CHAPTER - 3

CONTOURS OF CONSUMERS OF PROTECTION
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Consumerism has grown in India over a period of time as a social phenomenon. It has acquired considerable potential to influence business decision making and public policy formulation. This paper attempts to highlight major indicators of consumerism in India, identifies its causes and outlines the alternative options available to consumers when interface with dissatisfaction. The paper describes and discusses the need for the configuration of an information oriented corporate action program designed to assist corporate management's to convert consumerism to a mutually profitable proposition.

Consumerism has been defined as the organized efforts of consumers seeking redress, restitution and remedy for dissatisfaction they have accumulated in the acquisition of their standard of living. It is also said to include, a widening range of activities of Government, business, and independent organizations that are designed to protect individuals from practices (of both business and Government) that infringe upon their rights as consumers. Over a period of time when these efforts of consumers and others directed at safeguarding consumer interests attain a consistency and/or are institutionalized these efforts may be referred to as consumer movement in a society.

The Indicators:

The emergence and existence of consumerism in India is indicated by a number of factors like, e.g., presence of organized consumer groups, consumer protection legislation, judicial decisions, and a consumer prone press.

According to a recent study, nearly 187 consumer group exist in India which organize consumers and direct their efforts and energies towards safeguarding consumer interests. Out of these nearly 20 each exist respectively in Delhi and Ahmedabad. In the country among the visible groups include, such as, consumer education and research center, Ahmedbad, 3.1
Consumer Guidance Society, Bombay, and Mahila Dakshta Samiti, Delhi. These groups have been spearheading consumer movement in the country. The number of new area have been slowly but steadily growing.

Consumer protection legislation, too, has been slowly but steadily growing in the country. Both the Parliament and State Legislature have evinced considerable interest in solving consumer problems and have enacted many laws aimed to protect consumer interest. In the country there exists nearly thirty major laws which provide to consumers means and avenues to seek redressal, restitution, and remedy against exploitation and damage to the legitimate interests of consumers. In order to impart proper thrust to consumerism in India, a major legislation, Consumer Protection Bill, is pending with the Parliament. The bill provides for a comprehensive set of provisions to protect consumer interests and to institutionalize consumer grievance redressed machinery. The bill envisages, inter-alia, constitution of a Consumer Protection council, Directorate of consumer protection and a consumer Dispute Redress Forum. The Council would act as the watchdog of consumer interests whereas the Directorate will be a window to receive consumer complaints and ensure effective implementation of various consumer protection Las operating in the country. The forum will settle all consumer disputes other those dealt with by the Monopolies and restrictive Trade Practices Commission (MRTPC).

The quality of judicial decision in the country also indicates a very sympathetic disposition of judicial institution towards problems of consumers and their adequate redress. Among these institution MRTPC has made landmark in the history of consumerism in the country. It has successfully launched a number of investigations, many of them suo moto, against restrictive and unfair trade practices followed by firms in India. During the year 1985-86, it has already disposed of nearly 50 cases of unfair trade practices and issued, cause and desist, orders against companies following them, some of which are leading names in the country, in a number of cases it has also issued interim injunctions of a as to insulate consumer interests from any further damage till the matter is decided either way.

3.2
The press, the fourth estate of democracy, too has been very actively supporting the cause of consumerism by highlighting the exploitative, restrictive and unfair trade practices violate of consumer interests. It has not only been devoting news space to the achievements of the consumer movements but also writing very powerful edits in order to underscore the need for consumer protection.

A Challenging Task

As early in 1934, mahatma Gandhi taught us the basic concept of consumer protection. He said, "A consumer 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 an outsider in our business. He is a part of it. We are not doing him a favour by serving him. He is doing us a favour by giving us an opportunity to do so."

As a citizen of the country, a consumer is entitled to expect that he would get the right quality at the right time and at the right price. In practice, however, we find that the common consumer is the most harassed and the most helpless creature in the scarcity economy. The main reason for this plight is that in India consumers have not yet organized themselves into powerful movements nor have they effective and alert protection agencies to secure the redressal of their grievances.

When we talk of consumer protection, we should bar in mind three important aspects of consumer protection. These are firstly the physical protection of the consumer. Secondly, protection of the economic interest of the consumer and thirdly – protection of public interest. The first aspect would include measures to protect consumer5s against products that are unsafe or injurious to health and hygiene. The second aspect would cover measures to protect the consumer against deceptive and other unfair practices and to provide him adequate means to get his grievances redressed. The third aspect would cover measures to percent Abuse of monopoly position or restrictive practices. It is necessary for everybody to recognize that every consumer has the following rights.
(i) The rights to be informed i.e. a right to know facts about what he is buying.
(ii) The right to choose i.e. a right to be assured of a variety of quality goods at fair price.
(iii) The right to be heard i.e. a right to protect effectively against deception, malpractices and bad services.

Once the Society at large becomes aware and conscious about these basic right of the consumer then it follows that consumer protection can be ensured in three ways, namely, (i) self help by the consumer (ii) Legislative action by the Government and (iii) business trade and industry following fair trade practices.

