine CHOICE. CLA-N (Consumer Law Association- National) is an emerging Australian network of consumer lawyers. It is noted that most of the consumer protection agencies were established in the seventies. Among the European countries Sweden has perhaps made greatest progress in protecting the interest of consumers.

On 9 April 1985 the General Assembly of the United Nations unanimously adopted a set of general guidelines for consumer protection. "The principal significance of the United Nations Guidelines for Consumer Protection is that they represent international agreement as to the minimum principles which should be contained in consumer protection policies (Esther Peterson; 1987, 347). The Guidelines cover seven areas (a) Physical safety (b) Promotion and protection of consumers economic interests (c) standards for the safety and quality of consumer goods and services (d) Distribution facilities for essential consumer goods and services (e) Measures enabling consumers to obtain redress (f) Education and information programmes (g) Measures relating to specific areas (food, water and pharmaceuticals).

Since 1987 there has been unprecedented efforts in the Latin America and Caribbean's region government. The Government of Brazil for example has provided for consumer rights in its constitution. Uruguay's government has set up a National Board of Consumer Protection. Ecuador's existing National Consumer Board has been strengthened while other consumer protection measures are being considered by lawmakers. In Peru, an inter-ministerial commission has been formed to prepare new consumer protection legislation to Parliament.

The fact is, as noted by the United Nations Secretary-General (United Nations; 1983, 5) that international co-operation with regard to consumer protection is needed because the development of a consumer protection policy no longer requires that measures be taken only at the national level since the world economy has become so interdependent, national consumer policies have now acquired international dimensions. This is mostly due to the international character of business encountered by consumers are often not exclusive to any one country. As a result measures adopted to protect the consumers in one country can have implications for consumers in other countries. So in this context the role of IOCU can't be ignored.
The Role of IOCU

International Organisation of Consumer Union in 1960 was formed in Hague by consumer groups of United States, Britain, Australia, Belgium and Netherlands with a view to promote world wide cooperation in consumer information, education and the comparative testings of goods and services. Transcending the national level, it found poignancy by the United Nations Organisation and as a result the consumer interest got expression at the 29th session of the United States Commission on Human Rights held in Geneva in 1973 (Consumer Affair, 1974). In August 1977, the U.N. Economic and Social Council passed a resolution on consumer protection calling upon the U.N.Secretary General to submit to its sixty five session a survey illustrative of the range of institutional and legal arrangements existing in the field of individual consumer protection at the national level (A. Fazal; 1978, 32).

IOCU has played a leading role in the development of consumer affairs in the Asia Pacific region ever since the founding of the Asia Pacific office in 1974 in Malaysia. The main work of IOCU has revolved around developing consumer groups in the region, providing information and representing regional interests at the international level. The IOCU Peneng office is also the focal point for many global or regional issue oriented networks such as consumer interpole. Health Action International and Action for Rational Drugs in Asia (pharmaceuticals) Pesticide Action Network (pesticides) etc. These networks facilitate information exchange linking up, collaborating and joint advocacy and other like minded groups on issues of common concern and interest. IOCU has consultative status with several UN agencies such as ECOSOC, FAO, WHO, UNIDO, UNICEF and UNESCO.

In 1985, IOCU established office for Latin American and the Caribbean in Mantevidea, Uruguay. In 1988, IOCU made inroads into Africa with two conferences that gave direction to the budding consumer movement there. And in 1989, IOCU reorganised its central office in Hague into a Regional office for Europe and North America. In response to exciting political changes underway in the socialist countries, it also brought Western and East European consumer groups together for first time in Warsaw, Poland (Louise Crosby; 1990,18)

Two other main inter-governmental institutions involved in consumer affairs in the region are the organisation for Economic Cooperation and Development (OECD)
and the Economic and Social Commission for Asia and the Pacific (ESCAP). OECD Council decisions are binding laws in member countries and the recommendations and guidelines are voluntary, moral obligations on member countries. ESCAP has had a direct but modest influence in the development of consumer protection policy in Asia Pacific region (Rajeshwari Kanniah, 1990).

In between, the various sporadic efforts are noted in other countries such The National Boycott Committee of Mauritius and its branch, the consumer Health Action Network (CHAN) held protest marches in 1989, thus making Mauritius the 11th country to join the Second Nestle Boycott. On April 22, 1990 the 'Earth Day' and the whole 1990s, would be observed as the 'Decade of the Environment'. According to Dennis Hayes, chairman of the Earth Day Programme and coordinator of the First Earth Day in 1970. The demonstrators will be demanding is a 'sustainable global environment undamaged by Industrial pollution, shrinking rain forests, expanding deserts, green house gases, etc. (Patrika;1990,11)

To conclude, the consumer movement spread all over the world length and breadth. The main impetus to the movement was given through revolutionary writings. Various countries adopted different measures for the protection of interests of consumers. Efforts were also made by voluntary organisations in different countries. At international level, IOCU is playing a crucial role in strengthening the consumer movement. It has established the links with other countries and helps in co-ordination with their activities.

1.5. Marketing Practices in India

The development of marketing and consumerism is closely linked with one another. Basically, marketing philosophy is human welfare oriented and consumerism emerged as a force to give practical shape to the marketing concept. The scope of marketing has been widened from production-oriented concept to general public welfare. But more or less throughout the earlier changes, the role of marketing remained essentially concentrated on consumption which is depicted by consumers. Now, it takes into consideration three aspects, consumerism, clean up and conservation. Although concept of consumerism originated in developed countries, yet it is now being experienced in every facet of human life. P. Kotlar (1976) has rightly said that consumerism is the ultimate expression of the marketing concept because it forces product managers and marketers to look at from consumer point of view.
The development of marketing in foreign countries has taken place quite earlier than in India. It has been understood as the delivery of standard of living, it satisfies the customers needs and desires by supplying suitable products and services. It is an attitude, a philosophy, a way of thinking which aims at maximization of mutual welfare of seller and buyer.

