

Consumer Rights & Responsibilities

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ABSTRACT:

Consumers are an integral part of the society. But the importance of consumer was only recognized in primal societies but with the advent of time Consumer became a victim of exploitation. With the evolution of unfair trade practices, the introduction of consumer rights also became necessary. The Consumer Rights and the Responsibilities are intertwined together. So the rights & responsibilities are the two faces of the same coin. Consumer Rights were envisioned by the activists of the West. Consumer Rights tend to safeguard consumer interest. Some unfair trade practices like underweighing & adulteration led to the birth of Consumer Rights. Consumer protection rules are built on the premise that consumers are the weaker party to the transaction, but consumer's responsibilities are evident too. The second face of the coin lends a duty on the consumers also."If you live for having it all, what you have is never enough." –Vicki Robin. This quote leads to the fact that rights alone cannot guarantee Consumer Protection. Responsibilities ought to be considered a paramount parameter to check Consumer Protection. In a major case, State of U.P & Ors v. All U.P Consumer Protection bar Association, the S.C had asked Centre to frame rules for effective implementation of Consumer Protection Act. The Rulings like these are intended to empower the consumers.

I. INTRODUCTION

- **Consumer**

According to the definition provided in the section 2(d)(i) of the Consumer Protection Act, 1986, a consumer is any person who 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. The breakdown of this definition leads to the meaning that a consumer is a person who buys goods for self consumption. And for that purpose some consideration is also paid. The modern meaning of consumer does also include the use of services. By the virtue of this definition each and every person is a consumer in this world. Consumers are an inseparable part of every society. Economists too have stated that without the consumers the economies cannot survive. This tells the significance of consumers. The absence of consumers in an economy will lead to disturbance in the whole of that economy. The Keynesian theory also states that the demand for goods is necessary to make an economy survive. And that demand will be made by the consumers. Thus, the consumers are a very significant part of society from the economic point of view as well as from the social point of view. Still the consumers are being served adulterated products; their goods are usually under weighed and they are being cheated on in many other

ways. This has led to the ignorance of consumer's importance. & the consumers are usually left with no other choice but using that adulterated products. So to save the consumers from being cheated on and lied to & safeguard their interest the consumer rights were introduced.

II. CONSUMER RIGHTS

• Introduction To Consumer Rights

To safeguard the interest of the consumers, the consumer rights were introduced. The consumer's rights in contemporary world are very well defined and effectively implemented. The awareness relating to the consumer rights have been properly spread by the respective governments of the countries. In the western world the people are well aware in the matter of their rights as a consumer as compared to the people of countries like India and other developing Countries like Sri Lanka, Bangladesh etc. Only the educated class knows their rights as a consumer but on the other hand the poor and uneducated class is still unaware of the rights provided to them.

• Evolution Of Consumer Rights

The Evolution of the consumer rights is said to be started and envisioned by the minds of the western world. Beginning in the 1960s and 70s when scholars began to recognize "waves" of consumer activism. The most renowned face of the consumer movement was Ralph Nader, known for raising public awareness concerning automotive safety¹. It was assumed that consumer awareness and consumer movement in India started too in the era of 1950s and 60s when the Planning Commission backed the foundation of the Indian Association of Consumers in 1956 in Delhi to be a national base for consumer interests.² It is also believed that Indian traders are using the policy of honesty since the early ages or Vedic period. This was due to the fact that people of that period feared god, and believed in karma due to which they thought if they adulterate the goods they will have to suffer that in some other form either in this world or the hereafter. So it can be suggested that consumer rights and consumer movements started in the 60s and 70s era and that too contemporarily.

III. CONSUMER RIGHTS

The continuous acts of adulteration, unfair trade practices and serving the consumer with goods of low standard forced the legislature to pass such acts as to safeguard the interest of consumers. After the efforts of legislature, on 24th December 1986 the Consumer Protection, 1986 Act was commenced. This statute is regarded as the Magna Carta in the field of consumer protection for checking the unfair trade practices and 'defect in goods'

¹ www.wikipedia.com, 29/03/2018, 11:09p.m.