Among the important ones of the Indian laws which have a direct bearing on the consumer protection, it may be mention that the Drugs Control Act, 1950 under which the Sales, Supply and Distribution of drugs is controlled by the government and maximum price which may be charged for the drugs is also fixed by the Government. Then there is the Drugs and cosmetic Act – 1940 under which a license to manufacture or sell any of the articles mentioned in that Act is obligatory. Under the Drugs and Magic Remedies (Objectionable Advertisements) Act.-1954, advertisements of drugs for certain diseases like blindness, heart-disease, paralysis, epilepsy, leucoderms, obesity etc. is prohibited. Similarly, advertisements of magic remedies like talisman, Mantra, Kawacha and charms of preventions, mitigation, treatment or cure of diseases are also prohibited under this Act. The Dangerous Drugs Act – 1930 control misuse of habit-forming drugs like morphine and opium. Inter State movement of narcotic drugs is also regulated. The prevention of Food Adulteration Act – 1954 protects the consumers from the hazards of food adulteration. The monopolies and Restrictive Trade Practices Act- 1969 tries to regulate monopolistic and restrictive trade practices and thereby tries to protect the public interests.

Coming now to the legislation which the Ministry of Civil supplied is directly concerned, there is the Indian Standards Institution (certification -
Under which the Indian Standards Institution has formulated a number of standards for Foodstuffs, drugs, cosmetics, utensils, textiles, electric appliances, furniture, sports goods, paints. The grading and marketing of commodities like vegetable oil, ghee, butter eggs, fruits and vegetables are regulated by the AGMARK which comes within the purview of the Agricultural Produce Grading and Marketing Act 1937. The standards of weights and Measures Rules 1977 make it necessary that name and address of manufacturers/packer, name of commodity, net quantity, month and year of manufacture and sale price of commodity should be specified on the package. The Essential commodities Act - 1955 provides for control of production, supply and distribution of essential commodities. The prevention of black marketing and maintenance of supplies of Essential Commodities Act, 1980 provides for detection of any person with a view to prevention of black marketing and maintenance of supplies of commodities essential to the community. The essential services maintenance Act - 1968 authorised the Central Government to prohibit strikes in essential services like posts and telegraphs, telephones And defense establishment and provides for penalties for persons participating or instigating/financing such strikes. The Trade and Merchandise Marks Act - 1958 provides for the registration and better protection of trade marks and thereby tries to protect the consumers from deception arising from the use of false Trade Marks. The emblems and names (Prevention of Improper use) Act - 1950 seeks for professional and commercial purposes. These provisions help to avoid deceptions of the gullible public. The Industries (Development and Regulation Act- 1951 provides for the development and regulation of certain industries by (i) licensing (ii) establishing development councils (iii) empowering investigations of And collection of statistical information relating to Industrial Undertaking and (iv) issuing control orders relating to supply, distribution and prices and certain articles.

Under the provisions of Articles 32 and 226 of the constitution of India, the consumer has a right as citizen to file write petitions in the High Court and the Supreme Court. Our commitment in our constitution is to establish a -
socialistic society which spells out the objectives of growth with social justice. The accent of economic policies of the government always has been to counteract all trends of concentration of wealth in few hands and to provide better opportunities and better living conditions to the vulnerable sections of society. In this field the Government is trying to make the basic needs of the people available at fair prices to the poorer strata of our constitution.

Basically what is necessary is to have an awareness of the rights of the consumer, a sense of social responsibility on the part of business, trade and industry and prompting then to follow fair trade practice and a satisfactory consumer and manufacturer relationship. It is necessary to appreciate that legislation cannot be a total answer to the question of protection of consumer interest.

The Contract View of Business Duties To Consumer

It is the duty of the business firm to its customers that its relationships should be based on certain contractual foundation. It is essentially a legal relationship. The firm's moral duties are the result of this contractual relationship. When a consumer purchases a product/commodity or services it is believed that he had entered into a contractual agreement with the seller. This in principal is called as 'Sales Contract' with the businessman. The businessman has willingly, freely, and with the buyer, for which he gets a consideration (money / price) for the product he has sold. The consumer then gets a right to get a quality product, with the terms and conditions agreed upon, which the consumer has fully and clearly understood.

This contract theory thus entrusts the business person with following duties to the consumers.

1. The businessman has the duty of complying with the terms of sales contract. All the conditions as laid own by both the parties on each other should be properly implemented.
2. The trader should disclose all necessary details regarding the nature of the product.

3. The trader should not in any manner, give a false or wrong information about the product, or misrepresent the products or its utility, usage in any manner.

4. The trader should avoid any kind of pressure tactics, false promise to force a consumer to buy a particular product.

**Maintainability**

The claims as to maintainability usually refer to the case or simplicity with a product can be handled, repaired or brought back to working conditions.

**Safety**

All claims in the product viz. implied and express are usually associated with the safety factor. A buyer prefers to buy a product that is safe in terms of its usage and he is aware of all the risk factors associated with its usage.