Marketing in India presents a mixed picture. Imbalance in various sectors of the economy limit the scope of marketing and its functions. The Indian market comprises of vast and dispersed population over 600,000 villages. Although the demand for particular commodities may be quite high yet there exists low consumitional standard for numerous products.

India has adopted mixed model of economy. The role of public and private sector is complimentary to one another. A proper balance is maintained for the public welfare. The main objective of the economic planning is raising of the national real income by efficient exploitation of the resources, increased production and accelerated tempo of economic activity in the country. Now a vast industrial empire has been set up for the mobilization of resources. Industries produce today a wide range of products embodying a high level of technology. Previously, the priority was given to the core sector of economy. Later on, as a result of government’s planned development efforts and various policies adopted in mid seventies viz. simplification of licensing procedure, tax concession, incentive to various industries, encouraging policies on investment and technology transfer. In addition to this, a structural shift is noted with regard to various sectors and economy e.g. the share of primary sector has slipped from 54.9 per cent in early fifties to 32.11 per cent in the late eighties. It is expected to reach the level of 20 per cent during nineties. The contribution of service sector to G.D.P is 40.3 per cent. It has emerged as one of the dominating sectors after eighties which has affected the growth of industrial sector. Also, the relative share of public sector to the total plan outlay has also been continuously diminishing as it came down to 52 per cent in the 7th Plan from 64 per cent in the 4th Plan (M.B.Shukla, 1989). It indicates shifting trend towards privatisation.

In the preceding years, the Indian marketing environment has undergone rapid transformation. For the first time, Indian market is crowded with the sophisticated products catering to various needs of the society such as clothing, recreation and food. According to one estimate in the last five years alone, more than 20 snack foods have
been introduced in the market and among these only 8 have survived at present. (Sanjay Badhe; 1991, 4). In another estimate a study on brand addition and withdrawal in 12 product groups (for the period 1984-1989 revealed that the number of ousted brands in safety razor blades were 11, 13 in detergents cakes and bars, 11 in popular soaps, 21 in premium soaps, 8 in toothpastes, 16 in mosquito repellents, 20 in refined edible oils, 10 in vanaspati and 5 in antiseptic creams (Harsh V. Verma; 1991, 36).

During the period 1980-81 to 87-88, production of consumer durables grew at a rate of 14.6 per cent as against 8.1 per cent and 5.5 per cent growth rate registered in case of basic goods and non consumer durables respectively (NCAER; 1990, 11). More over "Many things that were considered luxuries till about ten years ago have become necessities for most people today" (N. Radhakrishanan, 1989). Further, the rise of consumer class was an inevitable consequence of the development over the last four decades (D.T. Lakhdewalla; 1989, 96).

It is estimated that in 1947, India’s middle class was a bare 10 million out of the total population of 350 million. Today, it accounts for some 125 millions. Moreover, the middle class is essentially the top 20 per cent of the population which constitutes an effective market for high priced and high quality goods. There has also been a rapid upward mobility in income levels. 28 per cent of the households which were earning more than 1500 p.m. in 1989 had monthly income less than 1500 p.m. in 1984 (NCAER, 1990).

S.L. Rao (1990, 10) observed that top 1 percent of the households had per annum per household income of Rs. 50,000, the income per household was over Rs. 22,000 p.a. in case of 10% top households and 30% middle class was with the income of Rs. 11,001 to Rs. 22,000 p.a. and bottom 60 per cent had income up to Rs. 1,100. He concluded that there was substantial change in the aspirational levels of households falling in the lowest income groups and there aspiration resulted in the purchase of products which they might not have bought before. The middle class has increased dramatically, the main reasons for such a massive rise in the middle class are (a) increasing attitude to self gratification (b) attitude of working wives (as it is estimated that more than 30 per cent of the urban wives work for a living) (c) changed attitude towards consumer credit business has increased from Rs. 1,000 crores in 1990 from virtually nothing in the last three years (NCAER, 1990).
D.T. Lakdawalla (1989) attributed this phenomenon rise in the standard of living of people to rise in wages in various sectors between 1960 to 1985. The wages in manufacturing went up by merely 10 per cent p.a., in railways by 8.1 per cent and in banks by 9.5 per cent. Moreover, Green Revolution has also made some impact on the Agrarian economy. Besides this the opening of RRB (Regional Rural Banks) may also be a contributory factor in raising the standard of living of the rural population. So there are three factors responsible for the consumer revolution in India: (1) increase in purchasing power, (2) increase in the availability of consumer goods, and (3) changes in attitudes and beliefs of the Indian middle class. The consumerism is thus the most visible manifestation of prosperity that has come to a vast portion of urban India in the eighties and its rise has far reaching consequences on the economy. It is a mechanism for improving the rate of growth of economy (I.Z. Bhattay, 1989).

As regards to consumer class, it does not have a specific national character. Income, expenditure, consumption habits and consumers behaviour vary from place to place and section to section. Besides this, a common Indian businessman tends to take minimum risk and implement traditional marketing concept. The exception is the giant firms with direct or indirect international link and new national firms. They try to break the attitudinal resistance of the consumers by launching new product in the urban centres with the same degree of success. Here again, the ultra modern marketing man is neither equipped with tools and techniques nor does he feel the need for taking into crusades deep into the villages to break the core centres for resistance. He concentrates his attention on the readily available markets with new and improved products that too because he is afraid that his competitors may have an edge over him if he keeps quiet. So, a lot of money is spent to win the readily available consumers to one's side rather than on winning the potential consumers (N. Ranganathan; 1974,77). Besides this one of the obvious defects is the shortage in many consumer and capital goods, more over there are several instances where goods can not be sold because markets have not been created for them with the result that there is large scale unutilized capacity which is an economic wastage (T.A.A. Latif; 1983,79).

