**Legal Aspect of Business**

**Unit-4 (II)**

**Consumer Protection Act**

**The Act tried to protect consumers not only of goods but also of services. Consumers in the Act (Section 2) 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 buyes 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.

**The definition has clarified following:**

1. The Act applies both to goods and services.
2. The provisions of the Act are applicable even when part payment has been made and rest is promised to be paid later.
3. The Act protects not only buyer but user in the case of goods and any beneficiary in case of services.

As Act has covered both goods and services the defect and deficiencies have elaborately been defined. Defect which is in relation to goods “means any defaults, imperfection or short coming in the quality, quantity, potency, purity or standards which is required to be maintained by or under any law for the time being in force or under any contract, express or implied or as is claimed by trader in any manner what so ever in relation to any goods; Deficiency related to service “means any faults, imperfection, short coming 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 undertaking to be performed by a person in pursuance of a contract or otherwise in relation to any services”.

Under the deficiency clause many medical practitioners, insurance companies have been penalized for defi­cient services and forced them to provide better service in future.

The coverage of services is very wide and it includes “services of any description which is made available to potential users and includes 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 surveyance of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service”.

Though the term service includes a large number of services it has not mentioned educational service (which has become very much commercialized and large number of students are virtually cheated by misrepresentation, but consultancy is included in the definition of services).

The dispute can arise for unfair and restrictive trade practices also, hence they have also been defined in the Act. The restrictive trade practices “means any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be services as a condition precedent for buying, hiring or availing of other goods or services”.

It in simple words means that if one buys goods or service and asked to buy some other good or service also as a precondition of a deal it is restrictive trade practice and is not permitted.

**Objectives of the Consumer Protection Act of 1986**

Discussed below are some of the major objectives and aims for the establishment of the Consumer Protection Act of 1986.

1. Better protection of the interests or all consumers of any goods or services unless the governments specifically exempt.
2. Establishment of consumer councils like the Central and State Consumer Protection Councils and the District Forum.
3. Provision of better quality dispute redressal agencies that can help solve any dispute that arises between consumers and companies.
4. Protection of the consumer rights.
5. Protect consumers from exploitations or mistreatments.
6. Ensure qualitative and effective consumer education. Consumers should be aware of their rights, their options and the solutions available at their disposal.
7. An efficient platform for filing complaints of the consumers and solving the same.
8. Attempting to provide a quality life for consumers.
9. Teaching consumers and brands to live by ethical obligations and also gain genuine public support.

**Consumer Rights**

In order for ensuring consumer protection, it is essential that every consumer know the basics of consumer protection. Discussed below are the fundamental consumer rights.

* **The right to be heard**

Every consumer has the right to be heard after being exploited. An upset consumer should be aware that he/she possesses the right to take the matter to the authorities if the company does not hear them out. The right to be heard is a powerful right at the disposal of the consumer.

* **The right to seek redressal**

Every consumer has the right to seek out for justice. Upset consumers who have been a victim of corporate exploitations can take the matter to the redressal agencies and file a suit against the insensitive company. This right is often put to ill use by many consumers and is hence a very delicate right.

* **The right to information**

Every consumer has the right to information. Consumers should be amidst truthful and genuine information. Information should not have an ill purpose and should not be incorrect. In other words, consumers have the right to truthful information.

* **The right to protection**

Every consumer has the right to protection. Central Consumer Protection Council, State Consumer Protection Council, District Forum and Consumer Protection Redressal Agencies are at the disposal of the consumers. These institutions aim at protecting Indian consumers from exploitative companies.

* **The right to assurance**

Every consumer has the right to assurance. Assurance of qualitative goods and qualitative services. They also have the right to the assurance of the variety of commodities and services at their disposal.

* **The right to consumer education**

Every consumer also has the right to receive consumer education. This education is often a part of every consumer protection act and amendment. The government should make immense effort to share and spread the consumer rights to every remote area of India. Consumers should also receive the right to get the education on the consumer do’s and consumer don’ts. This is a very informative and knowledgeable right at the disposal of the consumers.

* **The right to a healthy environment**

Every consumer has the right to be amidst a clean and healthy environment. Consumers have the right to purchase goods and services in a clean environment free from hassles and pressure. The consumer should not permit intense influence of any vendor because he/she is entitled to decide independently.