The seller of the product has a moral responsibility and duty to provide a product whose use involves no unknown risk. He should explain in advance to all the potential and probable users of the product, before the actual purchase of the product as to what are the types of risks involved in the products use. A producer should not sell a product, where the risk is not expressly or impliedly communicated by him to the buyers. It consumer only after knowing about the implied and express risk involved in products usage, is expected to contract with a free consent and with full risk involved in the contract.
The term product quality usually indicates following four facts of a product.

**Table 3.1 Nature of Product Quality**

<table>
<thead>
<tr>
<th>Parameters</th>
<th>Feature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reliability</td>
<td>This product shall work with full efficiency even at a temperature of 150°C.</td>
</tr>
<tr>
<td>Service lite</td>
<td>Assured lite of 3000 usage hours.</td>
</tr>
<tr>
<td>Maintainability</td>
<td>The product has low maintenance cost almost 30 ps. Per day.</td>
</tr>
<tr>
<td>Safety</td>
<td>The product can be easily handled</td>
</tr>
</tbody>
</table>

**Nature of claims for the product quality**

**Reliability**

Claims of reliability refer to the probability that a product will function as the consumer is led to expect that it will function.

**Service lite**

Claims concerning lite of a product as to the period of time during which it will function as effectively as expected by consumers. Service lite usually depends wear and tear to which one subjects the product.

**Duties of the seller as to the sale of a product**

Under the legal theory of consumer protection, the seller, marketer, and the trader as a party to the contract is bound, to disclose certain essential aspects regarding the product safety, reliability and quality. It is the duty of the trader to disclose certain essential facts regarding the product. This duty is explained in following manner:
(1) All the parties to the contract including the seller and the buyer must know every aspect of the product that is what the buyer is buying and what the seller is selling must be the identical subject matter of contract. It is the duty of the seller to inform the buyer of every fact about the product that would affect the consumers decision to purchase the product. This include the product category, ingredients, components performance, characteristics, cost of operation and product rating as well. Similarly, if certain standards are operating upon the product, the seller must explain as to whether the product is fulfilling the requirements as per set standards or not.

It is the duty of the trader/marketer and seller to give full and correct account of the usability of the product. The seller is supposed to give a correct and truthful details about the product quality, utility and usage. This implies that the seller should not give any information that will mislead or deceive the buyer. Misrepresentation often makes the choice impossible. Misrepresentation often makes the choice impossible. Misrepresentation is coercive free choice is the essential ingredient in the contract of sell, hence any act on the part of the seller to misrepresent the nature of a commodity is wrong. A seller misrepresents a commodity when he or she represents it in any way deliberately intended to deceive the buyer into thinking something about the product that the seller knows is false. Thus, the deliberate intent to misrepresent by false implication is as wrong as the explicit i.e. People as buyers often act under the influence of emotions and passions. A seller who can effectively campaign for a product, to attract and influence the emotions of the buyers often wins the race in the market place. However, such an emotional appeal should be truthful. When a seller take the advantage of a buyers fear of emotional trace to extract to an agreement that the buyer would not meat if he knows the truth about the product and acts in a rational manner then it can be called as an improper emotional influence. This is situation where the seller in having undue influence or coercive influence on the buyer.
A seller is not supposed to attract a customer by using such means to influence the desire and wills of the buyer to induce him forcefully to buy a product that he is not otherwise interested to buy.

Problems with contractual theory.

The concept of contract theory centers around the presumption that there exists a contract between the seller and buyer which gives certain rights to the buyers. At the same time, it enforces certain duties on the seller. As such, it is essential for the seller to abide by the terms of contract and failure to which results in deception and exploitation of the consumer. However, there are certain limitations to this theory.

(1) Basically, contract of sale results into an exchange process. The goods are exchanged for a set price. However, the manufacturer of goods and the buyer are positioned at distant places. There is a long chain of people or elements involved in the process of exchange. Hence, it is not right to presume that the manufacturer has any direct contractual relationship with the buyer. Often, the buyer may not even know who is the real manufacturer, hence the idea of having a legal bond between the producer and buyer has limited realistic sense. In many cases, the marketer may put his brand name to promote the product or to attract a consumer class; this will further reduce the utility of the theory.

(2) A contract is the result of bilateral condition imposed by both the sellers and buyers on each other. Thus, a contract comes into existence only when there conditions are accepted by the parties as mutually acceptable conditions. If a consumer can freely agree to buy a product with certain qualities the consumer also freely agree to buy a product without these qualities. That is, freedom of contract allows to a manufacturer to be realized from his or her contractual obligations by explicitly disclaiming that the product is reliable, safe and possess a certain quality standard.

3.10
There is another limitation of this theory. In the contractual obligation theory it is believed that buyer and seller have equal and fair opportunities to lay down the condition and terms of contract. The theory believes that, buyer and seller are equally skilled at evaluating the quality of a product and that buyers are able to adequately protect their interest against the seller. This is an erroneous belief. It is often not true in real life situations seller and buyer do not exhibit the equality of bargaining capacity do not possess equal and complete knowledge of the products and commodities. A buyer who require a good number of commodities of different types can not be expected to be as knowledgeable as a manufacturer who specializes in producing a single product.

