CHAPTER-I

INTRODUCTION AND DESIGN OF THE STUDY

1.1 INTRODUCTION

Marketing is possible only if there are consumers or buyers. It is rightly said “if there is no consumer, there will be no business”. So consumer is the center of all economic activities. Consumers or customers refer to the people or organizations that seek satisfaction of their needs and wants. In a layman’s language every human being who consumes anything for survival is a consumer. Consumer is defined as” someone who acquires goods or services for direct use or ownership rather than for resale or use in production and manufacturing”. Consumer protection has its deep roots in the rich soil of Indian civilization. Consumer protection concept has been prevailing in India from ancient times but has assumed a greater relevance today in view of unfair trade practices followed by the business world. Consumers need protection, as the consumers are common man of mostly illiterate of their rights, and also business world are rich enough to exploit these common man. So consumers need advice and information to avoid victimization. Business concerns should be concerned with consumer’s protection.

Consumer protection is a group of laws and organizations designed to ensure the rights of consumer as well as fair trade. The Law is designed to prevent business that engaged in fraudulent activities. Every individual is a consumer, regardless of occupation, age, gender, community or religious affiliation. Consumer rights and welfare are now an integral part of the life of an individual and we all have made use of them at some or the other point in our daily routine. Kerala, the southernmost state in India, one of the highly literate states, it is a leading consumer State. In a free
enterprise economy the consumer is regarded as the King. The modern marketing is consumer oriented, he is place at the top of the organizational chart and a satisfied consumer is an asset of the business. But in actual practice the importance of consumer to the business is not yet fully recognized not only that, he is exploited, by the business world in an organized manner. Here comes the significance of measure to protect the consumers. Even though consumer satisfaction is highlighted as primary function of producers and traders, consumers are constantly exploited. Consumer Protection Act, 1986 is an Act of the Parliament of India enacted in 1986 to protect interests of consumers in India. It makes provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith.

The Act is also intended to provide simple, speedy and inexpensive redresses to the consumers' grievances, and relief of a specific nature and award of compensation wherever appropriate to the consumer.

1.2 DEFINITIONS AND CONCEPTS

No scientific endeavour is possible without the guiding light of certain concepts. It is with this view in mind some of the concepts relating to the subject of enquiry are defined in this section

Meaning

The Latin term 'Consumo' means, "eat up completely" which understandably led to the current use of the term consumer. There is no dispute that every person is a consumer. We need food to eat, clothes to wear and house to live in and therefore, these basic things are to be purchased by every human being unless he is the producer of the same.
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The word “Consumer” ordinarily stands for persons who purchase goods and services and consume those for the satisfaction of their wants or wants their family. No one is exception to this because every person has to satisfy his wants for existence and making his life comfortable and happy. Thus all the persons or citizens of a country are consumers in this sense. In other words it can be said that a person who buys property, movable or immovable or hires services for various purpose is a consumer.

Definitions

The term consumer includes every human being, animal, birds and every manufacturing unit created by the human being who/which consumes either goods or services. According to Webster’s new collegiate dictionary, consumer means, one who consumes, one who uses economic goods so diminishes or destroys their utilities. A consumer is usually thought of as a person who buys a product or service for the monetary consideration on prices, at place convenient to him, in order to satisfy his needs.

The Consumer Protection Act 1986 defines consumer specifically and mentions that the goods must have been purchased for a “Consideration” which has been paid or promised or partly paid or partly promised. These goods so purchased should not be meant for resale or for any other commercial purpose.

Further the Act says that services must have been hired for a “Consideration” which has been paid or promised or partly paid and partly promised. In respect of services, it does not include rendering of services free of charge on under a contract of personal services. All the beneficiaries of a person purchasing goods and hiring services are also consumers. Persons consume things either internally or externally.
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Internally by means of food & drugs and externally consumer is affected by constituents of environment. Food is the first requirement of life. Food habits vary from society or society but all societies require purity of the preferred food as sine quo none.

Consumer Protection

Consumer protection means protecting the interests and rights of consumer in the business place. The consumer protection includes the physical protection, protection against cheating, environmental protection and protection against monopoly. It includes protection against marketing of goods and services which are hazardous to life and property, protection against unfair trade practices by providing information about quality, quantity, potency, purity, standard and price of goods and services, protection to the consumers by providing access to a variety of goods and services at competitive prices, protection to the consumers by bringing their interests and grievances at the appropriate Forums.

