Chapter First - Introduction

Introduction

This chapter comprises the brief background of Consumer Protection in India followed by Consumer Protection Act-1986 and establishment of Consumer Courts in India. Furthermore, establishment of Consumer Courts in Uttar Pradesh has also been discussed followed by dispute redressal procedure under District Consumer Courts. The researcher has also outlined the need of the study, objectives of the study and methodology adopted during the research work. The researcher winds up this chapter with few limitations of the study.

Concept of Consumers

According to Consumer Protection Act, consumer means any person who hires the services or consumes the goods for the consideration and consideration may by paid or promised or partly paid or party promised or it may be under a system of deferred payment. So, consumer is person who hires the services or buys the goods for the consideration. Moreover, any beneficiary of such services, using the services or goods with approval of purchaser is also considered as ‘consumer’ under the Consumer Protection Act-1986. In addition to this, a widow of deceased policy holder is also considered as consumer under the Act.

- **Criteria for Being a Consumer**: According to CPA-1986, following persons are considered as consumers.
  - A person who buys or hires service for consideration.
  - Any beneficiary using the service with prior approval of purchaser or hirer.
  - The widow of deceased policy holder is also a consumer.
  - A same criterion is applied in case of consumer of goods.

- **Who is not Consumer**: According to CPA, the following persons are not considered as consumers.
  - A person who hire the services for resale.
  - A person who obtains the services for commercial purpose.
  - A person who avails the services without consideration.
A person who avails the services under a contract of personal service.

Apart from this, in various cases, National Commission had declared that the following persons would not be considered as consumer;

A tax payer to municipality
Contractors
Applicants for jobs
A person who files suits in courts.

**Sovereignty of Consumers**

Consumer sovereignty means that a manufacturer or trader can sale only those products or services which are demanded by consumers, because ultimately it is consumer who buys products or services and consumer does not buy unless it (goods or service) satisfy his or her wants or needs. Furthermore, businesses are free to sell any legally allowed services or goods, but if services and goods are not demanded by consumers, it will remain in stock and businesses will suffer loss. That is why businesses have to consider the wishes of consumers because consumer is a king or ruler of the market.

**Exploitation of Consumers**

The growing interdependence of the world economy and international character of many business practices have made emphasis on consumer protection and promotion. Now, Consumers, all over the world, are demanding value for their hard earn money in the form of quality goods and better services. It is true that modern technological developments have made a great impact on the quality, availability and safety of goods and services. But the fact of the matter is that the consumers are still victims of unfair and restrictive trade practices adopted by trader or manufacturer. In today’s business environment, consumers can be exploited in numerous forms such as adulteration of food, dubious hire purchase plans, spurious drugs, poor quality, high prices, deficient services, hazardous products, deceptive advertisements, black marketing and many more. In addition to this, with revolution in information technology, some new kinds of challenges have emerged like cyber crimes and plastic money etc., which affect the consumers drastically. As it is said
that ‘Consumer is sovereign’ and ‘customer is the king’ seems to be a myth in today’s highly competitive business scenario particularly in the developing societies. However, it has been realized that consumers have to be given their due importance, because survival of businesses for long is not possible without consumer satisfaction with the offered product and services. Consumer protection is a socio- economic programme that is to be carried forward by the government as well as the businesses as the satisfaction of the consumers is in the prime interest of both. However, the government has a primary responsibility to protect interests and rights of consumers through appropriate policy measures, legal structure and administrative framework.

Concept of Consumer Protection

The term ‘Consumer Protection’ refers to protection of consumers from unscrupulous, unfair and unethical malpractices as well as safeguarding the interests and rights of consumers through exercising the existing redressal mechanism. The most common business malpractices that cause consumer exploitation are given below.

- Selling adulterated goods i.e. adding something inferior to the product being sold.
- Selling of spurious goods i.e. selling something of little value in place of original product.
- Selling of sub-standard goods i.e. selling of product that does not match prescribed quality standard.
- Adoption of falls weight and measure that leads to underweight.
- Adoption of hoarding and black marketing that lead scarcity and frequent upward movement in general prices.
- Charging more than prescribed rate i.e. asking for payment more than M.R.P. (Maximum Retail Price).
- Selling defective goods at the rate of original goods.
- Adoption of deceiving and misleading advertisement i.e. advertisement that falsely claims a product and service to be of superior quality, standard and grade.

The above mentioned points are the examples of how consumers get exploited at the market place. In a country (democratic) like India, should we allow these things to be happen?
Certainly not, that is why the measures adopted by government and non-government organizations for safeguarding the interests and rights of consumers constitute Consumer Protection.

**History of Consumer Protection**

Consumer protection is not a modern thought or philosophy or way of life. It has been in the existence for centuries. In India, consumer protection evolved through the centuries under so many religious, political and cultural influences. Concept of Consumer Protection surfaced in India around 3200 B.C. In ancient India, human values were highly regarded and ethical practices were considered as guidelines to be followed by all. However, the rulers realized that the welfare of their subjects was the area of great concern. That is why they showed their strong interest in regulating not only the social conditions but also the economic life of the people by establishing many trade restrictions to protect the interests of buyers. A historical prospective of Consumer Protection from Vedic age to modern time has been discussed briefly as follows;

**Consumer Protection: A Historical Prospective**

In ancient time, all sections of society had to follow Dharma-Sastra in which rules and norms were specifically mentioned to regulate human relations. The guidelines or principles of Dharma were taken from Vedas, which were said to have divine origin. So, *Vedas* were the primary sources of law in India. The living conditions of peoples of that time were interpreted by many writers and commentators through their innovative and divine writings; Consumer Protection was also a major concern in their writing. The most authoritative texts of that time among Dharmas are given below;

- The *Manu Smriti* (800 B.C. to 600 B.C.)
- The *Yajnavalkya Smriti* (300 B.C. to 100 B.C)
- The *Narada Smriti* (100 A.D to 200 A.D.)
- The *Bruhaspati Smriti* (200A.D. to 400 A.D.)
- The *Katyayana Smriti* (300 A.D. to 600 A.D)
Among all the above mentioned texts, Manu *Smriti* was considered to be the most influential and better than any other text.