Social significance and effectiveness of consumerism

"Consumer sovereignty" is an often repeated jargon of business leaders and their marketing specialists. True, it is the will and choice of the consumers that provide necessary support for the maintenance and growth of business ventures. Adam Smith observes:

Consumer is the sole end and purpose of all production and the interest of the producer ought to be attended to only so far as it may be necessary for promoting that of the consumer. The maxim is so perfectly self-evident that it would be absurd to attempt to prove it. But following his own advice, Adam Smith conveniently ignored the consumer and his voice within the marketplace.

In developed countries where market forces shape the destiny of a business – free enterprise system – Consumer choice may have a decisive voice – in compelling business to produce quality products with cost consciousness.

In the word of Prof. D.K. Sanyal (of the Indian Institute of Social Welfare and Business Management, Calcutta)

Why do you people talk a lot against the demands of workers for higher wages? Give as much as they want to please them. You have nothing to lose
but your vanity. Your organization is never going to suffer, for ultimately the burden is on the poor Consumer who will bear everything that you do but your inefficiency. So long as the consumer is not powerful to resist and you are free from healthy competition in the market and you are not ready to share with the consumer the benefits of your workers and their unions is meaningless in our present day developing socialistic economy.

**Traditional Theories of Consumer Protection**

The concepts of perfect market and perfect competition are based on the idea of perfect understanding of the market. It is presumed that both the producers and consumers know everything about the trade dealings business transactions, terms of negotiation and information regarding the market happening.

This traditional concept of perfect market has following presumptions

(a) The risk factor in trade transaction in neutralized by various factors affecting the market procedures.

(b) The consumers like the marketers are fully aware of marketing process.

(c) There is no hidden information, that will deceive the consumers.

(d) The consumers are fully aware of consequences of their decisions and choices.

(e) The market price is equal to marginal cost.

(f) There is a need to have a priority and freedom of contract. The market mechanism is not free from different possibilities of transaction. There are innumerable types of contract that are taking place in the market. It is not possible to formalize and decide in advance the types of market contracts in specified forms. This has given birth to the concept of freedom of contract. It is essential that every citizen/person should decide in advance as to what conditionality he should accept to form a contract or enter into a contractual obligation.

(g) The condition laid down in contracts of trade deeds often are inclined in favor of traders. In general the ideas of freedom of contract does not
help the consumers at large. The standard forms of contract do not offer any solace to the consumers but some price reduction. These types of contracts on the contrary are not so effective instruments of consumer protection. The traders, manufacturers and dealers at the market place use them in their favour to a great extent these contract. The Producers who dominate the market, in many ways can always use these conditions in their favour to exploit the consumers.

The general scenario at market place gives an impression that consumers at large are unaware of realities in the market. The consumers at large are influenced by many variables in the market place that include advertisements price simmics innovations and introduction of new products as well as availability of substitutes and alternative products. This creates a vagueness as to what a consumer should really purchase. The wants of the consumer are thus influenced by various buying impulses, desires and users. It is at this point the consumer needs and right direction And appropriate input to educate him. The producers and marketers should be given desired direction to this undirected and vague urge to buy so as to form a specific demand. The real influence.

**Consumerism on an ideology**

Consumerism as an ideology and concept has come to stay in business literature. The concept consumerism is defined as the social movement seeking to augment the rights and powers of the buyers in relation to the sellers. The right of the buyers (consumer) includes:

(j) The right to expect the products to be safe.

(ii) The right to expect the products and services to be of the assured quality and quantity.

(iii) The right to influence products and marketing practices in directions that will improve the quality of life.

(iv) The right to protection from exploitation by unreasonable prices.

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3.13
(v) The right to additional protection against questionable products and marketing practices.

(vi) The right to have adequate and reliable information about the products.

Consumerism as a social force has only a short history. The 1930s witnesses the first open resentment against business malpractices in U.S.A. The plight of the consumer in developing countries may still be the same as it was during the 1930's and 40's in U.S.A.

Consumer organizations sponsored by business group or political parties or even by individuals from academic and social fields may not enjoy the support of the large public.

The government in a political democracy cannot assume the role of the sole protector of consumers. The Government as an agency of the total society may have to protect even the producers. Formation of marketing federations for the benefit of primary producers is an example on this role of the government.

**Four Approaches to Consumerism.**

The fact, that consumerism has come to stay, demands that some steps are to be taken towards consumer protection and satisfaction. It is necessary to stress that for this purpose the combined action of business, State, consumer and Consumer Associations can stop the exploitation of consumers. Therefore, the following four approaches to consumerism are identified:

(i) Business self-regulation: The business community itself can help in achieving consumer protection and satisfaction by enforcing self-discipline. Business can regulate its own behaviors and actions by raising their ethical standards. Not only business maintains certain ethical standards, it also evolves consumer-oriented marketing strategies. Some businesses believe in self-regulation, self control and self-discipline. The trade associations of business strive to check the malpractices resorted to by some businesses.
The State can play an important role by channelising the energies of its organs towards consumer protection and satisfaction: All the three organs of the State - legislature, executive, and judiciary - have to work in unison. The legislature enacts laws are to be modified in the light of actual experience and the interpretation and suggestions by the judiciary. The judiciary can play its critical role by emerging as a strong agency with aggressive punch on the erring party.