1.3 CONSUMER PROTECTION IN GLOBAL LEVEL

The present Global Level of consumer protection and guidance movement of America is largely accredited to the farming community and honest businesses. The impetus behind the movement for the earliest legislation gathered strength during the 1870s and 1880s. The farmers noticed the contrast between the rapidly falling prices, which they received for their produce, and the relatively high prices of the goods, which they needed to buy. The price, which the farmer received for the commodities sold by him, seemed to him, have been fixed by the buyers and the price of the goods bought by him, have been fixed by the sellers. Thus the farmers lost both as buyers as well as sellers. The main reason for this situation was the presence of trust and monopolies. As farmers were better endowed
with the political influence at that time, they influenced the Congress and consequently in 1889 the Sherman Act was passed. This Act, declared such trusts unlawful. Although the *Sherman Act, 1889* to a great extent curbed the formation of trusts, there were several monopolies and restrictive trade practices to which the Act did not reach. In order to remove these infirmities, *Clayton Act, 1914* was passed. This Act declared, price discrimination, exclusive dealing, and trying agreements, acquisition of competing companies, and interlocking directors illegal. However, there was no provision to deal with the unfair trade practices.

The Russian movement for Consumer Rights Protection was given a start in the Soviet Times. The first club for Consumer Rights Protection was established in 1988 in Leningrad (St.Petersburg). It was followed by the creation of the Russian Consumer Societies Federation in 1992. The same was converted into the International Confederation of Consumer Societies, which included Russia and other republics of the former USSR.

In February 1992, the "Consumer Rights Protection" law was adopted in Russia. It outlined the consumer rights of the citizens as well as the obligations of organizations engaged in trade and services. Annual public opinion polls show that in recent years Russian Federation Citizens have grown more resolute to defend their consumer rights in case of their violation. The majority of consumers are ready to stand up for their rights today. The efficiency of consumer rights protection has increased too. The majority of sellers, goods manufacturers and service providers are ready to satisfy their consumers' lawful demands upon presentation of competently compiled claims, trying to avoid appeals to courts.
1.4 CONSUMER PROTECTION IN INDIA

The Consumer Protection Act was enacted in 1986 based on United Nations guidelines with the objective of providing better protection of consumers’ interests. The Act provides for effective safeguards to consumers against various types of exploitations and unfair dealings, relying on mainly compensatory rather than a punitive or preventive approach. The Act applies to all goods and services unless specifically exempted, and covers the private, public, and cooperative sectors and provides for speedy and inexpensive adjudication.

During the Muslim Rule in India (712 A.D to 1765 A.D) sufficient care had been given for the consumer protection measures. Sultan Alaud-Din-Khalji (1296 A.D to 1316 AD) had introduced strict price control measures based on production cost. He established separate shopping centres in Delhi for (1) grain, (2) cloth, sugar, dried fruits, herbs, butter and oil, (3) horses, slaves and cattle and (4) miscellaneous commodities. Hoarding of grain was forbidden. The tax was collected in kind at the producing centres and was stored in royal storehouses to ensure smooth supply of food grains to the consumers. The market controller, the state intelligence officers and the sultan's secret agents each submitted independent reports on the functioning of the shopping centres to the Sultan. The shopping centres for general commodities were under the direct control of the commerce ministry. Alaudin's Minister of commerce was also the superintendent of weights and measures and the controller of commercial transaction.
1.5 CONSUMER PROTECTION IN KERALA

The constitution of Kerala State Consumer Protection Council is mandatory and non-implementation of the Act is assumed as violation of Law. It was conceived as a policy-making body of the government on the matters of consumer protection. The council of ministers was to constitute a CDRA at the state level (Kerala State Consumer Disputes Redressal Commission-KSCDRC) and in all the districts of the State (Consumer Disputes Redressal Forum-CDRF). After 1995 there is a change in the procedure and the council of ministers in consultation with Chief Justice of the High Court make the appointments of the President and members of the CDRAs. The Kerala State Consumer Protection Council was expected to formulate guidelines for consumers, the voluntary agencies and CDRF, whereas the Department of Civil Supplies executes the Council’s recommendations. The central government delegated powers to each state government to constitute the CDRA as stipulated in the Consumer Protection Act (Section 9). In sum, KSCPC, KSCDRC, CDRF, High Court and the ministry of Civil Supplies are the main governmental actors.

The overall objective of State Council is to promote and protect the rights of the consumers envisaged in the Act. This was not only the first instance in which an exclusive governmental organization is constituted to attend the consumer problems, but it was also the first instance in which a government body intervened in the market on behalf of the consumers. The existing “imperfections in the market structure” in terms of inequality in the bargaining power between buyers and sellers/producers gave rise to intervention of “State” in the “Market”. The lower bargaining power of the consumers and the exploits of the sellers/producers necessitated governmental assistance to the consumers.
As per the rules of the *Consumer Protection (Kerala) Rules, 1987*, The Kerala State Consumer Protection Council was constituted in the year 1988\(^1\) with 45 members. The Chief Minister was its Chairman and the Minister for Civil Supplies as president and several official and non-official members, with powers to make policies for promoting and protecting consumer interests. But to the utter disappointment of enlightened citizens, the State Governments set up State Commission at Thiruvananthapuram and only three Fora one each at Kollam, Ernakulam and Kozhikode districts for southern, central and northern regions respectively, in May 1990. Kollam Forum redressed the disputes filed at Thiruvananthapuram, Kollam, Alappuzha, Pathanamthitta and Kottayam Districts. Ernakulam Forum redressed the disputes filed at Ernakulam, Thrissur, Palakkad, Idukki and Ernakulam districts and Kozhikode District Forum redressed disputes filed at Kozhikode, Waynad, Kannur, Malappuram and Kasaragode districts.

