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Consumer Protection Act, 1986: Issues and Challenges

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ABSTRACT

The marketing concept is totally based on consumer. Consumers' are not only the heart of market but also the controller of marketing functions. The reality consumer may be 'King' of organizational activities, but King is misguided by his Kingdom. This paper discuss about the issues and challenges associated with the consumer protection act, 1986. We try to avoid and reduce unfair trade practices made by the various companies in India. We have done a conceptual research through secondary data and with real life examples. Here after in this paper consumer protection act, 1986 is referred to as the 'Act'.

Keywords: Challenges; Consumer; Consumer Protection Act; Issues.

1.0 Introduction

The law relating to consumer protection is contained in the consumer protection act, 1986. The act applies to all goods and services. The act extends to the whole of India except the state of Jammu and Kashmir [sec 1 (2)]. The provision of chapter 1, 2, and 4 came in to force on April 15, 1987 and of chapter 3 on July 10 1987.

Act 1986 is referred to as the act as amended by the consumer protection (amendment) Act, 2002. The amendment act came into the force with effect from 15th march 2003. The consumer protection is nothing but to provide safeguard against the basic rights of the consumers. In India, Consumer Protection Act of 1986 is the law governing consumer protection.

Under this law, Separate Consumer tribunals have been set up throughout India in each and every district in which a consumer [complaint can be filed by both the consumer of a goods as well as of the services] can file his complaint on a simple paper without paying any court fees and his complaint will be decided by the Presiding Officer of the District Level.

Appeal could be filed to the State Consumer Disputes Redressal Commissions and after that to the National Consumer Disputes Redressal Commission (NCDRC).

The procedures in these tribunals are relatively less formal and more people friendly and they also take less time to decide upon a consumer dispute when compared to the year's long time taken by the traditional Indian Judiciary. In recent years, many effective judgments have been passed by some state and National Consumer Forums.

2.0 Methodology

1. Need of the study: There is a need to undertake this study to know whether the Act 1986 has really implemented by all the business firms or not.
2. Scope of the study: Our study is restricted only to the issues and challenges associated with this Act in India.
3. Objective of the study
To know the emerging issues and challenges associated with this Act
 - To study the role of Consumer protection act 1986 in protecting consumers from unfair trade practices.
 - To know whether the Consumer Protection Act 1986 has implemented by business firm or not.
4. Data collection method
Secondary data: Data is collected through various sources like internet, journals, magazines, text books of various authors and Newspapers.

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3.0 Brief History of Consumer Protection Act.,1986

The 20 points of program, 1986 incorporates consumer protection as one of its essential ingredients. The consumer protection Act, 1986 is the result of it. The conference of consumer affairs was held on January 31, 1987 and then the meeting on consumer protection was inaugurated in New Delhi on February 20, 1987 by the minister of parliament affairs and food and civil supplies. It was attended by food and civil supplies ministers of states and union territories who have discuss various issues relating to the implementation and enforcement of the newly enacted consumer protection act 1986. D).

3.1 Who is a consumer?

[Sec 2(1) (d)] "Consumer" means any person, who buys any goods for a consideration (a) which has been paid or promised or partly paid and partly promised, or (b) under any system of differed payment. „Consumer“ does not include a person who obtains goods for resale or for any commercial purpose. Following are the few emerging issues related to the Act 1986;

- 1) Unfair trade Practices: Sec (2) (r) it means a trade practice which a trader for the purpose of promoting the sales, use or supply of any goods or for the provision of any services, adopts unfair method or unfair or deceptive practices.
- 2) Spurious Goods: There are few companies copy a design, color and outlook of the original brand and they sale it in rural market with little variation in brand name/product name; like example Original brands Duplicate brands
 - Life boy Jifeboy
 - Nike Kine
 - Fair & lovely Lovely& lovely
- 3) Misleading advertisements: Ads are the major channel of communication in order to create awareness about goods and services through print media, TV media, radio, etc. for example the ad of Axe it guides customers that if the men puts it on his body girls will fall behind him for its fragrance, but in real life it's impossible. It clearly misguiding to customers. It's clear that ad agencies have ignored the consideration of Consumer protection.
- 4) Warranty and Guaranty: Mr Rajesh of Karnataka purchased an electric choke which had a warranty for one year. After 3 months the equipment went out of order and when he took it to the dealer for replacement, he told that there was no guarantee and no replacement is possible. As Rajesh doesn't know about the difference about the warranty and guarantee. Here shop person has not educated customer about the difference of it. Warranty means the promise given by the vendor regarding the due performance of the article sold should be correctly referred to as warranty. Guarantee means a promise of a surety to discharge the liability of the principle debtor in case of default.
- 5) Pricing: Price means in simple term,, it's a value given for a particular goods and services for which a customer has to pay to avail/purchase a goods and services by the seller. Most of the customers at rural and urban are less aware about the concept of star (*) which means "conditions Apply". Usually companies put a low price tags in advertisements for a particular product in order to attract customers for example if product is advertised as price offer of Rs 999* which means product is not available to that price instead there will be more price than that or else there may be some other conditions. Usually companies like Insurance, Automobiles, Electric etc., adopt this strategy just to drag customers. But it's like an unethical practice according to the consumer protection act 1986.
- 6) Renovated Goods: More population and Globalization has lead many companies to involve in selling of renovated goods/ Second hand goods of which there will be no guarantee and warranty to the end users. It has taken place in the areas of Mobile batteries, Televisions, Refrigerators, motor Bikes etc. most of the companies purchase renovated goods from customers at urban cities and they recondition its features and they again resale with new brands in Rural markets in which the customers are less educated.
- 7) Fake Tele-Marketing: Most of the tele-marketing companies they offer bundles of benefits for a particular purchase at lesser price. Customers who are price conscious they come forward to make purchase of it, they just order purchase through the telephones/mobiles. Once they receive the orders they find less benefit which was mentioned at the time of tele conversation

by a sales executive of the company. Usually this has taken place mobile companies who may give an advertisement of getting many accessories free for the purchase of mobile, but ultimately there will be nothing as mentioned by them at the time of order received by customers.

4.0 Challenges Ahead:

- Its difficult task for the „central consumer protection council, District Forums, and state consumer protection councils to identify the unfair practices and punishing to those companies who are involved in unethical trade practices.
- Corruption weakens the government bodies to protect consumers from unfair trade practices.
- Quick decisions are greater challenge for all councils and agencies in order to protect consumers.
- Its India san greater challenge for the agencies and councils to create awareness among customers about the present issues of unfair trade practices. It will be their responsibility to educate customers in the society.

5.0 Recommendations / Suggestions:

- The unfair trade practice adopted by the large house must be included in the act and consumers may have a choice between the forum and councils for complaint.
- The compensation must be clearly specified in the Act. The compensation should be based on the gravity of the offence and its ill effects on the consumers.
- The right of healthy environment must be included for better environment of our beautiful world.
- The central and state government must implement this act in order to support consumer movement in the country.
- The consumer education must be vigorously developed in urban as well as rural areas of the society.
- The government must take strong step towards businessmen, manufacturers, and traders who are involved in the mass media and they should be debarred from all government assistance.

- The government should give financial support to registered consumer associations for better consumer movement.

6.0 Conclusions

The consumer protection Act, 1986 is unique in coverage and compensatory in nature. But, the success of the new legislation would however depends on removing the lacunae in the act and considering the wealthy suggestions and ultimately on its effective implementation by the central and state government. Strong and effective consumer movement is the need of the hour. It should be the way of life for all the section of the society to be a being a real consumer. The Consumer protection act, 1986 will ensure consumerism in the country.

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