The problem of consumerism is complex and calls for an in-depth study. In India consumer has not become organized unlike in many other countries in the west. Consequently the exploitation by the organized class continues unchecked. Perhaps it is true to say that “Consumer Protection" is a cause which only wealthy nation can afford to worry about.

The consumer movement in India is still in its infancy. Except in a few large cities like Bombay and Delhi, the consumer movement has no significant impact on the manufacture, the wholesaler or the retailer or the government. In a developing country like India with a huge population which is struggling to gain a modicum of economic well-being, the plight of the ordinary man is indeed woeful. Moreover, it is made worst by modern marketing and the advertising techniques, continued inflation, scarcities, adulteration and other unfair practices of traders and the country's public administration. In this country as in many other countries the producer and the manufacturer have powerful organizations to secure their interests. The trading community is equally well-organized. The producer and the manufacturer secure their margin of profits. The organized industrial labour particularly in urban areas has a striking power. The method of collective bargaining has saved them to a considerable extent from being unduly exploited. The organized labour claims for higher wages. When as a result of collective bargaining, such higher wages have to be conceded, the management naturally does not allow that to cut in to profits. The consequent price increase is passed on to the consumer. The vast masses of the labour class are also part of the consumer class. When prices of goods go up and consequently bring index goes up, the organized working
class clamors for more wages. When higher wages are conceded, there is further price increase. This is a vicious circle in which the ultimate victim is the unauthorized class, the consumer.

The tax policy of the State and Central Government is not oriented towards securing at least consumers goods at a reasonable price. From our experience over these years it would seem that the objective of taxation is only to secure more revenue for the Government taxation by the State should not be viewed merely as a source of revenue. The economic impact of each measure of taxation particularly the rise in the living cost of the different classes of people must be thoroughly studied before any measure of taxation is adopted. This is particularly true of sales-tax. Ultimately any irrational system of taxation plays a significant role in the increase in price of goods.

A national policy of wage control, price control and production control complied with a rational approach in the matter of taxation of consumer goods alone can contain undue price increase. These controls will be possible only by a control on the profit margin-direct and indirect – of the producer and the manufacturer. Absence of such control and absence of a rational national policy on wages and income has resulted in anomalous growth.

The economic theory of price being dependent upon supply and demand is in practice. Ours is a free country where everyone is free to embark upon a lawful venture subject of course to regulations by the State. But in practice, it is not easy to enter the domain occupied by established vested interests. A new entrant would not find it easy to establish himself and to find a market easily. The market is not free but is influenced by very powerful forces. The consumer does not have a free choice as he is coerced into accepting goods well-advertised by well established business houses. Notwithstanding the real availability of goods sufficient to meet the demands, it is established markets in goods that control the price.

Today it is the seller's market for consumer goods and not the buyer's market. Many items of consumer goods like edible oils, sugar, kerosene and cooking gas are in short supply though quite often artificial and manipulated. When goods are not available and consumer has to stand in queues to get the
what he wants, there is little scope for complaints by him of quality and measure.

There are factories manufacturing adulterants, raw material for adulteration on a large scale in a systematic manner. Those who indulge in the practices of adulteration are able to offer the goods at a lower price. A large commission is offered to traders. This prompts them to sell adulterated goods. The innocent consumer with no means to identify the genuine from the adulterated quite often consumers what he gets with the attendant risk. We have no doubts some enactments in the status books to deal with these phenomena. The prevention of Food Adulteration Act is an illustration. It is only the elements in the status books to deal with these phenomena. The prevention of Food adulteration Act is an illustration. It is only the element of deterrence than can dissuade the economic offenders from indulging in illicit practices on a large scale. Many judges felt that the Act has no impact upon the sources of adulteration. Rarely does a case come up where adulteration has been tackled at the sources and the real offender has been got at. The retail outlets are normally the targets of the prosecutor with the result that there has been very little impact on the vast and organized sector of adulteration industry.

One of the basic reasons for artificial shortage of goods and consequent increase in prices is the absence of an organized system of supply. This enables hoarding at many points resulting in manipulated short supply. There maybe legislation to prevent such hoarding. Such legislation may require disclosure of shocks in sales premises. But this can touch only the periphery of the problem. So long as the goods are not made freely available through retail outlets easily accessible to the consumer, this hoarding and manipulation of supply, especially in certain categories of goods, are likely to persist. Therefore, it would be an important step in consumer protection to have more and more retail sales depots of the States and Cooperative Sectors in the State. If at least 30 to 40 percent of the consumer requirements are met by such depots there will necessarily be price and quality control automatically. The sellers market will then turn into buyers market. That will
keep the price of commodities steady and reasonable.

Now question arises as to what makes it possible to exploit the consumer in this country and what are the steps to be taken to meet the situation? Ignorance of the consumer is the first reason and lack of consumer organizations maybe the second. Absence of adequate legislation may be the primary causes of the present situation. Mass education of the consumer is the necessary first step and that can be undertaken only by organization which can influence and shape public opinion. It is surprising that in a vast country like ours there is very little literature on consumer resistance and consumer protection.