**Manu Smriti:** This text discusses about the social, political and economic conditions of ancient society. Manu was a person who provided the law in ancient time in India and also wrote about ethical trade practices. He set up the code of conduct for traders and punishment was also specified for those who would commit certain crimes against buyers. For example, he referred to the problem of adulteration and said that one commodity must not be mixed with other one, if commodity mixed with another must not be sold as pure, or an inferior one must not be sold as superior. The punishment prescribed for adulterating the unadulterated commodities was the least harsh. A severe punishment for fraud in selling seed corn and rules of competency for parties to enter into a contract were also specifically mentioned.

There was also a mechanism to regulate prices and punish those who were involved in wrongdoings. The king had the right to fix the rates for the purchase and sale of all marketable goods. Manu said that if a seller found behaving dishonestly to honest customers or cheats in his price must be fined. A separate process was also designed to inspect all weights and measures after every six months and the results of these inspections were duly noted.

All these measures reveal how effectively ancient society was governed and regulated from many wrongs of the market place. These measures also indicate how developed system was put in place in identifying the market strategies of traders. Thus, *Manu Smriti* effectively dealt with various consumer matters, many of which remain of great concern even in modern legal systems also.

**Kautilya’s Arthasastra:** This text is also considered as one of the prominent sources and various theories were mentioned therein about statecraft, rights and duties of subjects in ancient India. Although, this text was primarily concerned with practical approaches of economics and administration, but rules and regulation for protecting consumer were also specified with some concrete measures in *Arthasastra*. The role of the State in regulating
trade and its duty were judicially designed to prevent unfair and restrictive trade practices against consumers.

Artha Shastra written in the 300 BC, releases details about standardization of weights and measures which are of great importance for consumer protection. As mentioned under text, an officer of standards, probably appointed by the king, would routinely visit factories, farms and markets to carry out inspections once in every four months. All weights and measures had to be stamped by this designated officer of standard and heavy penalties and punishment were prescribed to be imposed on those traders who would use unstamped weights and measures. Apart from this, in order to protect consumers from misguidance of traders, overcharged, adulterated or inferior goods and unfair trade practices, the ruler of the kingdom would issue standard weights, measures, quality criteria and prices for all the commodities commonly used by Consumers on a frequent basis.

According to this text, the role of minister of commerce was well defined and was considered as watchdog of commodity markets. He was empowered to enforce and arbitrate issues of consumers’ interests with the intent of insuring a fair trade situation in the market. The major areas which were under the control of the minister of commerce include pricing, distribution channels, popularity assessments and market segmentation of consumable goods. There was no room for trade guilds, black marketing and unfair trade practices as per Arthasastra and severe punishments were prescribed for the perpetrators of such crime.

Although, this text was full of rules and norms for protecting consumers, but some rights were also mentioned to save traders from unethical and non-creditworthy Consumers. Clearly, some rules were suggested for the returns of goods, payment of bills for service rendered and for collection of escrow payments. So, this text was not one sided, it was two sided in regulating and controlling economic activities. Primary assumption of Arthasastra was that the government was very effective in regulating the market and protecting the interests of the consumer and this assumption came out to be true particularly in the period of Chandragupta Maurya, when the legal and judicial system were the finest in the world. It is great honour for us that a genius, like Kautilya envisioned concept of Consumer Protection and encapsulated his thoughts in his luminous text before consumerism was born in modern world.
Consumer Protection in Medieval India

Consumer protection was of paramount importance in the medieval period in India starting from 1000 AD to 1750 AD. Many dominating Muslim rulers had ruled India during this period from their capital in Delhi. The Delhi Sultanate, well known for Muslim ruler, set up a platform for the economic, financial and commercial backbone of the Indian medieval period. The memorable period of Consumer Protection in medieval India was the period of Alauddin Khilji ranging from 1296 AD to 1316 AD. He was the second ruler of the Khilji dynasty. During his reign, there was substantial improvement in the weights and measures standardization process that caused dramatic changes in the transparency practices of traders with consumers.

For weighing and measuring the Commodities, some yardstick was established by the Sultan and the people who would not follow the established standards, would be punished through fines and even capital punishment. The Sultan had appointed some judges, who were empowered in enforcing the rights of the consumers and approaching the courts when injustice happened with innocent consumers. Other rulers, except Sher Shah Suri, of Khilji dynasty did not contribute much to Consumer Protection. He (SSS) stated that an economy is always dependent on how well it consumers are behaved. He also established some measure and set forth decimal and centenary systems with respect to the established measure, some guidelines were released from time to time for produce, grocery, confectionaries and pharmaceuticals.

Consumer Protection achieved a new height during the reign of Akbar, because in this period, various prominent achievements were made in matters relating to consumer protection. The right to be informed about quality, quantity, purity and potency perhaps found its root during this period. All traders were directed to release details regarding quality and quantity of product, weights and measure, grade and usability and percentage of adulteration if required. The king appointed some secret service personal to supervise trader’s activities relating to consumers and enforce the traders to follow the law of land concerned with protection of consumers. The traders were strongly punished if found violating rules and regulations. Consumers were also empowered to return the goods that
did not meet set-standard requirement related to quality and quantity. Akbar’s contribution to Consumer Protection was considerable, but other Mughal emperors did not focus in this area. But their contribution is memorable in literary, architectural and military pursuits.