Marketing in India has assumed present shape due to the following factors:

(1) Excessive dependence on agriculture results into low productivity, low income and ultimately low standard of living (2) Excess demand the perennial scarcity economy and the resulting seller's market have encouraged the managements
to concentrate more on production rather than marketing, (3) The business still remains with trading community whose practices are not always considered to be in tune with the needs and interest of society. (S.Neelameghan, 1988), (4) The traders are not fully developed to handle or to finance products of modern industry and this is particularly so in smaller urban centres and rural areas, (5) Absolute poverty has restricted the growth of market. It is estimated by the world bank that 40 per cent of India's population is living below the poverty line, of these 60 per cent is concentrated in eastern region (Rajive Shirali, 1989). (6) The complicated licensing and permit restriction employed by the government have resulted in creation of protected market in many spheres which only helps in avoiding the competition but provides high profits (Subhash Mehta et al. 1980), (7) The growing array of legislations tend to restrict and curtail the freedom of marketeers in every functional areas like product pricing, labeling, safety, packaging, branding, design, advertising, promotion, distribution, warranty, relationship with competitors and consumers, (8) The tax system is quite faulty. The investment decisions are generally taken on tax consideration instead of economic productivity, about 60 per cent of gross sales taxes are avoided by the traders and thus leads to accumulation of black money, which has rippling effects on the economy as well as on markets. This further results into reduced national output productivity and sluggish economic growth. (9) In the recent years, the expenditure on advertising has specularly increased. The annual expenditures on advertising has been around Rs.100 crores in early seventies which grew to more than Rs. 300 crores in 1978 and more than Rs. 500 crores in 1986. The total expenditure has jumped to more than Rs. 1,200 crores in 1990. The role of mass media is quite important but T.V. claims to have revolutionized advertising. (10) There has been increased stress on marketing research. Presently the market research industry such as ORG, IMRB etc. are investing between Rs.15 crores to 20 crores on the research activities. (11) Most of the times businessmen have failed to assume total social responsibility. (12) Various circumstances like unnatural competition, company policy and plethora of rules and regulations often prevent the manager from putting his belief into practice. In addition, greed among government officials, redtapism, nepotism and suffocating regulations are other obstacles to ethical business behaviour.

To conclude, the environment in the Indian market is not conducive to the application of consumer oriented concept. It is noted "Indian companies are still at a
stage where primary orientation in their marketing activities is that of selling concept and adoption of the marketing concept is a far off dream (Subhash Mehta et al., 1982). Similarly, Harsh V. Verma (1987,14) comments that the most important dilemma that a firm has today is that inspite of all its effort to be marketing oriented it be comes "sales oriented" because most executives lack a proper understanding of marketing. They tend to become short term oriented and all the corporate plans, strategies and actions are evaluated in terms of their capabilities to produce favourable and immediate market responses. In this process what gets emphasised is selling, not marketing. Firms become product creating and selling organisms and not "value creating customer satisfying organisations". The role of marketing in India is still confined to urban areas, modern techniques and operation of multinationals are manifested in the urban areas. The businessmen show low level of social responsibility as they are confronted with complicated rules and regulations and inefficient administration. Advertising has brought consumitional revolution in case of certain items and in the urban market. Indian market still continues to be deficit market. Consumers have restricted choices and are often cheated by mischievous activities of traders and manufacturers. The development of consumerism in India has been noticed on fronts namely- a) emergence Consumer Organisations, b) role of government and c) self-revolution by business. A detailed discussion on the growth and functioning of Consumer Organisations has been presented in Chapter IV.

1.6 Development of Consumer Movement in India

For social welfare and to sustain the society need for formation of small groups has been felt by intellectuals since ancient time. The history of consumer movement in India is as old as human civilization.

It emerged as reaction to exploitation by the businessmen. According to the Artha Sastra of Kautilya, it was the duty of the government to supervise sales of products at reasonable rates. Merchants who cheated or interfered generally with the normal functioning of market prices were open to heavy punishment. Earlier Narada and Brhaspati laid down numerous laws and regulations to safeguard the interest of buyers and sellers alike.

In 1934, Mahatma Gandhi highlighting the importance of consumers in business said:

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

The development of consumerism in India has been noticed on three fronts namely -(a) emergence of consumer organisation , (b) role of government and self regulation by the business. A detailed discussion on the growth and functioning of consumer organisations has been presented in chapter IV

1.7 Role of Government in Consumer Protection

Since the ancient time, the job of protecting consumer interest has been the prime responsibility of government. During the reign of Maurya (i.e.300 B.C.) the act of adulteration was considered adharma and viewed with disgrace and distribution of adulterated articles of food and drugs was prohibited. The law provided for protection of consumers if the consumers interest were adversely affected in the market place. Although at that time, the wants were simple and the products were no so complex. But today as we are moving from agrarian economy to industrialised economy. Where mass production as well as technically complex products are heading in the market. Moreover, modern methods of distribution as well as aggressive selling techniques are being adopted by the marketers. More emphasis is laid on salesmanship rather than buymanship. The modern techniques tend to dominate the Indian Consumer Market. Where most of consumers are illiterate and having low income level. In such an environment consumer expects protection.

Before the independence, the Government did not provide much for consumer welfare. Its activities were mostly pro-consumer. Even after independence, the government through different regulation safeguarded the interests of small and large scale businesses. It was consumer pressure which compelled the government to enact certain legislation and assume other roles for protecting the consumers. The main roles assumed by the government are that of regulators umpires and businessmen. These roles have been discussed as below.