Once the consumer becomes aware of the gravity of the problem, it is natural that he will organizes himself. Operation of legislation in the field of consumerisation is ineffective to a considerable degree. Comprehensive legislation has to be undertaken. In the application of laws voluntary organization must necessarily get a part to play. Consumer protection councils where they do exist must function to achieve these goals.

Two centuries ago when Adam Smith wrote his monumental work "The wealth of Nations", he saw the market place as the guarantor of the best interest of the consumer. In the complex world of today however, even a competitive market does not offer any such guarantees to the consumer. He is at the mercy of the many forces over which he has hardly any control. As a result, he is often a victim of exploitation at the hand of those who are better organized and form who he has to seek goods and services which are essential for his existence.

The United States of America claims to be the most advanced of "Consumer Societies" and is well-known in protecting consumer interest by maintaining perhaps the highest level of competition in the market. There the consumer is supposed to be sovereign. Advertising is indispensable to make him aware of the many choices available to him and the consumer is expected to get what is or she wants to get. Competition ensures a wide range of choices and prices. The example often cited was the Edsel Car of the late 1950 s which car-buyers rejected despite the best marketing efforts of the ford Motor –
But even in such an advanced consumer society like that of Uninvited States of America, development in 1960s proved that the consumer was not sovereign as was claimed. More often than not he was a helpless victim of clever propaganda and ingenious manipulation. In the name of competition it was prove that scarce resources were wasted in thousand ways. In a rich and well-endowed country, there was perhaps, room for some waste. But how much waste of resources could even a rich nation tolerate?

In 1970's the large cars still a status symbol loaded with many energy consuming devices, was seriously under the attack of energy crises. Many brands of toothpaste, substantially identical in their functional utility, did the country need? The refusal of a consumer society threatened the environment and required significant public expenditure to cope with it.

The first one man consumer protection movement of the 1960's and 1970's which demonstrated the utter helplessness of the consumer even in the number one consumer society where the consumer is the so-called sovereign. But for its inherent strength as a great idea in the interest of the consumer, Nader's movement would not have gathered the momentum that it received in a short time.

Consumer protection was never a serious concern of even governments which claimed that they stood for the welfare of the people as a whole. That is why, in many a country, including even a welfare state like England, the principal recognized by law has been covets emptor which 'Let the buyer beware'. Following the British examples our sales of Goods Act adopted the same principles in the same form. While laying down rules and regulations affecting industry, trade and commerce, the Governments all over the world appear to be more interested in earning revenue than in protecting the interests of the consumers. The traditional rights of buyers and sellers in England may be summarized as follows. The buyer had the right:

i) Not to buy a product that was offered.
ii) To expect the product to turn out to be essentially as represented by the seller and,

iii) To inspect the product that was offered to be safe and merchantable.

The seller has the right:

i) To introduce any product in any size and style he wished in to the market.

ii) To Price the product at any level he wished, provided there was no discrimination among similar classes of buyers.

iii) To spend any amount of money he wished to promote the sale of the product, so long as it was not deemed unfair competition.

iv) To formulate any message he liked about the product provided it was not misleading or dishonest in content or execution and;

v) To introduce any buying scheme he liked.

Obviously, the law then was more favourable for safeguarding the rights of the seller than the buyer.

It is not always appreciated that everybody is a consumer. The adult and the adolescent, the employed and the unemployed, the worker and the manager, the leader and the follower, the rich and the poor all are consumers. Whatever sort of salesmanship is used, the market demand is set by the consumers. All must have the necessaries of life. Some of us are purchasers of comforts and luxuries.

Much depends upon choice. In our country we have the right to choose except when scarcity rules the day. We can look around and see what choice is available and at what price. When a person who wants to buy has a mental check-list of qualities to look for, he is qualified in three important ways, to get value for his money, to choose the thing that will best accomplish his purposes and to know what points he may compromise.

The rights of a consumer today are much different and much better than they were a few decades ago.

These are -

3.20
i) To get the right quality goods services at the right price and at the right time.

ii) The right to safety, to get product and services that are not injurious to his health or well-being.

iii) The right to be fully informed of the product or services.

iv) The right to choose from a sufficient number of alternatives to ensure competitive price and quality.

v) The right to be heard, the right by which the views of the consumer get adequate attention and consideration by all concerned in making available the products and services; and

vi) The right to redress, a right that ensures that his complaints or grievances are heard and properly handled.

These rights are indeed the consumers' basic rights and are therefore fundamental to him. While these are his rights, how are they found in practice? More often than not in the violation of every one of them. To illustrate: the consumer may open the tap but not water to drink or wash; he may be badly in need of transport but none available; he may be badly in need of transport but none available; he wants a particular food product but the item due to shortage has gone under found and is available in the black market; he buys an adulterated product unknowingly but has ordinarily no remedy against the seller. The ordinary man especially the lower and the middle classes, are the worst sufferers by paying extra and often failing to get what they want.