² www.wikipedia.com, 29/03/2018, 11:15p.m.

and 'deficiencies in services' as far as India is concerned.³ The section 6 of Consumer Protection Act, 1986 has provided consumers with 6 rights.

The 6 rights to safeguard the interest of the consumers are as follows:

1. Right to safety
2. Right to be informed
3. Right to choose
4. Right to be heard
5. Right to seek redressal
6. Right to consumer education

The idea of these right emerged from the western world because of their developed nature, but with the spread of the consumer rights in the eastern world and developing countries these ideas were subject to some modifications as per the requirements of that country.

- **Right To Safety**

The word safety is, in itself, is a very vast term. No appropriate definition of safety has been provided in the context of the consumer. For instance the Consumer Protection Act defined right to safety in the section 6(a) as "the right to be protected against the marketing of goods and services, which are hazardous to life and property. The above explanation is for the legal context. In general consumer's right to safety includes all sort of protection against any type of good which is unsafe for the consumer's life.

The use of safety standards has also increased over time. Nowadays, almost every packed product has such safety standard marks. Some of them are ISI mark, AGMARK, FPO mark. A Bureau of Indian Standards [BIS] has also been established by the state with the introduction of Bureau of India Standards Act, 1986. The ISI mark for the assurance of Industrial products, FPO mark for packaged fruit products. The notion of safety of consumer was earlier thought that only packaged goods were safest. But this notion has been proved wrong time and again due to rampant food adulteration in market products.⁴ So for consumers of modern world, the word safety consists of all those conditions which ensure the quality of the product they are going to purchase.

- **Right To Be Informed**

The right to be informed is another important consumer right. The Consumer Protection Act, 1986 states this right under section 6(b). It says that the consumer has the right to be informed about the quality, quantity,

³ www.wikipedia.com, 30/03/2018 , 11.17a.m.

⁴ www.consumervoice.org, 30/03/2018, 01:15p.m.

potency, purity, standard and price of the goods and services, as the case may be so as to protect the consumer against unfair trade practices. This definition in itself is a comprehensive definition. It states 7 such benchmarks which the product must inform to the consumer. Every packaged food article for the domestic use is required to be labeled in accordance to the related Indian Food law i.e. Food safety and (packaging & labelling) regulations, 2011⁵. Almost every packed food product that a consumer purchases contains information of quality of product, the quantity of that product, the place where the product was manufactured and packed along with the details and timing of the packing of that product. All this detailed information facilitates the consumer as to whether the consumer should purchase that product or not. The ingredients of the product so packed are also properly disclosed on the packaging of the product. This will enable the consumer to act wisely and responsibly and also enables the consumer to desist from falling prey to high pressure selling techniques.

- **Right To Choose**

The right to choose, as the name suggests, enables a consumer to choose the product of his own choice. This clearly indicates existence of a variety of goods available at competitive prices to the consumers. The Section 6(c) of the Consumer Protection Act 1986 States that the consumer has a right to choose, wherever possible, access to a variety of goods & services at competitive prices. This provision of the act ensures that a person never runs out of choices. This right is more practically used where the markets are monopolistic in nature rather than being a market of perfect competition because for the application of this right is more beneficial in the market where there are multiple goods and all of them are being sold at competitive prices. This right also includes another right of a consumer i.e. right to basic goods and services. This is because unrestricted right of the minority to choose can mean a denial for the majority of its fair share.⁶ Before the introduction of the LPG policy, i.e. the policy of Liberalization, Privatization & Globalization, only public sector enterprises were functioning in the Indian economy. These enterprises were enjoying sort of monopoly over the Indian trade. At that time the consumers were only left with one or two products of same nature to choose. The second five year plan of the government emphasized on the industrialization, but with the control of government. Thus started the License-Permit-Quota Raj in India, wherein government control was so strong that it not only decided which company would produce what, but also the amount of production, as well as the price of commodities. With the nationalization of banks in 1969 and the Monopolies and Restrictive Trade Practices (MRTP) Act of 1970, the License Raj was further strengthened. Life under license raj was characterized by scarcity of resources. The choices people had available to them in their day-to-day life were very limited.⁷ This tells that consumers at that time were left with limited choices. But later with the introduction of the LPG policy in 1991 by the then finance

⁵ www.fssaifoodlicense.com, 30/03/2018, 3:55p.m.