1.7.1A. Government As Regulator

The law is the means of administration of justice. The satisfaction of consumer comes within the most important functions of the state. Law exists to bind the community together. The government over the years has armed itself with many Acts and issued statutory orders and notifications for ensuring fair prices, equitable supplies
and quality control of different products and services. There are today more than 27 central Acts which govern trading operations. The fundamental law of the country is related directly or indirectly with the philosophy and mechanism for the protection of interest, health and happiness of the consumer by legal control of unmoral and antisocial practices of unbridled, greedy, unconscionable producers and sellers. The constitution of India includes different provision, namely, Equality (Article 14), consumer policy (Article 39, 39(6), 39(C), 39(F), 43, and 47) and Freedom of Trade (Article 19(1), 19(6), Article 301 and 304) and moving to High Court in case of violation of consumer rights. (Article 226 and 32).

Besides the protection granted under Indian constitution, there are various Acts which protect the consumers from various abuses prevailing in the market place. A brief discussion on these Acts is as under.

1. Indian Penal Code, 1860

The Indian Penal Code 1860 is most relevant Act, for the prevention of food adulterations. The Indian Penal code u/s 272 to 273 and section 478 to 489 seeks to restrict malnutrition caused by circulation of harmful food articles among the people. Sec 272 to section 273 prohibit adulteration for the purpose of sale. Sec 478 to 489 deal with the fraudulent and misleading description of articles of trade and fake packages. Sec 486 covers offences pertaining to counterfeit trademark.

The offence of Public nuisance has been defined under section 268 of the IPC in general to mean an act or illegal omission which may cause any common injury, danger or annoyance to the public or people in general. Further, Sec 269 to 278 deal with certain specific categories of public nuisances.

2. Criminal Procedure Code, 1898

Sec 133 of this Act also provides special powers to the executive magistrate in case of violation of consumer rights.

3. Contract Act, 1872

This Act contains the law relating to buyers and sellers, their rights and responsibilities and conditions on which the contract is to be executed. This Act has specified basic principles by which an agreement becomes a contract. The contract-
Act emphasizes the principle of Caveat Emptor where it is the purchaser's responsibility alone to check what he is buying is sale able and workable for intended purpose.


This Act provides for the settlement of consumer-seller disputes. This Act has changed the principle 'Caveat Emptor' and casting a responsibility on the seller to offer merchantile goods. The ordinary rule in a sale of goods is that conditions and warranty are not implied. The Sale of Goods Act provides several important exceptions to this rule. Further an implied condition that the goods are free from any charge or encumbrance, are of the description tendered and shall perform according to usage and standards. Besides return of price or free repair or replacement, damages can also be claimed for any loss or harm or injury of suffered buyer.

5. Agricultural Products (Grading and Marking) Act, 1937

This Act provides for quality certification popularly known as 'AGMARK' for agricultural commodities. The certification scheme is voluntary for domestic but mandatory for export purpose.

6. Drugs and Cosmetic Act, 1940

The purpose of this law is to regulate the production, trade, distribution, import and export of drugs and cosmetics which are of up to the required standards but also being sold under misbranding.

7. Capital Issues Control Act, 1947

The main objective of this act is to channelise resources in planned direction on priority basis and also to protect the innocent investors.

8. Emblems and Names (Prevention of Improper use) Act, 1950

The Act prohibits the use of specified names, emblems or official seal for general publics and specially for advertising purposes.

9. Industries (Development and Regulation) Act, 1951

It provides for representation of the interest of consumers on good manufactured or produced by scheduled industries on the Central Advisory Council. The Act
contains several provisions about regulation in price/quality, and hoarding. The central Government is also empowered to cause investigation to be made into scheduled industries in cases of marked deterioration in quality and unjustifiable rise in price of and any article.

10. **Forward Market (Regulation) Act 1952.**

It regulates forward trading in various commodities to which regulatory provisions of this Act have been applied. It takes action to curb unhealthy speculation, keeps watch over price trends of a number of commodities.


This Act controls the standards of various goods and simplification of same to encourage standardization. This law guarantee the replacement of substandard goods which are not according to the prescribed standard when carrying the ISI Mark.

12. **Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954**

This Act tends to prevent advertisements which claim miracle or magical cure of diabetes, cancer, arthritis, asthma, sexual impotency, blindness, polio etc. which are difficult to cure.

13. **Prevention of Food Adulteration Act, 1954**

It prohibits manufacturing and sale of adulterated food, adulterated food includes articles of cheaper substance injurious to health, contaminated, filthy, rotten, decomposed or diseased etc. and includes drink for human consumption. Under the Act use of food colours derived from coal tar has been banned. PFA also places responsibility on the consumer for checking adulteration by acting as food inspector provided certain conditions are satisfied.

14. **Essential Commodities Act, 1955.**

This law provides for the regulation/control of production and distribution of Essential Commodities by the government so that scarce commodities are available for consumption. It provides for rules and orders to govern the manufacture, distribution, storage, prices etc of essential commodities.
15. Companies Act, 1956

Company legislation in India protects from monopoly of large corporations by developing a system of checks and controls.

16. Standards of Weight and Measures Act, 1956 and 1976

This law determines the system of measurement also called metrology of various weights and measures. The Act prohibits the use of non-standard measures. Packaged Commodities Rules framed under the Act provides for printing of necessary details on the packaged commodity with effect from May 1, 1984. All the packed commodities for sale have to be packed according to metric system of weights and measurement.

17. Trade and Merchandise Marks Act, 1958

This law provides for the registration of trademarks of manufactured goods so as not only to protect the business but also the consumer being cheated due to non-identifiable products.


This Act has been enacted with the objective of curbing monopolistic and restrictive trade practices. Before the 1984 amendment, the MRTP Act contained no provision for the protection of consumer from unfair trade practices, such as deceptive and misleading advertising, hoarding of goods and supply of unsafe and hazardous products.

The Act was directed against the restrictive and monopolies trade practices and the common interest was sought to be protected by promoting competition and curbing anti-competitive activities of manufactures and dealers. The major provisions relating to unfair trade practices and regulation in India are contained in Section 36A, 36B, 36C, 36D and 36E which have been inserted in the MRTP Act by the 1984 amendment which became effective from Aug 1, 1984. Other provisions relevant to the regulation of unfair trade practices are contained in certain other Section of the Act which include 12A, 12B, 14 and 61. Sec 2(O) consider resale price maintenance (RPM) as one of the restrictive trade practices which defines RPM under clause (11) of Sec 2(O) which tends to bring about manipulation of prices. The three sections viz. Sec 39, 40 and 41 deal with resale price maintenance under the MRTP Act.