What is the remedy? There is no simple remedy. In a developing society like ours with the bulk of its people illiterate and till suffering from object poverty, the battle for consumer protection has to be fought on different fronts and simultaneously on by variety of agencies. Of these, the role of the Government is perhaps the most significant.

The main role of the Government both Central and the State in protecting the consumer is obviously the enacting of suitable laws in which the Government can ensure the protection of the consumers interest. Our –
Government is the larger producer of consumer services. Electricity, Water, Telephone, Air and Road transport, the Post Office, the Government is incharge, of this services. In a country of India's size and still with an explosive rate of population growth and chronic shortages, the running and maintenance of these services with a minimum of satisfaction is indeed a Herculean task. And yet it is important for the morale of the country that the government should not only do its best at all time, but it should be seen to be doing its best.

For most of ordinary people "Government" means the lower level of official with whom they come in contact in a variety of ways. For example the Railways is represented by the clerk who sells the tickets at the counter, the ticket collector and perhaps the station master also. If it makes a quarter of an hour to buy a ticket because the man behind the window is busy describing his sister-in-law's marriage to his colleague, then as far as the people are concerned the whole railway system is slack and has no sense of time. Again, if in a small post office in a village the man at the counter refuses to sell a stamp because it is just ten minutes to five and he is to go off duty at five, as far as the consumer is concerned the whole postal system is poor. A news item reported sometime ago that many of the ticket less commuters rounded up in Bombay gave the same reason for not possessing a ticket, namely the enormous time they have to spend standing in queue and waiting for buying a ticket and the fear that they would be late at the place of their work. Indeed, much of the petty evasion of rules and regulations in India is due, among other things, to the fact that doing things in the correct way is unusually cumbersome and time consuming. The Government as represented by the staff which deals with the public must set an example by effectively handling such problems.

For millions of our people who live in the urban area, the man in the ration shop represents their contact with government. When he promises the citizens in the neighborhood area on Monday and later causally tells them day after day that stocks have not arrived, then two things happen, first, the credibility of the government suffers because of our purpose, the shopkeeper is
the mouthpiece of the government. Secondly we get the impression that the government is profoundly unconcerned about the wasted time of its citizens.

The Indian consumer is fighting a desperate battle on two fronts - Costs and Quality. Barring a few essentials for which there exists a fairly effective system of price control and a public distribution system, prices control and public distribution system, prices rise relentlessly and hit many, especially those who belong to the fixed income groups.

What about safety which is a matter of great concern to the consumers? In a recent study it was pointed out that 40 percent of all domestic burn accidents are caused by the pressure stove and in many cases are directly due to faulty workmanship or substandard material. This is only one of the hazards that consumers face. There are scores of others, such as harmful additives and colours in food, pesticide residues on grains, vegetables and fruits, electrical appliances of careless workmanship and badly made toys which can be torn apart by infants and seriously injure them.

Some of the protective measures had been undertaken by the developed countries of the world in the interest of consumer. In the United States the Federal Government as well as Local Governments have worked diligently in promoting the consumer. The number of agencies are to educate and inform the public in order to make more sophisticated consumers, to process and resolve complaints and enquiries regarding consumer transactions and to do in-depth analysis of specific industries which may need more regulation.

Legislative enactments aimed at protecting the consumer are approximately 37 states which have enacted comprehensive legislation in its aim to educate the consumer of his rights. In the United States, for quite some time, there widespread discussion of buyer's bill of rights. Since 1971 an office of special Assistant for consumer affairs has been functioning in the executive office of the Present of the United States to deal with matters affecting consumer interests. Areas of consumer education which are the subject of legislation include buying new or used cars, buying or building a new house, home appliances insurance, real estate promotions, jewelry, home furnishing, professional services, door-to-door sales. In the United States, the
consumer product safety commission has already been established. The United States is undoubtedly one of the most advanced countries today to recognize the consumer movement and virtually every activity in American life has a consumer aspect to it.

Similar movements have, in the last two decades in particular, grown in Australia and Europe. Among the European countries Sweden has perhaps made the greatest progress in protecting the interests of the consumers. There, since the early fifties three institutions of great significance have been functioning for consumer protection. These are the National institute of Consumer Information, Ministry of Consumer Welfare and State Financed Consumer Council.

The consumer movement has steadily grown in strength in almost every European country in recent years. Indeed Ralph Nader’s influence seems to be spreading far and wide since the early seventies and consumerism is fast becoming a world wide movement.

In our own country the position is that neither the manufacturer nor the retailers are under any legal obligation to supply goods which attain defined standard of quality, composition, durability or performance except a few items such as matches, methylated spirit and some drugs. What protection in practice an ordinary consumer gets can be seen from the daily complaints that appear in the press about adulteration of milk, edible oil, or even under the essential commodities Act.

The principal legislative enactments which seek to protect the consumer are:

i) Essential Commodities Act.
iii) Drugs Control Act.
v) Weights and measures Act.
vi) Monopolies and Restrictive trade Practice Act.