**Consumer Protection in Modern India**

**Pre-Independence:** During the British rule, several laws were enacted for the protection of interests of consumers and for establishing fair competition, but infect, issues related with Consumer Protection were deteriorated in this period. The acts which were brought in to existence during British rule are follows-

- The Indian Penal Code, 1860
- Carriers Act, 1865
- Law of Tort
- The Indian Contract Act, 1872
- The Agricultural Produce (Grading & Marking) Act, 1937
- The Drugs and Cosmetics Act, 1940

**Post-Independence:** After independence, several laws were enacted in India for protecting innocent consumers from unfair and restrictive trade practices like false and misleading description about the nature and quality of the goods, exaggerated statements about their power and potency, false weights and measurements and obstruction of capital and resources into stream of production. The Acts which were enacted in independent India are given below-

- The Drug (Control) Act, 1950
- The Industries (Development and Regulation) Act, 1951
- The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954
- The Prevention of Food Adulteration Act, 1954
- The Essential Commodities Act, 1955
- The Trade and Merchandise Marks Act, 1958
- The Monopolies and Restrictive Trade Practices Act, 1969
- The Cigarettes (Regulation of Production, Distribution and Supply) Act, 1975.
The Standards of Weights and Measures Act, 1976
The Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980
The Standards of Weights and Measures (Enforcement) Act, 1985
The Bureau of Indian Standards Act, 1986

But all these Acts were not as successful as they were expected to be and that is why to provide for better protection of the interests of consumers and to save them from the evils of unfair trade practices, Consumer Protection Act -1986 was enacted by Indian Government and this act (CPA) is an additional act not the derogation of any other existing law.

The Indian COPRA-1986: An Evolution of a New Legal Culture

The Indian legal system experienced a revolution with the enactment of the Consumer Protection Act of 1986, which was specifically designed to save the interests of consumers. The CPA was passed with some specified objectives. This act was designed to provide speedy, inexpensive, hassle-free and compensatory redressal to aggrieved consumers. The CPA has received a warm welcome in India as a legislation (especially for the poor) that ensures easy access to justice. More than two decades of experience with the operation of the CPA indicates its national-wide acceptance and the legal preference of injured consumers to enforce their rights under it. The CPA has got consumer’s support due to its cost-effectiveness and user-friendliness. In fact, the CPA creates a sense of legal awareness among the public through its councils at the central, state and district level. This Act has changed the perception of public regarding legal system since they (consumers) do not hesitate to visit Consumer Courts for registering their complaints and ask for appropriate remedy mentioned therein. In short, the CPA has restored confidence amongst consumers. The way in which the Consumer Forums are flooded with cases and the manner in which these cases are being disposed off indicates an impression of easy justice for consumers. The greatness of the CPA underlies in its flexible legal framework, compensatory in nature, wider jurisdiction and inexpensive justice. It seems that CPA is a mixture of principles of torts and contracts. Frankly speaking, it has been composed of many different aspects of general laws, but this is additional act, not the derogation of any existing law. Basically,
CPA is focused on liberalizing the strict traditional rule of standing and empowering consumers to proceed under the CPA. This legislation includes both goods and services within its ambit. A consumer or any person on behalf of consumer can bring suit for defective goods and for deficiency in services as well.

**The salient features of the Act:**

- This act applies across the country accept the state of Jammu and Kashmir.
- The Act applies to all goods and services unless specifically exempted by the Central Government.
- It covers all the sectors – private, public and cooperative.
- The provisions of the Act are compensatory in nature.
- It provides adjudicatory authorities, which are simple, speedy and less expensive.
- It also provides for Consumer Protection Councils at the National, State and District levels.
- The provisions of this Act are additional, not in derogation of the provisions of any other law for the time being in force.

**Establishment of Consumer Forum in India under CPA**

Consumer Forum established in India by Indian Government under Consumer Protection Act in 1986, for providing better protection of the interests of the consumers and save them from the evils of unfair trade practices and restrictive trade practices. Consumer forum protect the basic right of consumers, such as Right of protection to life and property (against marketing of goods which are hazardous to life and property), Right to be informed (about the quality, quantity, potency and standard of goods and services), Right to choose, Right to be heard in the consumer forum if something goes wrong with the consumer, Right to redress and Right to education.

For the purpose of the speedy, simple and inexpensive settlement of consumers’ disputes, quasi- judicial machinery has been set up at the district, state and central level to defend the legitimate rights of consumer provided under the consumer protection Act. This Act proposes to set up the hierarchy of three redressed forum, (1) District forum (2) State Commission (3) National Commission. A person having grievances against any
manufacturer, trader and services providing company, can file a written complain in the District forum for the value up to rupees twenty laths, State Commission for the value up to Rupees one core and National Commission for the value above Rupees one core, in respects of defects in goods and deficiency in services. However no complain can be filed for goods and services, which are purchased for commercial purpose or which are given free of cost. Consumer forum entertains all the complaints either they are against the manufacturer and trader or service providing companies.

In order to achieve the objectives of consumer Protection Act, National Commission has been authorized with power of administrative control over all the State Commissions. National Commission is empowered to issue instructions regarding adoption of uniform procedure and being a apex court, it has power to go through the functioning of State Commission and State Commission is authorized to go through the functioning of District forum to observe whether the purposes of the act are getting served or not. National Commission oversees the functioning under its jurisdiction without encroaching into the rights of State Commission and District Forum as well.

Establishment of Consumer Forum in Uttar Pradesh

Consumers Forums were established in Uttar Pradesh under Uttar Pradesh Consumer Protection Regulation-1987. First, the State government established a State Commission at Lucknow on 5 Feb. 1988, District Forums were established at 12 divisional headquarters, viz. Agra, Bareilly, Moradabad, Lucknow, Gorakhpur, Varanasi, Faizabad, Jhansi, Kanpur Nagar, Nainital and Dehradun, with the view to provide proper settlement of judicial cases related with grievances of consumers. On Sep. 1991, 51 District Forums were established in rest of districts of then undivided Uttar Pradesh. Due to rising number of cases and for providing speedy settlement of disputes, one additional District Forum was established in the districts where numbers of cases were comparatively higher, viz. Lucknow, Moradabad, Agra and Bareilly on 7 September 1995. Now numbers of District Forums increased to 67. On 10th March 1997, some more District Forums were established, namely Ambedkar Nagar, Mahoba, Sant Ravidas Nagar, Bhadohi, Kushinagar, Padrauna and Udham Singh Nagar. In addition to this, seven more District Forums were also set up by issuing a
notification in May 1998, namely, Rudraprayag, Kannauj, Auraiyya, Baghpat, Sant Kabir Nagar, Bageshwar and champawat, but posts could not be created for them. Due to creation of the Uttaranchal State, 13 District Forums became the part of Uttaranchal, namely, Pauri Garhwal, Tehri Garhwal, Uttarkashi, Chamoli, Dehradun, Haridwar, Nainital, Almora, Pithoragarh, Udham Singh Nagar, Rudraprayag, Bageshwar and Champawat. After this division, number of District Forum remained 74 in Uttar Pradesh. However, some of the Forums were not properly established because post were not created for them viz. Auraiyya, Kannauj, Baghpat and Sant Kabir Nagar. At present, there are 70 District Consumer Forum in Uttar Pradesh. Out of 70, eight District Forums (11.42%) were selected for this study. Name of selected District Forums are mentioned under scope of the study.