It was passed to save the customer from exploitation by seller/owner and regulate the rights and duties of both the parties.


It prohibits manufacturer for Sale of house hold electrical appliances which do not conform to relevant ISI standards and required the manufacturer to take certificate from appropriate authority.


This regulation has the provision to test any Fabric suspected to be substandard. It protects the consumers from fake stamping about various contents of Fabric.

The following Acts/orders are also important from the point of consumer interest:


From the above, it is clear that we have a plethora of laws and regulation to protect the consumer interest. But none of these legislation is completely in all respects. The intentions behind enacting these legislation was to regulate various marketing activities. They suffer from a number of defects. Some of which are enumerated below:

i. The contract Act suffered from various lucunae and did not contain any positive rule of law governing the legal position of parties to a contract.

ii. The main drawback with the Essential Commodity Act, 1955 is that it does not provide for the time limit from the stage of drawing the samples to the stage of the
furnishing by the Public Analyst of his report. The legislation does not provide for time limit for the institution of the prosecution.

iii. The words 'not unreasonable delay' are ambiguous. The delay generally provides more time to the authorities for contracting the traders and suggesting them ways and means how they can get their seized goods recovered by payment of illegal gratifications. Moreover, Essential Commodities Act is silent as to how the price would be determined in case of essential commodities.

iv. The standards prescribed under the Prevention of Food Adulteration Rules 1955 in respect of various articles of food and drink are not exact standards of quality. They are minimum standards. Instead of raising the standards to the optimum levels the proposed draft of changes in rules sought to lower further the existing standards (in respect of certain articles of food and drink) to the prejudice of the consumer.

v. The lenient view of judiciary is also clear from the provisions of Probation of offenders Act, 1958 to offences relating to food adulteration. The Act is failure to provide for mandatory standard of identity and quality for all goods which would force the law in cases involving prosecution for adulteration and misbranding.

vi. The implementation of Prevention of Food adulteration Act has been rather tardy. The government has never insisted on packages giving complete information on food labels. Disclosure of all ingredients has never been made compulsory. In case of drugs, the drug controller never given wide publicity to drugs withdrawn or decertified. Further drugs do not indicate the side effects the are likely to be caused by them.

vii. The conditions and stipulation under Hire Purchase Agreement governed by sale of goods Act, 1930, do not appear to be favour able to customers/hirers and as such it is the seller/owner who takes advantages out of the stipulations/conditions under hire purchase agreement.

viii. The monopolies and Restrictive Trade Practice Commission has cumbersome procedure to deal with the customers complaints and general disregard by the official agencies. It takes four to five years for the consumer organisation to get justice from the commission while industrial houses engage lawyers at high cost.

ix. The MRTP Commission powers to grant compensation have been lying unused due to cumbersome and self defeating procedure adopted for dealing with consumer complaint under the Act.
x. MRTP Commission has no judicial power.

xi. Besides a number of defects in the legislation the enforcement machinery in India has also been ineffective due to lot of overlapping in coverage of activities bureaucratic implementation.

It can be concluded that most of these legislations have not succeeded in fulfilling their avowed objectives, not many offenders have been brought to book under their provisions. According to Cuts (1991) Reports, An average of 15 persons a year were detained under the Black Marketing Act in India during last 10 years and only 239 persons were convicted under the omnipotent Essential Commodity Act during May 1990 in India. Besides this, more than 70,000 cases under the essential commodities Act are pending before the court for disposal. K.C. Kohli (1989) remarks that any-law passed with the best intention becomes ineffective due to the laxities of administration and the attitude of agencies which are subject to the enactments and coupled with this, is the widely prevailing corruption among the agencies administering the law. According to S.N. Singh (1987) our parliament generally enacts a legislation in skeleton form then delegates rule making and enforcement powers to the executives, retaining its supervisory powers. S.L. Rao (1988) comments that there is gap between intent of the law and its implementation. On the other hand laws and regulation have made our economy over regulated and helped to perpetuate the evils they were intended to curb by hampering production and making corruption all pervasive under the prevailing legal environment, experience of trade and industry show that often the innocent is caught within the web of legislation on minor technical grounds. He suffers for lack of coordination in different government department dealing with consumer protection matters. Moreover, the working of various enactments have room for loose interpretation.

On the other hand, the high administrative cost of implementing consumer protection legislation has only increased the burden on the consumers in the form of higher taxes and prices. The total costs of administration is around Rs.1000 crores. Our distribution network consist of 3 million plus retailers, out of which 35 percent are located in rural areas which remain unorganized and far from the grip of legislative machinery. As a result the regulatory measures have created more scope for harassment and corruption without providing much relief to the consumers.
In order to overcome various limitation in the legislations and implementation machinery a comprehensive Act was passed by the Government of India in 1986.

22. Consumer Protection Act, 1986

The consumer protection Act, 1986 is an important piece of legislation in safeguarding the interest of consumers. The main significant features of this Act are:

(i) The Act is applicable to all goods and services unless otherwise stated by government

(ii) It is applicable to enterprises falling in the categories of public sector, financial institutions and cooperative societies.

(iii) The provisions are in addition to and not in derogation of provisions of other the laws.

(iv) The Act is a comprehensive legislation with its main thrust on giving speedy redressable and compensation to the consumers.

Benefits of COPRA

(i) Now it is not necessary to consult a pleader or legal expert.

(ii) Speedy and cheap relief are being given by the authorities.

(iii) Forums/Commissions have to follow the fundamental Principles of Natural Justice.

(iv) It avoids procedural delays.