# Consumer Protection Council and State Consumer Protection Council

**The Consumer Protection Act, 1986** sought to provide better protection to the interests of the consumers and for that purpose made provisions for the establishment of Consumer Protection Councils and other authorities for resolving consumers’ disputes. The Consumer Protection Councils would be set up at national and state levels (Section 6 of Consumer Protection Act)

**The objects of the Central Consumers Protection Council and State Consumers Protection Councils are to promote and protect the rights of the consumers, such as:**

**(a)** The right to be protected against marketing of goods and services which are hazardous to life and property.

**(b)** 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.

**(c)** The right to be assured wherever possible, access to a variety of goods and services at **competitive prices**.

**(d)** The right to be heard and to be assured that consumers’ interest will receive due consideration at appropriate forum.

**(e)** The right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers, and

**(f)** The right to consumer education.

**The objects of a State Consumer Protection Council are to promote and protect within the state the rights of the consumers.**

The objects of the Central Consumer Protection Council are to promote and protect the rights of the Indian consumers in general within the territory of India. The Central Council is the highest body to lie down and decide the policy of consumer protection. Consumers’ interests mainly concern with

**(i)** Good quality of goods and services.

**(ii)** Regular and uninterrupted supply of products; and

**(iii)** Reasonable prices of the products.

### Composition and Functions of the Councils:

#### Central Council (Sec. 4):

**The Central Council will be composed of following members:**

1. The Minister in charge of Consumer Affairs of the union government will be the chairperson of the Council.
2. Such members official and non-official representing such interests as may be prescribed.

The Central Council meets as and when necessary. At least one meeting shall be held every year. The time and place of the meeting will be fixed by the Chairman. The procedure in regard to the transactions of the business shall also be determined by the Chairman. (Sec 5).

#### State Council (Sec. 7):

**A State Council shall be composed of the following members, namely,**

1. The Minister in charge of Consumer Affairs of the state government will act as Chairman.
2. Such members official and non-official representing such interests as may be prescribed by the state government.

The State Council shall meet as and when necessary. The time and place of the meeting shall be fixed by the Chairman. The Council shall observe such procedure regard to the transactions of its business as may be prescribed by the state government. At least two meetings shall be held every year.

### ****State Council****

1. The Stats Consumer Protection Council is known as “the State Council.”
2. Sections 7 and 8 of Chapter-II explain the provisions explain about the constitution and objects of the State Council. Each State is authorized by its State Consumer Protection Rules to establish one State Council for its territory.
3. The objects of State Council are to promote consumer movement and to safe guard the consumer rights in a State. It is only recommendatory body.
4. The decisions of the State Council are recommendatory in nature.
5. It is purely administrative authority, filled up by the non-official and official members. It functions as a Government department.
6. From the decisions of State Council, no appeal can be filed. Only an application may be made to the Central Council for consideration. The Central Council too does not possess the implementing powers of any decisions of its or of any State Councils.
7. Working Hours and Working Days are not prescribed by the Act. The State Council shall have to conduct its meeting not less than two meetings in every year.

### ****State Commission****

1. Consumer Disputes Redressal Commission is known as “the State Commission.”
2. Sections 16 to 19 of Chapter-III of the Act explain the provisions about the composition, jurisdiction, procedure, vacancies, appeals etc., of the State Commission. Each State is authorized by its State Consumer Protection Rules to establish one State Commission for its territory.
3. The objects of State Commission are to protect the consumers’ rights by redressing. It is a redressal agency.
4. The decisions of the State Commission are just like the judgments of High Court. They are legal remedies to the aggrieved consumers. The decisions should be implemented. The persons who violate the decisions are liable under contempt of court proceedings.
5. It is a quasi-judicial authority, filled up by judicial and non-official members. Its decisions are binding on District Consumer Forums. They have the power of precedent.
6. The State Commission has appellate powers. It can hear the appeals from the District Consumer Forums. Moreover, the aggrieved party from the decisions of the State Commission can appeal to the National Commission.
7. The State Commission shall have the working hours and working days just like as a State Government Department and a court.