**Objectives of Consumer Forum**

Consumer Forums established in Uttar Pradesh under Consumer Protection Regulation Act to meet the following objectives.

- To protect the basic rights of consumers given under Consumer Protection Act.
- To provide speedy redressal to the aggrieved and misguided consumers.
- To provide inexpensive and simple (hassle-free) trail to the consumers.
- To compensate the consumers if they suffer loss or injury due to negligence of service provider or trader or if claim found legitimate.

**Grievances Redressal Procedure under District Consumer Forum**

Consumer Forums established across the country at the different level under the provisions of consumer protection Act, with the view to provide speedy, inexpensive and headache-free justice. A Forum is a place where both the parties (complainant and opposite party) are brought together to settle their disputes, Consumer Forum provides equal opportunity to both of the parties to put forward their point of grievances before it.

Under section 12 and 13 of the Consumer Protection Act, it has clearly been mentioned what procedure would be followed by a District Forum while dealing with a compliant. If any consumer feels cheated and deceived and falls prey to unfair trade practices, can lodge a
complaint against the deceiving firm in the Consumer Forum within whose jurisdiction all
the opposite parties reside or run the business.

District Forum adopts the following procedure on receiving a complaint regarding service or
goods.

1. The District Forum may allow the compliant to be proceeded or may reject the
complaint. However, Forum does not reject the complaint without hearing it.

2. Within 21 days from registration of complaint, Consumer Forum sends a copy of
complaint to the opposite party to appear before the concerned Consumer Forum to put
his or her version before the Forum within the said time or 30 days and this period may
be extended to 45 days, if it is justified.

3. When no laboratory test is required or complaint relates to the service---
   ❖ A copy of complaint is sent to the opposite party and opposite party may admit the
     complaint or may deny the allegations made in the complaint or omits or fails to
     respond within time limit.
   ❖ If opposite party admits the complaint, then judgment is done on the basis of merit
     of the case or documents produced before it.
   ❖ If opposite party denies the allegations made in the complaint, judgment is done on
     the basis evidence brought to the notice of District Forum.
   ❖ If the opposite party fails or omits to respond within time, District Forum proceeds
     forward and made it as ex-party on the basis of evidence brought to its notice by
     the complainant.

4. If the laboratory test is required---
   ❖ First, District Forum asks to the complainant to deposit the fees that would be
     charged by appropriate laboratory for testing goods in question.
   ❖ Secondly, District Forum takes the sample of the defective goods and sends the
     same to the appropriate laboratory for testing whether the goods in question is
defective or not.
   ❖ Appropriate laboratory send back the sample with report to the District Forum
     within 45 day or this period may be extended.
On receiving the report from the laboratory, Forum sends a copy of report to the opposite part with its own remarks.

If any party objects the authenticity or the method adopted by laboratory, objecting party can put his or her objection in written before the District Forum and an opportunity is provided to the opposite party for hearing.

5. If the complainant fails to appear on the date of hearing before the court, court may dismiss complaint or may decides on its merits and if opposite party fails or omits the complaint, court may settle the disputes as ex-party.

6. Forum may pass an interim order during the pendency of a case if necessary.

7. At the end, District Forum issues an appropriate order after hearing the both parties and considering evidence brought to its notice.

The ultimate objective of Consumer Protection Act is to provide speedy, inexpensive and hassle-free redressal to the complainant. Although a well defined and time bound Dispute Redressal Procedure is given under District Consumer Forum and these Forums are consumers’ friendly also, but judgments do not happen within the prescribed time due to irregularity and inconsistency in working.

Secondly, according to the CPA, appearance of lawyer is not compulsory in the Consumer Forum, but opposite parties send their highly educated and experienced legal advisor (a person who know the ins and outs of the Forum and its functioning) to face the proceeding and that is why complainants also have to hire the services of lawyers. They (lawyers) charge fee for the service and due to this fact, dispute redressal for common consumers become dearer in Consumer Court. Therefore, ultimate objectives of CPA remain unachieved.

**Other Important Aspects of CPA**

Under the Consumer Protection Act only those persons are considered as consumers who fulfill the conditions mentioned in the section 2(d) of Consumer Protection Act -1986. Under this heading, some important terms, such as, consumer, complaint, complainant, service, deficiency, unfair trade practices, restrictive trade practice, etc, have been explained briefly.
Service
According to section 2(1)(o), the term ‘service’ can be defined as any description which is made available to the potential users and includes provisions of facilities in connection with insurance, financing, banking, transport processing, supply of electrical or other energy, boarding or both, entertainment, amusement, house construction and other information.

Deficiency
According to section 2(1)(g), the term ‘deficiency’ refers to any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to maintained to under the law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.

Goods
The term ‘goods’ is not defined under the Consumer Protection Act and it envisages that goods means as given in the sales of goods act-1930. According to Sales of goods Act, the term ‘goods’ refers to any types of moveable property such as, stocks, share, growing corps, grass and things attached to or forming part of land are included under the goods. But actionable claims and money are excluded from the scope this Act.

The above definition clearly reveals that---

- Goods must be movable
- Actionable claims and money have been kept out of the definition of goods.
- All those things which are attached to the land or forming part of land that can be detached satisfy the movable criteria.