(v) It extends adequate compensation to the aggrieved party.

Machinery Constituted

Certain authorities are established under the Act. They are (1) Consumer Protection Councils and (2) Consumer Disputes Redressal Agencies. The governments have constituted Consumer Protection Councils in order to promote and protect the rights of consumers such as right to safety, information, choice, to be heard, seek redressal and consumer education.

Consumer Disputes Redressal Agencies

Under the Act, a consumer redressal Forum will be known as the District forum, which will be established by the State government. The District forum will have
jurisdiction to entertain complaints where value of goods or services and compensation if any claim is less than Rs. one lakh.

State Commission

It will have jurisdiction to entertain complaint where value of goods and services and compensation if any exceed Rs. one lakh but does not exceed to Rs. 10 lakh and to entertain appeals against the orders of any District forum within the state.

National Commission:

The National Commission shall have jurisdiction to entertain complaint where value of goods or services and compensation if any exceed Rs. ten lakh and appeal against the orders of any state commission.

Enforcement:

If the defendant fails to comply with the orders of any of above mentioned agencies than he shall be punishable with imprisonment for a term or/and fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees.

Lacunae:

(i) Insufficient time with the president of forum and commission to deal with the cases of consumer problems.

(ii) Judiciary will be over burdened.

(iii) Cases are hurriedly decided.

(iv) Political touch in case of appointment of people to this machinery.

(v) There is no provisions for checking the activities of traders and their malpractices.

(vi) It can do nothing about restricting the inflation and price hike.

(vii) The Act has not clearly mentioned in relation to services provided by municipal corporation, health services and other development authorities.

(viii) There is no provision for giving interim relief or issuing interim injunction which may be necessary in some cases.
Role of Public Interest Litigation in Consumer Protection

The constitution (forty second) Amendment Act 1976 through this amendment under Sec 8 has endeavoured to insist Article 39 of the constitution which speaks for equal justice and free legal service to poor and disables. Since 1971, efforts has been made to introduce Public Interest Litigation in the Indian Legal System. The Bhagwati Committee of Gujarat was against the present functioning of private bar based on the principle of bargaining. Thus the PIL yields a new jurisprudence plaque in the field of consumerism to an easy access to justice to everyone against any public wrong affecting adversely the public health or welfare. It can be instituted against manufactures and/or producers, who commit fraud against the health and welfare of consumers through the process of sale of their commodities.

1.7.2 B: GOVERNMENT AS PRODUCER

Role of Public Sector:

The government has entered in the market as a producer and marketer with the following objectives:

- to prevent concentration of economic power
- to effect equitable distribution of income through social over head capital
- to act as a countervailing force and put up an effective competition to the private sector.

There has been phenomenal growth of the central government enterprises in the last decades of planning. The number of public sector under the central Government stood at 232 with an investment of Rs.65,564 crore. The consumer goods industries accounted for only 1754 cr., which was barely 2.05 percent of the total investment in the central public enterprises. Besides this states have its own controlled public sector units but most of them are sick. The rate of return on investment is still very low which varies from 1.5 to 4.4 per cent in different years. Whereas state controlled PSUs which account for more than 75 per cent of the total PSUs, almost all of them are running under losses. The share of the public sector in the GDP increased from 15 per cent in 1970-71 to nearly one fourth in 1988.

Criticism

(1) Inefficient in many respects and indifferent to the public needs (2) Instead of
making surpluses to the economy, it has been making huge losses. (3) Public Sector has consistently operated less efficiency than their counterpart groups in the private sector (4) It is increasingly becoming a political sector and mismanaged and corrupted by the inefficient and unscrupulous politicians including the trade union leaders. (5) Public sector organisation are mainly high cost oriented they have long periods of construction, commissioning and gestation, inexperienced manpower, over-capitalisations, hasty expansion scheme, subsidies welfare facilities, high cost of land acquisition and distorting the proper distribution of materials in the country.

1.7.3C. Miscellaneous role of government

1. Consumer Cooperatives

The consumer cooperative movement was established in 1904. It has an organised structure in the distributive trade. It plays a vital role in making available essential and other consumer goods at reasonable prices to the common man by adopting fair trade practices. In order to ensure that the consumer cooperatives stay as a permanent part in the distribution system, programme for development of consumer cooperative has been introduced in a planned manner. Consumer cooperatives are promoted and strengthened to support public distribution system and to support a strong consumer protection movement both in urban and rural areas.

In India, there are 22035 primary consumer cooperative stores, 660 central wholesale consumer societies at district level, 26 State level consumer federations, State Marketing-cum-Consumer Federation and a National Consumers Cooperative Federation (NCCF). The cooperative network has 36,000 outlets in urban and 55000 primary agricultural credit societies in rural areas. Half of these are actively involved in distribution of consumer goods in rural areas.

The following are the drawbacks of the Cooperative system:

1) The consumer cooperatives has failed to check the rise in prices, scarcities and adulteration.

2) It has emerged as a Government policy rather than a movement, it has never benefitted the poor people. Government wants to have the entire distribution system under its control so that it can execute its policies through the cooperative distribution outlets.
3) The rich people are holding the reins of this movement in their hands for their selfish ends.

4) The politician have established absolute control and monopoly over the cooperative system in the post independence period.

5) The four tier in the cooperative structure are working independently without any coordination. (M. Hamparna, 1990)

6) The main reasons for the failure of cooperative consumerism are lack of participation and involvement of members. (Madhu Mantri, 1990)

2. Public Distribution System:

The present production cum distribution system launched in July 1979 was originally conceived to be an effective measure to safeguard the interest of the venerable section of society. It supplies seven essential commodities viz rice, wheat, edible oils, Kerosene, soft coke, cloth and sugar. The number of fair price shops has increased from about 2.39 lakh in March 1979 to about 3.38 lakh in March 1987. Out of which one fourth are being operated by the cooperatives. The central Government agencies such as Food Corporation of India (FCI), State Trading Corporation (STC) Coal India Ltd (CIL) and public sector oil companies are entrusted with the task of supplying these commodities at Central issue prices. For the seventh plan period, the planning commission has approved an outlay of Rs. 2.5 crore. for this scheme. Financial assistance is also provided to various states which was amounted Rs. 182.5 lakh in 1987-88 (India, 1990).