### 1.6 CURRENT SCENARIO OF CONSUMER PROTECTION ACT IN INDIA-2014

One of the most important milestones in the area of consumer protection/consumer movement in the country has been the enactment of the Consumer Protection Act, 1986. This Act has been necessitated because the well-organized sectors of manufacturers, traders and service providers with the knowledge of market and manipulative skills often attempt to exploit the consumers, in spite of the existence of various provisions of different laws for protecting their interests. Moreover, the increase in population has resulted in enormous pendency and delay in disposal of cases in the civil courts.

\(^1\) G.O. (P) 21/88 F.B.C.S dated 20th September 1988
Hence, the Consumer Protection Act, 1986 was enacted to better protect the interests of consumers. It is one of the most progressive and comprehensive pieces of legislation and is umbrella legislation covering all goods and services. This is indeed a very unique and highly progressive piece of social welfare legislation. The provisions of this Act are intended to provide effective and efficient safeguards to the consumers against various types of exploitations and unfair dealings. Unlike other laws, which are basically punitive or preventive in nature, the provisions of the Act are also compensatory. It is a matter of great satisfaction that we have in our country a Statute which provides more effective protection to the consumers than any corresponding legislation in force in other countries, which are considered to be much more advanced and industrialized. CPA has been in operation for about 25 years. A number of deficiencies and shortcomings in respect of its operation have come to light thereby requiring Amendments on three occasions, still leaving scope for further improvements. Despite all this it has stood the test of time and has been an effective tool in the hands of the consumers to ensure accountability of procedures of goods and providers of services.

THE CONSUMER PROTECTION ACT 2014

The consumers now stand in need of greater protection. The consumers fifty years ago needed only a reasonable modicum of skill and knowledge to recognize the composition of the goods on offer and their manner of production, and to assess their quality and fitness for their particular purposes. The consumers of today find it difficult if not impossible to do so because of the development of complicated production techniques. There is a widespread recognition that the ordinary consumers—devoid of technical knowledge, lacking ready access to independent technical advice, uncertain of the strength of his case, a stranger to law and its ways—must be reluctant to incur the considerable trouble and
appreciable cost of pursuing what they regard as their legitimate complaints. This reluctance is deepened if the outlay on expert investigation and legal proceedings is disproportionate to the price paid for goods. Every consumer problem shows one or more of the following characteristics. First, a disparity of bargaining power between the supplier of goods or services and the consumer to whom they are offered; secondly, a growing and frequently total disparity of knowledge concerning the characteristics and technical components of goods or services; and thirdly, a striking disparity of resources between the supplier of goods or services and the consumer.

The Reasons behind the Enactment of the Legislation

The overall efficiency of the market depends upon the institutional framework which secures the performance of market exchanges. A major issue in consumer protection has been the perceived inadequacy of the system of individual private law litigation to secure performance in a mass-consumption economy where the impact of harm is large in the aggregate but small for any one individual. Public regulation is not, however, the only method of addressing this problem. The consumer protection law is the solution to the inadequacy of the individual private law enforcement of rights.

The Purposes of the Legislation

The Consumer Protection Bill 2014 was passed into law by the National Assembly on the 9th of April 2014. The Act is cited as The Indian Consumer Protection Act, 2014 and the Minister responsible for trade and industry will decide when this Act will be brought into active use. The purposes of the Act are “to protect consumers from unfair and misleading market conduct, provide for the establishment of a Consumer Tribunal and for connected matters.
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Application of the Act

The Consumer Protection Act 2014 defines a consumer as “a person to whom goods or services are supplied in the course of a business carried on by the person supplying them, and who does not receive them in the course of a business carried on by him or her.” This means that any one who acquires goods or services for direct use or ownership rather than for resale or use in production and manufacturing is a consumer.

Administration of the Act

The Commission is the right regulatory institution to administer this important legislation because there is an interface between competition policy and consumer protection policy. The competition policy and consumer protection policy share a common goal: the enhancement of consumer welfare. In this way they are highly complementary. Applied properly, they reinforce one another. The name of the Commission has now been changed to The India Competition and Consumer Protection Commission.