Defects
According to section 2(1) (f) of the CPA, the term ‘defects’ refers to any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained under the law for the time being in force or has been undertaken to be performed by a person in pursuance of contract or otherwise in relation to any service.
Unfair Trade Practice
According to section 2(1) (r) of the Act, unfair trade practice can be defined as any practice which has been designed for the purpose of promoting sale as mentioned under section 36-A, is considered as unfair trade practice such as, misleading advertisement and false representation, non-compliance of prescribed standards and hoarding, destruction and refusal. Moreover, unless a consumer suffers loss due to certain trade practice, this practice will not be considered as unfair trade practice.

There are some practices which come under the purview of unfair trade practice, namely—

- Misrepresentation of the facts about the service, such as service belongs to a particular standard, quality or grade.
- Misrepresentation of the facts about the goods, such as goods belongs to a particular standard, quality, quantity, grade, composition, style or model.
- Make a false or misleading statement about the usefulness of service or goods
- Giving the about the service or goods without having proper test for the same.
- Falsely representing that seller has the sponsorship or approval which he does not have.

Restrictive Trade Practice
According to section 2 (1) (nnn), restrictive trade practice can be defined as any trade practice which prevent, distort and restrict the competition in any manner and specifically speaking, restrictive trade practice includes the following.

- Preventing capital or any resource from coming into stream of production.
- Manipulating the price or to prevent production, distribution of goods or provision of service.

Concept of Complaint
Allegation made by the complainant due to suffering loss or damage by availing service, which is full of deficiency, is considered as complaint or a complaint means a written statement with allegations, made by the complainant due to loss caused by unfair practices or restrictive trade. According to section 2(1) (c), a complaint means a written statement with some concrete malpractices adopted by services provider, is also considered as complaint.
❖ **Consumer Dispute**
According to section 2(1)(e) of CPA, Consumer Dispute means, a dispute where the person against whom a complaint has been made denies or resist the allegations made in complaint. In others worlds, a dispute arises when a procurer of services resist the allegations made in the complaint.

❖ **Who can make a Complaint**
According to Consumer Protection Act [section 2 (b)], a person who is termed as consumer can make a complaint, specifically speaking; following are the persons who can file a complaint under CPA.
- A consumer to whom services or goods have been provided or delivered; or
- Any recognized voluntary consumer association registered under the company’s act-1956 or any other law for the time being in force; or
- Central Government or any State Government; or
- A legal heir or representative in case of death of consumer; or
- One or more consumers having the same interest.

❖ **Components of Complaint**
According to [section 2(1) (c)], a complaint must contain any of the following allegations.
- Mention the unfair trade practice or restrictive trade practice adopted by service provider and trader with evidence.
- The service which has been hired or availed of or agreed to avail of suffer from severe deficiency in any respect.
- A service provider or trader, as the case may be, has charged for the service or for the goods disclosed in the complaint, price in excess of price.
- Any service or goods, that could be hazardous to the life and safety when used, has been offered for the sale in the market.

❖ **Time Limit for Complaint**
According to section 24 (A) of the Act, a complaint can be filed within two years from the date when the cause of action is arisen.
V. **Relief Available against the Complaint**

If deficiency in service or defect in goods or any allegations mentioned in the compliant is proved, a Consumer Forum has the power to issue an order to the opposite party directing him or her to do one or more of the following things:

- To remove the deficiency immediately from the service in question.
- To take out the defect pointed out by appropriate laboratory from the goods in doubts.
- To rearrange the service or goods of similar description at the same price.
- To pay back the price of service or goods to the complainant.
- To compensate the consumer for the loss or injury suffered by him or her due to negligence of service provider and trader.
- An order to keep out unfair trade practice or restrictive trade practices.
- An order to correct the advertisement and neutralize the effect of misleading advertisement at the cost of opposite party responsible for issuing such misleading advertisement.

V. **Dismissal of Frivolous and Vexatious Complaint**

If any complainant lodges any frivolous or vexatious complaint, such type of complaint will be dismissed and he or she (complainant) can be charged with the cost not exceeding Rs.10000.

1.3.6 **Consumer’s Rights under CPA**

Under the Consumer Protection Act, there has been an effort to empower consumers by giving them six basic rights; the given rights are as follows.

1) **Right to Safety**

Under this right, consumers are authorized to protect themselves against the marketing of the service and goods which are hazardous for the live and property. If the particular service or goods is hazardous and dangerous to the life and property, consumers must be informed and instructed clearly about the mode for use of service and goods.
2) **Right to Information**  
Under this right, consumers have every right to be informed about the quality, quantity, potency, purity, standard and price of service or goods, with a view to protect the consumers against unfair trade practices. Adequate information should be provided to consumers so that they may choose exactly what fit in their budget, life-style and fashion.

3) **Right to Choose**  
Under this right, consumers are authorized to get access to variety of services and goods at the competitive prices. Moreover, fair competition must be promoted so as to provide the widest ranges of services or goods at the lowest and competitive price to the consumers.

4) **Right to be Heard**  
This right is the crux of Consumer Protection Act, because under this right, consumers are assured that if something goes wrong with the consumers, their interest will receive due care in the appropriate Consumer Forum.

5) **Right to Redressal**  
Under this right, if a consumer has suffered loss or injury due to unfair trade practice or restrictive trade practice and allegations made in complaint have been proved, the appropriate Forum, where complaint has been made, will indemnify and compensate to the consumer.

6) **Right to Education**  
This right informs the consumer about the practice prevalent in the market and what remedies can be availed of against them. For spreading this education, media, or school curriculum and cultural activities may be exercised as medium.