The working of PDS is periodically reviewed. PDS is well known for the partial distribution. It caters to the needs of all sections of society. It has certain drawbacks which are inherited in this system. The following are the basic constraints viz operational, structural, ecological and behavioural:

C. Administered Pricing

The aim of this policy is that commodities produced by public sector must neither be under priced by providing unnecessary subsidy to the private sector nor be over priced by taking advantage of monopoly position. Ultimately, this causes inflationary trends.
D. Marketing in a regulated Environment

In order to ensure justice, fairplay and genuine and free competition in the sale and purchase transactions of agricultural produce by removing malpractices and illegitimate conventions prevailing in the marketing centres. The government has enforced an Act. Sale and purchase transactions are enforced by market committee according to this Act. Regulation doesn’t aim at dispensing with middleman. It makes them to do their business according to certain rules, the observance of which is conductive to legitimate and genuine interests of cultivators as well as middlemen.

E. Consumer Affair Cell Under BIS

The Bureau of Indian standard has set-up a consumer department to create quality consciousness among the common consumer with the ultimate aim of providing consumer protection. The department performs the following functions besides other functions.

(i) Interaction with consumer welfare organisations to ensure consumer protection.

(ii) Organisation of orientation programmes for consumer organisations, women welfare organisations, Home science colleges etc. and acquainting them the role of the Bureau’s certification mark scheme in making available products of acceptable quality.

(iii) Interaction with the central consumer protection council in the states.

(iv) Active involvement of consumer organisations in standard formulation.

(v) Dissemination of information to organised consumers about items of their interest covered under the Bureau’s certification marks scheme so that preferential treatment is given to such products in their purchase programme.

(vi) Speedy disposal of consumer complaints in respect of products carrying the Bureau standard Mark.

(vii) Identification of items of mass consumption with a view to bringing them under mendatory standards.

E. Laboratory facilities

Three regional Reference Standard Laboratories (RRSL) were set up at Ahmedabad, Bhubeneshwar and Bangalore to provide facilities to state enforcement
organisations and the Industries of the region. Facilities in these laboratories have been
developed with the ultimate object to improve quality measurement in Industries and
protect consumer interest in the matter of quality. National Physical Laboratory (New
Delhi) is responsible for realisation, establishment, custody, maintenance and updating
national standards of weights and measures.

G. Mass Media

The role of mass media is equally important for increasing consumer awareness.
The Indian television has so far had launched many programmes one being JANVANI,
or a question answer session with a union minister; and the other Rajni, where a
consumer activist champions the cause with guts and glamour and consumer protection
programmes named SOOJ BHOOJ has been launched by Doordarshan. All India
Radio (Ahmedabad) have evolved a programme of organising Lok Samasya Ki
Sansad (Parliament for people's problems) where the general public is invited to
question the bureaucrats and ministers on the functioning of the concerned ministry.

The main criticism has been imposed by the public against the Doordarshan that
it is more concerned with elitist consumption and mindless consumerism being
promoted by it through its daily bombardment of commercial advertisement on the
consumer.

From the above discussion it is clear that government has made various
endeavours in protecting the interest of consumers. Since independence the
government has been enacting different legislations both at central as well as state
level. It created Consumer Council in 1983, with the objective to protect the
consumer interest under the civil supplies department. It has given due importance to
public distribution system and co-operatives. They have become important organs in
the retail trade in the rural areas.

Government has also recognised the role of consumers and consumer
organisations. Special funds have been provided for various consumer organisations
which were fighting for consumer cause. A major consumer protection legislations
have been enacted wherein the consumer organisation can file complaint with the
specific authorities. These Acts are the Essential Commodities Act, Standards of
Weights and Measures Act, The Agricultural Produce (Grading and Marking) Act,
The Monopolistic and Restrictive Trade Practices Act and Drugs and Cosmetics Act 1986 in addition to this a comprehensive legislation was enacted in 1986.

For the encouragement of the consumer activists and consumer organizations the Government of India instituted a National Award for Consumer Protection in 1988 to recognise the efforts made by voluntary consumer organisations in this regard. Government has also made some efforts in the field of advertising by introducing taxes on it. A special scheme has also been launched such as use of technology for consumer protection and in addition to this a technical committee is also constituted which will determine the efficacy of product which corresponds to Environment, such product will be sorted out by stamping on it "ECOMARK" besides this the role of mass media plays a crucial role in consumer protection. Moreover the government has constituted a separate cell, the Directorate of Public Grievances at Sansad Marg (New Delhi) for the consumer complaints.

1.8 Role of business in Consumerism

The present day market is characterised by product differentiation and use of high level of selling techniques. In this situation the consumers have more chances of being cheated. In order to guard the interest of consumers, government attempts have not reaped desired results. In the past a continuous campaign by various consumer organisations against the business malpractices has made the businesses realise its responsibility towards consumers. It has been realised that the business action towards responsible marketing lies in self-regulation and by giving fair deal to consumers. There is no substitute for voluntary regulations. Statutory regulations is the crudest form as well as a last resort to secure a disciplined business conduct. The main steps taken by the business in this direction are as given below.

I. The council of Fair Business Practices was established in 1968 at the initiative of some awakened industrialists. the council has drawn up a code of conduct which enjoins on all businessmen to charge only fair and reasonable prices, not to indulge in hoarding and profiteering in times of scarcity, not to trade in spurious or sub-standard goods, to maintain accuracy in weights and measures and not to publish misleading advertisements. Recently, the CFBP drafted a model warranty which had been prepared after considerable research. In the model of warranty the council has incorporated following points:-
(a) The company warrants to repair or replace any defective part or parts without charge during the warranty period provided defects do not arise due to usage inconsistent with the instructions provided in the manual.