The Rights of Consumers under the Act

The Act elucidates the rights of consumers who before the enactment of this legislation have little or no rights. Under the Consumer protection Act consumers are entitled to true, sufficient and timely information on technology, goods, and services offered in the market as well as on prices, characteristics, quality and risk that might be involved in the consumption of goods and services. Consumers also are also entitled to fair, non-discriminatory treatment by suppliers of good and services, full and timely compensation for damages attributable to suppliers or providers, access to competent authorities and judicial bodies for the protection their rights and to safe, good quality goods and services.
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1.7 CONCEPTUAL FRAMEWORK OF CONSUMER PROTECTION ACT AND COUNCIL

An Act (24th December; 1986) to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith. BE it enacted by Parliament in the Thirty-Seventh Year of the Republic of India as follows:

1.7.1 Short Title, Extent, Commencement and Application

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

1.7.2 Definitions

(1) In this Act, unless the context otherwise requires,

(a)“Appropriate Laboratory” means a laboratory or organisation (i) Recognised by the Central Government; (ii) Recognised by a State Government, subject to such guidelines as may be prescribed by the Central Government in this behalf; or (iii) Any such laboratory or Organisation established by or under any law for the time being in force, which is maintained, financed or aided by the Central Government or a
State Government for carrying out analysis or test of any goods with a view to determining whether such goods suffer from any defect;

(b)“Branch Office” means (i) any establishment described as a branch by the opposite party; or (ii) any establishment carrying on either the same or substantially the same activity as that carried on by the head office of the establishment;

(c)“Complainant” means (i) a consumer; or (ii) any voluntary consumer association registered under the Companies Act, 1956 (1of 1956) or under any other law for the time being in force; or (iii) the Central Government or any State Government, (iv) one or more consumers, where there are numerous consumers having the same interest; (v) in case of death of a consumer, his legal heir or representative; who or which makes a complaint; (c) "complaint" means any allegation in writing made by a complainant that (i) an unfair trade practice or a restrictive trade practice has been adopted by any trader or service provider (ii) the goods bought by him or agreed to be bought by him; suffer from one or more defects; (iii) the services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect; (iv) a trader or service provider, as the case may be, has charged for the goods or for the service mentioned in the complaint a price in excess of the price. (a) fixed by or under any law for the time being in force (b) displayed on the goods or any package containing such goods; (c) displayed on the price list exhibited by him by or under any law for the time being in force; (d) agreed between the parties; (v) goods which will be hazardous to life and safety when used or being offered for sale to the public,

(d)“Consumer” means any person who (i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user
of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or (ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who 'hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person but does not include a person who avails of such services for any commercial purposes;

Explanation: For the purposes of this clause, “commercial purpose” does not include use by a person of goods bought and used by him and services availed by him exclusively for the purposes of earning his livelihood by means of self-employment;

(e) "Consumer Dispute" means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint. (f) "Defect" means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods;

(g) "Deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service; (h) "District Forum" means a Consumer Disputes Redressal Forum established under clause (a) of section 9;
(i) "Goods" means goods as defined in the Sale of Goods Act, 1930; (iii) puts or causes to be put his own mark on any goods made or manufactured by any other manufacturer; Explanation.—Where a manufacturer despatches any goods or part thereof to any branch office maintained by him, such branch office shall not be deemed to be the manufacturer even though the parts so despatched to it are assembled at such branch office and are sold or distributed from such branch office;

(j) "Member" includes the President and a member of the National Commission or a State Commission or a District Forum, as the case may be; (k) "National Commission" means the National Consumer Disputes Redressal Commission established under clause (c) of section 9; (l) "Notification" means a notification published in the Official Gazette; (m) "Person" includes, (i) a firm whether registered or not; (ii) a Hindu undivided family; (iii) a co-operative society; (iv) every other association of persons whether registered under the Societies R (21 of 1860) or not;

(n) "Prescribed" means prescribed by rules made by the State Government, or as the case may be, by the Central Government under this Act; (i) “regulation” means the regulations made by the National Commission under this Act; (ii) “restrictive trade practice” means a trade practice which tends to bring about manipulation of price or conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions and shall include (a) delay beyond the period agreed to by a trader in supply of such goods or in providing the services which has led or is likely to lead to rise in the price; (b) any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent to buying, hiring or availing of other goods or services;
(o) "Service" means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;

(p) "State Commission" means a Consumer Disputes Redressal Commission established in a State under clause (b) of section 9;
(q) "Trader" in relation to any goods means a person who sells or distributes any goods for sale and includes the manufacturer thereof, and where such goods are sold or distributed in package form, includes the packer thereof; (r) "Unfair trade practice" means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, namely (1) the practice of making any statement, whether orally or in writing or by visible representation which (i) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model; (ii) falsely represents that the services are of a particular standard, quality or grade; (iii) falsely represents any re-built, second-hand, renovated, reconditioned or old goods as new goods; (iv) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have; (v) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have; (vi) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services; (vii) gives to the public any warranty or guarantee of the
performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereof; Provided that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence; (viii)makes to the public a representation in a form that purports to be (i) a warranty or guarantee of a product or of any goods or services; or (ii) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result, if such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such warranty, guarantee or promise will be carried out; (ix) materially misleads the public concerning the price at which a product or like products or goods or services, have been or are, ordinarily sold or provided and for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made; (x) gives false or misleading facts disparaging the goods, services or trade of another person.