**Fee structure of Consumer Forum**  
There is a hierarchy of Dispute Redressal Forum in India under the Consumer Protection Act and this hierarchy is structured at three levels namely, at the District level, at the State level and at the National level. Likewise, fee is also structured at three levels and it is charged in the concerned Consumer Forum in terms of value of services and products. Existing fee structure under all the Forums is given below.
Table 1.1. Fee Payable for Filing a Complaint

<table>
<thead>
<tr>
<th>S.N</th>
<th>Total Value of Goods / Services / Compensation Claimed</th>
<th>Amount of fee payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Upto one lakh rupees – for complainants holding Anthyodhaya Anna Yojana Scheme cards under Public Distribution System</td>
<td>Nil</td>
</tr>
<tr>
<td>2</td>
<td>Upto one lakh rupees – for other complainants</td>
<td>Rs.100</td>
</tr>
<tr>
<td>3</td>
<td>Above one lakh and upto five lakh rupees</td>
<td>Rs.200</td>
</tr>
<tr>
<td>4</td>
<td>Above five lakh and upto ten lakh rupees</td>
<td>Rs.400</td>
</tr>
<tr>
<td>5</td>
<td>Above ten lakh and upto twenty lakh rupees</td>
<td>Rs.500</td>
</tr>
<tr>
<td>6</td>
<td>Above twenty lakh rupees and upto fifty lakh rupees</td>
<td>Rs.2,000</td>
</tr>
<tr>
<td>7</td>
<td>Above fifty lakh rupees and upto one crore rupees</td>
<td>Rs.4,000</td>
</tr>
<tr>
<td>8</td>
<td>Above one crore rupees</td>
<td>Rs.5,000</td>
</tr>
</tbody>
</table>

The fee may be paid in the form of a crossed Demand Draft drawn on any Nationalised Bank or crossed Indian Postal Order in favour of President of District forum / Registrar of State Commission or Registrar of National Commission as the case may be and payable at the respective place where the district forum / State Commission / National Commission is situated.

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Higher the value of services or products, greater is the charges as fee. According to the amendment 2002, complaints upto to rupees 20,00,000 can be lodged in the District Forum, complaints upto the rupees 1,00,00,000 can be filed in State Commission and above this amount, complaints can be filed in the National Commission. It is also clear from the table 1.1 that no fee is charged on the complainants who are under the below poverty line holding Antodaya Anna Yojana cards upto the rupees one lakh. One important thing to be noted here is that the payment made as fee is reimbursed if allegations made by the complainant are true and complainant suffered loss due to deficiency in services or defects in product.
**Need of the Study**

In the wake of privatization, liberalization and globalization, government of India has come out with the liberalized rules and regulations and has made major changes in the business policies. Private firms, national and foreign as well, are allowed to run the businesses in India with comparatively less restrictions and that is why competition is getting tougher day by day. Furthermore, most of manufacturers and traders have been adopting unfair trade practices for the purpose of promoting sale and to get the upper hand in the market. In such a scenario, protection of consumers becomes very difficult and they (Consumers) become prone to be cheated, deceived and misguided.

Above mentioned situation is just one aspect of the problem and another aspect of the problem is irregular, improper functioning of Consumer Forums. Under the consumer protection Act, it was clearly mentioned that Consumer Forum would provide time bound redressal, but the ground reality is entirely different. Because in thousands of cases, proceedings have been going for long, but justice has not been done yet. Although, to make the functioning of Forum efficient and effective, some amendments have already been made in the Act i.e. amendments in 1991, 1993 and 2003, but in spite of making changes in the Act, simple, speedy and less expensive redressal is still tough task for existing Dispute Redressal Machinery. Factual points given below disclose the ground reality of District Consumer Forums in Uttar Pradesh.

- Excessive and unnecessary delay in providing redressal
- Improper and unfurnished infrastructure of Consumer Court
- Perpetual strikes causing inconsistency in the performance
- Huge backlog of pending cases causing slow speed of disposal
- Internal conflicts between members of Consumer Forum
- Non-compliance with final orders made by Court.
- Lack of consensus among the members regarding final judgments.
- Presently Consumers are getting dissatisfying responses from the Consumer Forums.
- Manufacturers, traders and services providing companies have been resorting unfair trade practices and restrictive trade practices.
• Adoption of misleading and deceiving advertisements

• Services providing companies are making the most of drawbacks and shortcomings of Consumer Forums.

It is clear from factual description that Consumer Forums in Uttar Pradesh are facing acute problems which ought to be solved to provide speedy, less expensive, hassle-free dispute redressal to the complainants. Therefore, the present topic “Effectiveness of Consumer Forum and its Impact on Corporate and Consumers in U.P. Region (with special reference to Banking and Insurance Companies)” was selected for the present study.

**Objectives of the Study**

The objectives of a study are the ultimate goals which a researcher aspires to achieve, because the real worth of any research is based on objectives laid down for the same. To make the study scientific, systematic and accurate, the researcher has framed following objectives.

1) To examine the performance of Consumer Forum in present business environment.

2) To study the relationship between registered cases and cases in pending.

3) To analyze the Dispute Redressal Procedure of Consumer Forum.

4) To analyze the impact of Dispute Redressal on consumers as well as insurance and banking companies.

5) To suggest an action plan for improvement of working of Consumer Forum.

Initially, only four objectives were selected, but later in order to go into depth of the problem, one more objective was added i.e. study of relationship between registered cases and pending cases. All the objectives are analytical in nature.
Scope of the Study

Basically, this research is divided in two parts. Under first part, effectiveness of selected Consumer Forums has been analyzed and impact on corporate and consumers has been analyzed in the second part. Selected District Consumer Forums are given in the table 1.2.

| Table -1.2 |
| Selected District Forums |
|---|---|
| 1 | 2nd Agra District Consumer Forum | 5 | Kanpur Nagar District Consumer Forum |
| 2 | Allahabad District Consumer Forum | 6 | 1st Lucknow District Consumer Forum |
| 3 | Etawah District Consumer Forum | 7 | Aligarh District Consumer Forum |
| 4 | Mainpuri District Consumer Forum | 8 | Meerut District Consumer Forum |

For analyzing the impact of dispute redressal on corporate and consumers, ten (10) companies were selected from two sector of service sector i.e. five (5) companies from insurance sector and five (5) from banking sector.

| Table – 1.3 |
| Selected Companies |
|---|---|---|
| **BANKING COMPANIES** | **INSURANCE COMPANIES** |
| 1 | State Bank Of India | 6 SBI Life Insurance |
| 2 | Punjab National Bank | 7 LIC Life Insurance |
| 3 | CANARA Bank | 8 OIC General Insurance |
| 4 | HDFC Bank | 9 ICICI Lombard Gen. Insurance |
| 5 | ICICI Bank | 10 Bajaj Allianze Gen. Insurance |