(b) This warranty offers free after sales service, (i.e. transportation of defective articles to the sales centre from where the product is procured)(P.K.Ghosh et al.1991).

2. In 1973, a trustee foundation was founded by some businessmen on the Gandhian principle. It is based on self disciplined and non-exploitation in public life specially with reference to business and industry. In this occasion an appeal was made to the top 100 companies to change their article of association and incorporate in it a clause regarding social obligations to the consumer and community(K.M.Mittal, 1988).

3. All India Association of Engineering Industries has also evolved a code of conduct for the observance by business organisations. The code has provision for observing standard norms, maintaining adequate stocks and environment protection.

4. In 1984 FICCI adopted the norms of business ethics, namely, assurance of quality of articles manufactured, processed or sold and adherence to the standards specified, avoidance of storage, sale or production of adulterated goods: maintenance of accuracy in weights and measures of specifications of goods-offered for sale, issuance of warranty certificates for product sold based on actual reliability test and provision of effective system for attending to consumer affair cells in business houses.

   FICCI has also set up consumer affair cell to redress consumer grievances. They had also requested their members and associate members to set up such cells. In 1989 approximately fifty three companies set up consumer affair cell.

   For safeguarding the environment, a quarterly journal Encare was brought by FICCI. It is intended to make industry aware of environmental issues and also to support the waste management system at the enterprise level besides giving information about the availability and supply of waste in industries. A training programme in the area of pollution control will likely be organised by FICCI in collaboration with the National Environment Engineering Research Institute (NEERI) a nodal body of the CSIR.

5. The Consumer Business Forum (CBF) was established under the aegis of FICCI in 1985 with the objectives of establishing an atmosphere-of-mutual trust and understanding between the consumer and the business, safeguarding the interest of
consumers through out self regulation and fair business practices, and simplification and coordination of consumer protection in consultation with the business community.

6. An advertising standard council (ASCI) was established in 1985, to check the unethical advertisement. The code of conduct will be followed by all advertisers. From the consumers' point of view the most useful body is the consumer complaint council (CCC) with 14 members out of this 6 belong to non-advertisement fields. The function of consumer complaints council is to examine the consumer complaints from members, for any breach of code of conduct and/or advertising ethics and to recommend action. The decision taken by CCC are binding on the Board of Governors with people from different field. The ASCI does not initiate any complaint suo motu...Recently, it did a commendable job, out of 104 complaint upheld, 90 advertisers either withdrawn or modified the advertisement. This shows the ASCI's moral authority is binding on the members and members obey the ASCI codes(Ram Krishna Bajaj,1990).

7. Some companies like Voltas Ltd took initiative by opening a consumer affair department (CAD) which is a sub-division of the department of corporate affairs (DCA). It is charged with the responsibility to attend to consumer complaints and advocating the customer's view point within the company.

8. ASSOCHAM, in 1988, set up a special expert committee on consumer affair and has now taken up work of persuading leading manufacturers of consumer articles to establish regular consumer affairs cell (CAC) to attend consumer grievances and suggestions on an institutional basis. Many chambers of commerce have also established similar CAC's within the organisation (CFBP,1989).

9. Complaint boxes at MRTPC premises number of companies kept complaint boxes at the MRTP of office, nailed all along the walls, in the hall outside the office of director general of investigation and legislation. The keys to the boxes are with the staff of directorate who also keep a copy of complaint. If the companies do not respond within the stipulated time to the consumer complaints then MRTP can take action against such complaint. Till 1990, 40 companies had set up their complain boxes.

10. Setting up of quality circles

Quality circles are small groups of people doing similar work, meeting voluntarily and regularly to identify and analysis work related quality and other problems recommending their solutions to the management and where possible implementing
the solution themselves. Quality circles not only improve the quality of goods produced but also that working atmosphere because it makes the members feel that they are doing something worthy and identify themselves with the organisation (M.K.Verma,1988). The concept of Quality circle was first introduced in Hyderabad unit of BHEL and later on in Telco. Now, it is practised in more than 200 companies in all over the India both in public as well as private sectors.

11. Awards for better performance:

In order to adopt voluntarily the consciousness for better quality and performance, it is essential that conscientious businessmen are encouraged. CFBP has initiated Jamnalal Bajaj Award for fair business practices in 1988. This award has been renamed as Jamnalal Uchit Vyavahar Puraskar. It helps in encouraging the high standards of integrity and adherence to fair business practices in the interest of the consumer and the public at large. Businessmen of the year award is given to the business who contribute substantially to public policy and business ethics. This award was sponsored by Business India in 1982 (Subroto Roy, 1987).

12. Miscellaneous Activities

The New Delhi Traders’ Association has decided to set up an institute to develop healthy relationship between traders and consumers so that mistrust and misgivings in the minds of consumer may be removed. It proposes to train traders in fair practices and the art of consumerism (Pritee Shah, 1987). Business organisation of Madhya Pradesh formed their federation after the issue of state government directives in regard to consumer protection. Sometimes ago Bombay Builder Association also adopted FICCI’s code of conduct. Another FICCI sponsored organisation named the confederation of Indian Food Trade and Industry has drawn up a code of ethics for its members aimed at quality products.

The Life Insurance Corporation of India (LIC) has also set up a central and several zonal claim review committee. Several private companies have also set up in house redressal cells.
It can be concluded that business has realised its role to certain extent. A few businessmen have done a remarkable job in setting various consumer affair cells, complaint offices and followed a code of conduct for its members. New methods of ensuring better consumer service have been adopted viz. Quality Circles, Social and Consumer Audit etc. In recent time many Indian companies are striving for international quality standards which shows a healthy sign for the Indian Market.