**Explanation:** For the purposes of clause (1), a Statement that is (a) expressed on an article offered or displayed for sale, or on its wrapper or container; or (b) expressed on anything attached to, inserted in, or accompanying, an article offered or displayed for sale, or on anything on which the article is mounted for display or sale; or (c) contained in or on anything that is sold, sent, delivered, transmitted or in any other manner whatsoever made available to a member of the public, shall be deemed to be a statement made to the public by, and only by, the person who had
caused the statement to be so expressed, made or contained; (2) permits the publication of any advertisement whether in any newspaper or otherwise, for the sale or supply at a bargain price, of goods or services that are not intended to be offered for sale or supply at the bargain price, or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business and the nature of the advertisement.

**Explanation:** For the purpose of clause (2), "Bargaining Price" means (a) a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise, or (b) a price that a person who reads, hears or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold;

(3) Permits (a) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction as a whole; (b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest; (3A) withholding from the participants of any scheme offering gifts, prizes or other items free of charge, on its closure the information about final results of the scheme.

**Explanation:** For the purposes of this sub-clause, the participants of a scheme shall be deemed to have been informed of the final results of the scheme where such results are within a reasonable time, published,
prominently in the same newspapers in which the scheme was originally advertised; (4) permits the sale or supply of goods intended to be used, or are of a kind likely to be used, by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods; (5) permits the hoarding or destruction of goods, or refuses to sell the goods or to make them available for sale or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services.(6) manufacture of spurious goods or offering such goods for sale or adopts deceptive practices in the provision of services.

1.7.3 Act not in derogation of any other Law

The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

1.7.4 Consumer Protection Council

Consumer Protection Act, 1986 is an Act of the Parliament of India enacted in 1986 to protect the interests of consumers in India. It makes provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith.

1.7.5 The Central Government Consumer Protection Council

(1) The Central Government shall, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Central Consumer Protection Council (hereinafter referred to as the Central Council).
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(2) The Central Council shall consist of the following members, namely (a) the Minister in charge of the consumer affairs in the Central Government, who shall be its Chairman, and (b) such number of other official or non-official members representing such interests as may be prescribed.

1.7.6 Procedure for meetings of the Central Council

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

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

1.7.7 State Government Consumer Protection Council

It is established by the State Government which consists of the following members:

- The Minister in charge of consumer affairs in the State Government Chairman.
- Such number of other official or non-official members representing such interests as may be prescribed by the State Government.
- Such number of other official or non-official members, not exceeding ten, as may be nominated by the Central Government.

The State Council is required to meet as and when necessary but not less than two meetings every year.
1.7.8 Objectives of Consumer Protection Council

The Consumer Protection Act postulates establishment of Consumer Protection Councils at the Central and State levels for the purpose of spreading consumer awareness. The objects of the Councils, as per the Act, shall be to promote and protect the rights of the consumers such as:

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

1.7.9 Main functions of Consumer Protection council

- Providing speedy redress to consumers complaints through negotiation, mediation and conciliation;
- Seeking ways and means of removing from the markets hazardous products and causing offenders to replace such products with safer and more appropriate alternatives;
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- Publishing from time to time list of products whose consumption and sale have been banned, withdrawn, severally restricted or not approved by the Federal Government;

- Causing an offending company, firm, trade association or individual to protect, compensate, provide relief and safeguards to injured consumers or communities from adverse effects of technologies that are inherently harmful, injurious, violent or highly hazardous;

- Organising and undertaking campaigns and other forms of activities that will lead to increased public consumer awareness;

- Encouraging trade, industry and professional associations to develop and enforce in their various fields, quality standards designed to safeguard the interest of consumers;

- Issuing guidelines to manufacturers, importers, dealers and wholesalers in relation to their obligation under the CPC enabling law;

- Encouraging the formation of voluntary consumer groups or associations for consumers’ well being;

- Ensuring that consumers’ interest receive due consideration at appropriate fora and providing redress to obnoxious practices or the unscrupulous exploitation of consumers by companies, firms, trade associations or individuals;

- Registering and monitoring products, services and sales promotions in the market place.
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1.7.10 Consumer Disputes Redressal Agencies

- District Consumer Disputes Redressal Forum (DCDRF): Also known as the "District Forum" established by the State Government in each district of the State. The State Government may establish more than one District Forum in a district. It is a district level court that deals with cases valuing up to 2 million (US $30,000).

- State Consumer Disputes Redressal Commission (SCDRC): Also known as the "State Commission" established by the State Government in the State. It is a state level court that takes up cases valuing less than 10 million (US $150,000)

- National Consumer Disputes Redressal Commission (NCDRC): Established by the Central Government. It is a national level court that works for the whole country and deals with amount more than 10 million (US$150,000).