Service providing companies were chosen for this study because numbers of cases filed in the Consumer Forum were comparatively higher against the service providers and of the services providers, numbers of cases were higher against the banking and insurance companies and that was why specially banking and insurance companies were selected. The respondents were approached to get their views about the effectiveness of Consumer Forum and impact of dispute redressal over service providers and consumers.
Research Methodology

Research Methodology is a way to systematically solve the research problem. It may be understood as science of how to complete the research work scientifically. It comprises various steps that are generally adopted by a researcher in studying research problem along with the logic behind them. Research Methodology not only includes research methods but also considers the logic behind the methods used by the researcher in the context of research study and explains why particulars methods or technique has been used and why others have not been used so that research results capable of being evaluated. Thus, research methodology is the most vital ingredients of a research. Methodology used in this study is explained through figure 1.1. First component of adopted methodology is research design followed by sampling design, measurement and scaling, method of data collection and statistical design.

Figure – 1.1
Research Design
A research design is a logical and systematic plan prepared for directing a research study. Moreover, it is process that guides a researcher in collecting, analyzing, and interpreting observations. Considering the purposes of the study, exploratory and descriptive research design was found to be more appropriate since exploratory design is planned to gain more knowledge and familiarity with a phenomenon or the subject concerned and this is conducted to achieve new insight into the problem. Descriptive research describes records, analyzes, and interprets the conditions that exist.

Sampling Design
A sample design is a definite plan for obtaining a sample from given population and this design helps in collecting representative sample for the study. For this study, sampling design has been divided in two parts for the sake of greater understanding viz.

- Sampling design adopted for secondary data.
- Sampling design adopted for primary data.

First two objectives of study have been analyzed by using secondary data (Quantitative Analysis) and remaining three objectives have been analyzed by using primary data (Qualitative Analysis).

- Sampling design adopted for secondary data is as follows.

Sampling Design for Secondary Data
The secondary data are those which have already been collected by someone else and which have already been passed through the statistical process. The objectives which are analyzed by using secondary data are classified into two parts viz.

- Analysis of performance of selected Consumer Courts.
- Analysis of relationship between registered cases and pending cases.
Contents of Sampling Design

- **Population Area**: Uttar Pradesh is the population area for the proposed study and there are seventy District Consumer Forums at present in Uttar Pradesh, more than ten percent (11.11%) of the total number of Consumer Forums was selected for the proposed study.

- **Sample Size**: At present there are seventy (70) District Consumer Forums in Uttar Pradesh. Out of them, eight Districts Consumer Forums were selected for analyzing their performance.

- **Sample Units**: The District Forums which were selected for analyzing their performance are given below. (1) 2nd Agra District Forum (2) Meerut District Forum (3) 1st Lucknow District Forum (4) Aligarh District Forum (5) Kanpur District Forum (6) Mainpuri District Forum (7) Allahabad District Forum (8) Etahwah.

- **Sampling Method**: Judgment sampling method was used for the selection of District Consumer Forum because this method of collecting sample found appropriate for the study.

- **Study Period**: The study was confined for the period of five years from 2005 to 2009, but due to availability of data, one more year was added in this study. Finally, this study covers six years from 2005 to 2010.

**Method of Data Collection**

For analyzing performance of selected Consumer Forums, data has been collecting from concerned District Consumer Forums. For collecting relevant data for the study, a prescribed format of application with specified period and table was sent to concern District Consumer Forums. The Consumer Forums were asked to provide details of registered cases, disposed cases and pending cases from 2004 to 2010. The Right to Information Act-2005 was used for collecting data.

**Statistical Design**

Statistical design concerns with the questions of how many items are to be observed and how the collected data to be analyzed. So, the collected data has been analyzed by using following tools-
To analyzing the performance of Consumer Forums, Average, Ratio, Standard Deviation, Coefficient of Variation and Percentage Method were used and software brought into use is MS-Excel.

For testing the difference amongst the performance of selected Consumer Forums, One-way Analysis of Variance (ANOVA) test was applied at 5% level of significance.

For establishing relationship between registered cases and cases in pending, scatter diagram technique was applied and software brought into use is MS-Excel.

For testing hypothesis, Karl-Pearson Coefficient of Correlation was used at 5% level of significance and software brought into use is SPSS (16th version).

For testing the difference amongst the opinions of four groups of respondents regarding chief hurdles of Consumer Forum, One-way Analysis of Variance (ANOVA) test was applied at 5% level of significance.

**Hypothesis**

Hypothesis refers to presumption about a phenomenon which is capable of being tested. The hypotheses laid down for performances and associations are as follows:

- $H_{01}$: There is no significant difference among the speed of disposal of all the selected Forums.
- $H_{02}$: There is no significant association between registered cases and pending cases.

**Sampling Design for Primary Data**

The primary data are those which are collected afresh and for the first time, thus happen to be original in character. For the primary data, the research has prepared well designed questionnaire to conduct extensive field survey along with some unstructured interview of consumers, officers of concerned institutions, members of the Consumer Forums and concerned lawyers as well.
Contents of Sampling Design

The best source of measuring effectiveness of Consumer Forum and its impact on Corporate and Consumers is the views of concerned persons. The design adopted for the undertaken study is as follows:-

- **Population Area**: Uttar Pradesh was the population area for this study, there were seventy districts (70) at the time of selection of Uttar Pradesh as population area and eight districts (11.11%) out of seventy were selected for collecting primary data.

- **Sample Units**: The Districts which were selected for collecting primary data are as follows. (1) Agra, (2) Aligarh, (3) Etahwa, (4) Meerut, (5) Mianpuri, (6) Kanpur, (7) Lucknow and (8) Allhabad.

- **Sample Size**: Initially, sample size was 200. But to make this study more balanced, sample size was increased to 250 respondents. Twenty three (19) unstructured interviews were conducted and more than 350 structured questionnaires were dispatched to the concerned respondents. Only 248 questionnaire were collected (Including interviews), 216 of them were considered for the study and rest of them were rejected due to incompletion, wrong completion and some other reasons.