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The provisions of these enactments taken together do not come anywhere near the extent of protection that is provided by similar legislation in some of the countries which we have already referred. Our legislatures in general have not become fully aware of the importance of consumer protection through legislative measures.

From the point of view of administrative protection the Indian Standard Institution has been rendering remarkable service even since its establishment in 1947. In a quarter century since its inauguration the I.S.I. has formulated a large number of standards for foodstuff, textiles, electrical appliances, furniture, utensils, detergents, sports goods, cosmetics, paints, drugs etc. These standards are intended to facilitate efficient marketing as well as assurance to consumers as to quality or performance. The institute takes care to ensure protection of the consumers interest in the absence of any well-established association that specially represents the consumers viewpoint.

The I.S.I. has also a system of issuing product certification marks to producers who are properly equipped to undertake specified testing operation for regulating the quality of their products. The institute exercises overall supervision over the working of the scheme and is authorized to suspend or cancel any license in the event of its misuse. These are other agencies too far such product certification such as the well known AGMARK, established in 1937 for grading and marketing of agriculture products by the Directorate of Marketing and Inspection of the Ministry of Food and Agriculture.

Quality Control has become absolutely important not only from the point of view of the masses of Indian consumers but also from the point of view of steadily stepping up our exports. There have been numerous cases where Indian goods sent abroad were rejected because of poor quality or a quality that was inferior to what was agreed. A compulsory certification of goods which are hazardous is an essential requirement like Indian with its vast population, city slums and uneducated rural masses.

In the ultimate analysis consumer's interest can be adequately protected only by organized action on the part of consumers. The consumers must get
together establish their own organizations and press for their rights, raise their voice and make their voice heard wherever necessary. Such organizations should spring up all over the country, not only in every town and city but also in every village. Those organizations must provide a common platform for all categories of consumers. There are broadly three categories of them.

i) Those who are fully aware of their rights and very eager to act to get their rights realized but do not know what to do.

ii) Those who are partly aware of their rights, but are not very eager to act, they take things as they are, and

iii) Those who are not aware at all of their rights and live a passive life because of their ignorance.

A consumer organization has a role to play tom each of these categories. it can guide and lead consumers interest whenever necessary. And finally, it can educated the public as a whole in the right policies and practices which would help both the consumer and the producer and provide a continuous channel of communication.

**Legal Theory of Consumer Protection**

Many people believe that consumers automatically will be protected from the limitations and drawbacks of the free and competitive markets. It will not be needed for the Government or businessmen to make certain specific arrangements to protect the consumers at large. This is mainly due to the reason that a market is free and open system and consumers are economically prudent and independent. This in turn helps the consumers to take necessary steps to protect their own interest.

The pure economic theory believes that consumer is the king in the market. Consumer is said to be sovereign. He shall buy whatever he wishes at a price he finds suitable. If sellers do not provided what a consumer wants they will not be able to sell whatever products services they want to market.

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In this free market approach to consumer protection consumers safety is seen as good that is most efficiently provided through the mechanism of the free market whereby sellers must respond to consumer demands. If the consumers want products to be safer and of high quality, then they will indicate this preference in markets by willingly paying more for safer products. Producers will have to respond to this demand of consumers by offering quality and safe goods. Thus, the markets ensures that producers respond say what value they place on safety and they should be allowed to register their preferences through their free choices in markets and not be coerced by businessmen or Government into paying for safety levels they may not want.

However, the above approach has many limitations. There are critics who have proved beyond doubt the limitation of the presumption of free market economy. The critics have posed following arguments against the tenets of market approach.

i) The presumption that in a free economy perfect market condition prevail to the fullest extent is not sound. Consumers often do not have full perfect information about the goods they are buying. The type and nature of products available in the market is too numerous and hence consumers often find it difficult to make a right and national choice of product. Manufacturers are unwilling to provide the total and complete information about the product to the buyers regarding quality, utility, and other relevant attributes. Further if often becomes difficult for a consumer to acquire a specific information free of cost, and in a easy to use manner.

ii) The belief that a consumer is a rational utility maximize is also not very correct. All consumers are not necessarily, budget minded, rational individuals considering seriously maximizing their level of satisfaction. Most of the Consumer choice are based on probability estimates we make concerning the chances that the products we buy will function as we think they will. Most of the consumer are not as competent as they are expected. Many researchers have proved that
consumers are highly inept, irrational and inconsistent when the make choices based on probability estimates. The probability judgments go astray for a number of reasons including the following.

It is also found out many researches that, people are irrational and inconsistent when weight choices based on probability estimates of further costs or payoffs.

The condition of free market, where numerous buyers and sellers are present, and have equal and fair opportunities to bargain purchase and sell a product/commodity is not found valid. As it is true that most of the markets indicate monopolistic or oligopolistic characteristics. The dominance of sellers or group of large sellers is a common feature of the market, giving limited opportunities to the buyers to exercise their choice.

It is clear from the above discussion that consumers are not quite familiar with the conditions of perfect market, and existence of such a market is a more or less hypothetical situation. In a realistic market situation the consumers are responsible for their purchase decisions and they seldom have any protection at the market place.