1.7.11 Consumer Rights Awareness (CRA)

Consumers play a vital role in the development of a nation. Mahatma Gandhi said, "A consumer is the most important visitor on our premises. He is not dependent on us, we are on him. He is not an interruption to our work; he is the purpose of it. We are not doing a favour to a consumer by giving him an opportunity. He is doing us a favour by giving us opportunity to serve him.” But of late unfortunately cheating by way of overcharging, black marketing, misleading advertisements, etc has become the common practice of greedy sellers and manufacturers to make unreasonable profits and without heed to confer consumer rights and interests.
Modern business is an integral part of current day society. Each company has as a socio-economic impact on the people and has to deliver the goods and services and the standard of living as per the aspirations of the people. It has a great social responsibility towards the well being of society. Therefore consumer is an important component of society and business has an obligation to him. But, when the goods are short in supply the producers charge high prices and consumers have no choice other than to purchase what is available. Therefore, consumer is to be protected from unsafe products, poor quality of goods and services, high prices, unfair trade practices and misleading advertisements. Therefore, it is necessary for CRA, awareness to prevail amongst the consumer to protect them from unscrupulous trade practices and to give them the idea of the utility of money spent by them. Consumer occupies a supreme position in a free economy. But, he never received the attention he deserves. In a country like India, he is not the sovereign but a slave. The welfare of the consumer lies in the fulfillment of his normal and legitimate expectation with regards to the goods and service.

Consumer rights awareness is about making the consumer aware of products or services; however, this is largely unknown to many citizens irrespective of whether they are educated or uneducated. With an enormous population along with high levels of poverty, unemployment and poor literacy levels, consumer rights awareness continues to remain low. Education is a lifelong process of constantly acquiring relevant information, knowledge and skills. Consumer education is an important part of this process and is a basic consumer right that must be introduced at the school level. Consumers by definition include all citizens who are, by and large the biggest group, who are affected by almost all government, public or private decisions. The most important step in consumer education
is awareness of consumer rights. However, consumer education is incomplete without the responsibilities and duties of consumers and this influences individual behaviour to a great extent.

Consumer rights awareness is now an integral part of our lives like a consumerist way of life. They have been well documented and much talked about. We have all made use of them at some point in our daily lives. Market resources and influences are growing by the day and so is the awareness of one's consumer rights. These rights are well-defined and there are agencies like the government, consumer courts and voluntary organizations that work towards safeguarding them. While we all like to know about our rights and make full use of them, consumer responsibility is an area which is still not demarcated and it is hard to spell out all the responsibilities that a consumer is supposed to shoulder. There are six rights of consumer which are provided in the Consumer Protection Act, 1986.

1.7.12 Nature of Consumer Rights

1. **Right to Safety**: The right to be protected against goods which are hazardous to life and property. This consumer right is defined as the ‘right to be protected against marketing of goods and services which are hazardous to life and property. Specifically significant in areas such as healthcare, food processing and pharmaceuticals, this right spans across any domain that could have a serious impact on the consumers’ health or well being such as Automobiles, Travel, Domestic Appliances, Housing etc. Violation of this right is almost always the cause of medical malpractice law suits in India. Every year, it is estimated that thousands, if not, millions of Indian citizens are killed or severely hurt by unscrupulous practices by hospitals, doctors, pharmacies and the automobile industry.
Chapter I  Introduction and Design of the study

2. Right to Information: The right to be informed about the quality, quantity, purity, price and standards of goods. This consumer right is defined as the ‘the right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, as the case may be so as to protect the consumer against unfair trade practices’ in the Consumer Protection Act, 1986. In the Indian market place, consumers get consumer information through two popular, yet unreliable means, namely advertising and word of mouth. Due to this, the consumers in India seldom have accurate and complete information to assess the true value, suitability, safety or reliability of any product. Mostly we find out hidden costs, lack of suitability, safety hazards and quality problems only after we have purchased the product.

3. Right to Choose: The right to be assured access to a variety of products at competitive prices, without any pressure to impose a sale, i.e., freedom of choice. Consumer Protection Act, 1986 defines this right as ‘the right to be assured, wherever possible, to have access to a variety of goods and services at competitive prices’. Competition, invariably, is the best regulator of a market place. Existence of oligopolies, cartels and monopolies are counterproductive to consumerism. How often have you noticed a conglomerate of companies that lobby the government to compromise consumer rights.

4. Right to be Heard: The right to be heard and assured that consumer interests will receive due consideration at appropriate forums. According to the Consumer Protection Act, 1986, the right to be heard and to be assured that consumer's interests will receive due consideration at appropriate forums’ is referred to as the right to be heard. This right is supposed to empower Indian consumers to fearlessly voice their complaints and concerns against products and companies to ensure their
issues are handled efficiently and expeditiously. However, to date the Government of India has not created a single outlet for the consumers to be heard or their opinions to be voiced.

5. Right to Seek Redressal: The right to get relief against unfair trade practice or exploitation. The right ‘to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers’ is defined as the right to redressal in the Consumer Protection Act 1986. The Indian Government has been slightly more successful with respect to this right. Consumer courts such as District Consumer Disputes Redressal Forums at the district level, State Consumer Disputes Redressal Commissions and National Consumer Disputes Redressal Commissions have been established through the Consumer Protection Act.