- **Sampling Method**: Judgment Sampling Method was used for selecting districts and Stratified Random Sampling Method was adopted for selecting respondents.

- **Division of Sample**: Respondents were stratified in four parts, (1) Aggrieved Consumers (2) Concerned Lawyers (3) Concerned Officers (Branch Managers) (4) Member of Consumer Forum.

<table>
<thead>
<tr>
<th>Categories of Respondents</th>
<th>Division of Sample</th>
<th>Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aggrieved Consumers</td>
<td>8- Districts, 13 Consumers from each (13 X 8 - 4)</td>
<td>100</td>
</tr>
<tr>
<td>Concerned Lawyers</td>
<td>8- Districts, 3 Lawyers from each (8 X 3 + 1)</td>
<td>25</td>
</tr>
<tr>
<td>Concerned Officers</td>
<td>10-Companies, 10 Officers from each (10x10)</td>
<td>100</td>
</tr>
<tr>
<td>Member of Consumer Forums</td>
<td>8-Consumer Forums, 3 from each and some Peshcar also.</td>
<td>25</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>250</strong></td>
</tr>
</tbody>
</table>
Study Period: Initially, this study was confined to five years, but one more year was added. Finally, this study covers six years from 2005 to 2010.

Measurement and Scaling
Measurement and scaling is method of measuring a concept or set objectives through selective parameters on adopted scale. For the sake of greater understanding, both are defined separately.

Measurements: Measurement means the process of assigning numbers to object or observations, the level of measurement being a function of the rules under which the numbers are assigned. Certain measurements were selected after reviewing available literature (including cases studies) to achieve the set objectives for the study. Selected measurements were classified according to the set objectives.
- Measurements for analyzing dispute redressal procedure.
- Measurements to find out factors creating hurdles in smooth functioning of Consumer Court.
- Measurements to analyze the impact of dispute redressal of Consumer Court on consumers and corporates.
- Measurements to conduct a constructive SWOT analysis and suggesting remedies.

Scaling: Scaling describes the procedure of assigning numbers to various degrees of opinion, attitude and other concepts. Mainly two scales have been used according to the need of the study namely, Interval scale and ordinal scale.

(a) Interval Scale: Various interval scales have been used to get the responses of respondents regarding effectiveness of dispute redressal procedure, chief hurdles in smooth functioning of Consumer Forum and for analyzing the impact of dispute redressal on Corporate and Consumers.

(b) Ordinal Scale: Ordinal scale was brought into use to give ranks to the selected strengths, weaknesses, opportunities and threats. Moreover, remedies have also been suggested on the basis of ranks.
Methods of Data Collection

Data collection method refers to various methods for collecting data such as, questionnaire, interviewing, observation and experimentation etc. under this study, two well known methods were adopted namely, questionnaire and interviewing.

- **Questionnaire:** The researcher had prepared well designed questionnaire to conduct extensive field survey and this survey was conducted on four groups of respondents viz.
  - Aggrieved Consumers
  - Concerned Lawyers
  - Concerned Officers
  - Members of Consumer Forum

The questionnaire was divided in four sections i.e.

  - Respondents profile
  - Effectiveness related questions
  - Impact related questions
  - Rank related questions

- **Interviews:** Some unstructured interviews were also conducted to get the true opinions of the respondents regarding dispute redressal of Consumer Forum.

Statistical Design

Statistical design concerns with the questions of how many items are to be observed and how the collected data to be analyzed. So, the collected data has been analyzed by using following tools-

- To analyzing the Dispute Redressal Procedure of Consumer Forum, weighted average and percentage method were used and for testing the differences among the opinions of four categories of respondents, ANOVA test was applied at 5% level of significance.
Independent samples t-test was applied to know significance of difference between two groups of respondents viz. aggrieved consumers and concerned lawyers at 5% level of significance. The software brought into use is SPSS (16TH Version).

For testing the difference between expected and actual effectiveness of dispute redressal procedure of Consumer Court, one sample t-test was brought into use at 5% level of significance.

For analyzing the impact of dispute redressal on consumers and corporate, weighted average and percentage methods were used. The software brought into use is MS Excel.

For testing the difference between the impact on two sectors namely, Banking and Insurance, independent samples t-test was brought into consideration at 5% level of significance.

Weighted score percentage method was used to rank the selected strengths, weaknesses, opportunities and threats. Furthermore, same process was adopted to rank the suggested remedies.

**Hypothesis**

Hypothesis refers to presumption about a phenomenon which is capable of being tested. The hypotheses laid dawn for effectiveness and measuring impact are as follows:

- **H₀₃:** There is no significant difference among the views of four categories of respondents regarding the effectiveness of Consumer Forum.
- **H₀₄:** There is no significant difference between expected and actual effectiveness of Dispute Redressal Procedure of Consumer Forum.
- **H₀₅:** There is no significant difference between the impact of Consumer Forum on Banking and Insurance companies.
- **H₀₆:** There is no significant difference between the impact of Consumer Forum on Insurance and Banking consumers.
Apart from these hypotheses, few sub-hypotheses have also been framed.

1.8 Limitations

As one knows, limitations are found everywhere in every walk of life and likewise this study is also not an exception. Although the academic research has been conducted with utmost sincerity and care, but in spite of putting the best efforts, the researcher could not escape from certain limitations. These limitations should be taken into consideration while using the result of this research work.

- Hesitation on the part of respondents on revealing the true information and unwillingness of respondents to spare some time for filling up the questionnaire was also one of the limitations.
- While computing the data for the analysis, some important adjustment has been made in the collected data to meet objectives of the study.
- Some percentages have been approximated and minor variations have also been done.
- All those limitations what secondary data consists may be possible.
- For analyzing the impact, only those variables were selected which were matter of disputes between Consumers and Corporate.
- The sample were drawn from Agra, Aligarh, Kanpur, Lucknow, Mainpuri, Etawah, Allahabad and Meerut assuming that rest of State follows same trend.

References-


Websites---

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