6. Right to Education: The right to be educated about rights of a consumer. The right of each Indian citizen to be educated on matters related to consumer protection and about his/her rights is the last right given by the Consumer Protection Act, 1986. This right simply ensures that the consumers in India have access to informational programs and materials that would enable them to make better purchasing decisions. Consumer education may mean both formal education through school and college curriculums and also consumer awareness campaigns run by both governmental and non governmental agencies (NGO).

1.8 IMPORTANCE OF THE STUDY

This may be summed up as under:

- 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.
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- 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 in addition to and not in derogation of the provisions of any other law for the time being in force.

1.9 STATEMENT OF THE PROBLEM

From the year 1986 onwards the consumer protection Act was enacted for better protection of the interests of consumers. The provision of the act came into force with effect from 15.04.1987. It applies to all goods and services unless specifically exempted by central government and it covers all sectors. The Act envisages establishment of consumer protection councils at the Central, State level, and District whose main objects will be to promote and protect the rights of the consumers. After the liberalization of the economy when the country has opened its boundary for foreign competitors, the importance of this Act automatically increased. The Act includes number of provisions for protection of interest of consumers. After the enactment of this Act no effort is made by any organization or agency to judge the effectiveness of this Act in Consumer Protection Council area. This reason prompted me to conduct the study on this area, to measure the effectiveness of council and its effect. As this council was working since 1986 it is necessary to ascertain the work progress and proposed to find out how far they have been effective in bringing about consumer welfare in North Kerala. As consumer affairs comes under the Ministry of Civil Supplies of North Kerala has embarked itself on to a fact-finding mission regarding the activities of council.
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Introduction and Design of the study

1.10 OBJECTIVES OF THE STUDY

The main objectives of the study are to see the consumer protection council in areas of North Kerala and also see the functioning of Districts Consumer forums. The research is aimed to heighten the magnitude of problem of the consumer protection council among the people of this Districts (Kannur, Kasaragod, Kozhikode, Malappuram and Wayanad) the study also available to the consumer protection council under the Consumer Protection Act, 1986.

The Main objectives of study are:

1. To examine whether the consumer protection council is functioning properly in order to fulfills its objectives as well or not.

2. To assess the performance of the Consumer Protection Council in North Kerala.

3. To review the historical development of Consumer Protection Council in North Kerala.

4. To analyze the knowledge of consumers about their rights in consumer protection Act.

5. To understands the consumers about the Consumer Protection Council and how friendly it is.

6. To assess the performance of governing body members in North Kerala.

7. To evaluate and give proper suggestions for the development of the Consumer Protection Council in North Kerala.
1.11 RESEARCH METHODOLOGY

1.11.1 Period of study

The study covers a period of 5 consecutive years starting from 1\textsuperscript{st} June, 2012 and ending on 30\textsuperscript{th} December, 2015.

1.11.2 Sources of data

The study is descriptive and analytical. The required data for the study are collected from both primary and secondary sources.

**Primary data**

The primary data for the study have been collected from the following sources.

1. Registered sample is five districts in North Kerala State and the ‘Governing Body Members’ (120 members from five districts, which includes District Collector, Civil Supplies Officer, MLAs,) in North Kerala with the help of questionnaire.

2. The total samples (425) of 300 from the ‘Consumers’ and 120 council members of five districts in North Kerala.

**Secondary data**

The secondary data for the study have been collected from the following sources:

1. Reports, bulletins and surveys both Indian and foreign relevant to the study.


3. Books, journals, seminar paper speeches, symposia, conferences etc. related to the consumer education, consumer protection and consumer guidance.
4. The study reports of various commissions and committees relevant to the study.


6. The case law laid down by court and quasi-judicial bodies in India on the subject.


1.1.3 Sampling Procedure

Sampling techniques have been applied for the collection of primary data from the selected two sources.

1. Consumer protection Councils in Kerala

At present there are 14 Consumer Protection Council are functioning all over Kerala. The state of Kerala has fourteen districts. For the purpose of sample design 5 districts (Kannur, Kasaragod, Kozhikode, Malappuram and Wayanad) have been selected in these five districts all together 5 Consumer Protection Council functioning and selected for collecting the data and 120 governing members of these Consumer Protection Council’s selected for the study.

For collecting data from the sample Consumer Protection Council members structured interview schedule was used. A pilot study was conducted covering the Consumer Protection Council belonging to Malappuram and Kozikode districts for the finalization of interview schedule. The original interview schedule after making necessary changes on the basis of the pilot study was finalized.
Table No. 1.1

Table showing the Five Districts of Consumer Protection Council and
120 Governing members selected for the Study

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of Districts</th>
<th>Number of Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kasaragod</td>
<td>22</td>
</tr>
<tr>
<td>2</td>
<td>Kannur</td>
<td>18</td>
</tr>
<tr>
<td>3</td>
<td>Wayanad</td>
<td>30</td>
</tr>
<tr>
<td>4</td>
<td>Kozhikode</td>
<td>20</td>
</tr>
<tr>
<td>5</td>
<td>Malappuram</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>120</strong></td>
</tr>
</tbody>
</table>

*Source: Primary Data*

2. Consumers of Kerala to know their awareness in Consumer Protection Council

The consumers in Kerala are divided into two strata viz consumers in urban area and consumers in rural area. 60 respondents (30 each from the 2 strata) have been randomly selected covering the 60 respondents from 5 districts (Kannur, Kasaragod, Kozhikode, Malappuram and Wayanad), which were randomly selected from the five districts. Thus total sample selected for the study is 300.

For collecting data from the sample consumers in Kerala a structured interview schedule was used.
Table No. 1.2

Table showing the Number of Consumers selected from North Kerala

<table>
<thead>
<tr>
<th>Districts</th>
<th>Consumers in Urban Area</th>
<th>Consumers in Rural Area</th>
<th>Grand Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kasaragod</td>
<td>30</td>
<td>30</td>
<td>60</td>
</tr>
<tr>
<td>Kannur</td>
<td>30</td>
<td>30</td>
<td>60</td>
</tr>
<tr>
<td>Wayanad</td>
<td>30</td>
<td>30</td>
<td>60</td>
</tr>
<tr>
<td>Kozhikode</td>
<td>30</td>
<td>30</td>
<td>60</td>
</tr>
<tr>
<td>Malappuram</td>
<td>30</td>
<td>30</td>
<td>60</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>150</strong></td>
<td><strong>150</strong></td>
<td><strong>300</strong></td>
</tr>
</tbody>
</table>

*Source: Primary Data*

1.11.4 Tools of Analysis

For the purpose of analysis, simple statistical tools such as Tables, Charts, Diagrams, Percentages, Average and Chi-square tests have been used. The collected data have been classified accordingly for this purpose. The variations in the opinion of respondents are examined by Chi-square test. To assess the order of preference of the respondents, the technique of ranking is used.
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1.12 HYPOTHESIS OF THE STUDY

Following hypotheses have been formulated on the basis of the objectives of the study.

GOVERNING BODY MEMBERS

1. There is no significant association between Age and Political Worker of the respondents.

2. There is no significant association between Age and New Member in the Governing Body of Consumer Protection of the respondents.

3. There is no significant association between Age and Acquired basic concepts of the respondents.

4. There is no significant association between Age and Awareness of various schemes of the respondents.

5. There is no significant association between Gender and New Member in the Governing Body of Consumer Protection of the respondents.

6. There is no significant association between Gender and Awareness of various schemes of the respondents.

7. There is no significant association between Gender and Difficulty on the pad of the employees of the respondents.

8. There is no significant association between Gender and CEO place all information for decision-making of the respondents.
CONSUMER

1. There is no significant association between Locality and nature of prices of the respondents.

2. There is no significant association between Locality and Variation in the quantity of the respondents.

3. There is no significant association between Locality and Willingness to purchase by this method of the respondents.

4. There is no significant association between Place of Shopping and Variation in the quantity of the respondents.

5. There is no significant association between Place of Shopping and Willingness to purchase by this method of the respondents.

6. There is no significant association between Place of Shopping and Part of direct marketing activities of the respondents.

7. There is no significant association between Prices charges for products and Variation in the quantity of the respondents.

8. There is no significant association between Prices charges for products and Willingness to purchase by this method of the respondents.

9. There is no significant association between prices charges for products and part of direct marketing activities of the respondents.

10. There is no significant association between reduction in prices only for certain fast moving items and quality of brands of the respondents.

11. There is no significant association between reduction in prices only for certain fast moving items and nature of prices of the respondents.
12. There is no significant association between purchasing the own brands and variation in the quantity of the respondents.

13. There is no significant association between purchasing the own brands and willingness to purchase by this method of the respondents.

14. There is no significant association between convenient items and services and variation in the quantity of the respondents.

15. There is no significant association between convenient items and services and willingness to purchase by this method of the respondents.

1.13 LIMITATIONS OF THE STUDY

Some of the governing body members were not cooperative in revealing all the relevant information required as per interview schedule. But during the open discussion they were persuaded to reveal most of the required information.

The study is confined to only those 5 districts of North Kerala so we do not confide to all over Kerala.

1.14 CHAPTER SCHEME

The study report has been presented in to seven chapters.

Chapter I

Chapter I

Introduction and Design of the study

Chapter II

The second chapter deals with the Review of Literature of the study.

Chapter III

This chapter deals with the Profile of the Study Area (Kerala)

Chapter IV

This chapter Deals with Consumer Protection Law in India and Kerala

Chapter V

This chapter deals with performance of governing body Council members in North Kerala.

Chapter VI

This chapter Deals with Consumers Perception regard to margin free markets run under the control of Consumer Protection in North Kerala.

Chapter VII

This seventh chapter provides the findings, suggestions and conclusion of the study and suggests some measure which should be taken by the part of consumer law reform by governmental agencies in North Kerala.