⁶ www.consumeraffairs.nic.in, 30/03/2018, 08:01p.m.

⁷ www.spontaneousorder.in, 30/03/2018, 20:08p.m.

minister Mr. Manmohan Singh, the Indian markets were globalised. The license raj was ended and the foreign companies could now invest in the Indian market and the consumers were flooded with choices. Thus when a person is liberated to choose from a variety of goods in the market the consumer has the right to choose the product on various standards like price, quality, quantity etc.

- **Right To Be Heard**

Now that the consumer has bought the product, his rights do not come to an end. The right which emerges after the purchase of goods is the right to be heard. This does not mean that the consumer be heard by the seller, rather this right means that the consumer's interest will be upheld in the various consumer forums. The section 6(d) of the Consumer Protection Act, 1986 says that the consumer has the right to be heard and be assured that consumer's interest will receive due consideration at appropriate forums. This right also includes the right to be represented in various forums formed to consider the consumer's welfare.⁸ In straight-forward terms, if any consumer is served a product which is adulterated, under weighed, or is of inferior quality he/she can raise voice against the hearing done. And that very grievance will be heard at appropriate forums. The right to be heard means that consumers should be allowed to voice their opinions and grievances at appropriate forum⁹. And for that purpose the Consumer Protection Act 1986, provides for the establishment of consumer protection councils at prescribed levels. There is a website, Consumerdaddy.com, where consumers can upload their criticisms as well as file complaints. Every criticism filed gradually lessens the overall score of the product which is being criticized therefore each complaint is independently checked by an investigator who belonged to Consumerdaddy.com website.¹⁰ However even after the steps taken by government are fine, but still there's still a long way down to make sure the consumer is free to raise his voice against the cheating. The efforts of government have somehow resulted in a slight increase in the awareness among the consumers and educated consumers have started raising their voices against the malpractices of sellers. The organization of consumer groups should be formed by consumers as they exist in the western world.

- **Right To Seek Redressal**

This right is the crux of the whole concept of consumer rights. This right plays the role what Article 32 of the Constitution of India plays for fundamental rights. The right to seek redressal plays the role of guardian for all other consumer rights. If this right was not provided by the legislature in the Consumer Protection Act 1986, the other 4 rights stated above would be rendered useless. The section 6(e) of the Consumer Protection Act 1986 says that the consumer has a right to seek redressal against the unfair trade practices or restrictive trade

⁸ www.consumeraffairs.nic.in, 30/03/2018, 08:25p.m.

⁹ www.consumer-voice.org, 30/03/2018, 8:31p.m.

¹⁰ www.consumerrights.org.in, 30/03/2018, 08:38p.m.

practices or unscrupulous exploitation of consumers. When this provision was incorporated in the Consumer Protection Act 1986, the need to establish a 3-tier mechanism for the redressal of complaints of consumers emerged too. For the proper implementation of the right to seek redressal, there ensued a need to reach to the ground level. The malpractices related to trade are jeopardizing the lives of consumers. Thus this right has become the core solution to this problem. The law sets up 3-tier redressal mechanism. Under which consumer courts have been established at national, state & district level. These courts aim at providing the consumer the justice against the unfair trade practices. This right is, although, a very useful right but due to lack of awareness and knowledge of this right, the consumers are very often deceived. In the developed countries and western world, the consumers are literate and well aware of their rights as a consumer, but the consumers of the developing countries do not usually access the consumer court due to lack of awareness and they also avoid the legal redress system. For the proper implementation and expansion of this right, efforts must be put in by the consumer organization, government agencies and the media so as to ensure the spread of awareness and set aside the unfair trade practices.

- **Right To Consumer Education**

The word consumer education itself suggests a lot. For instance if a consumer is not aware of any of the right provided to him by the statute, the purpose of the Consumer Protection Act, 1986 shall stand defeated. In general terms, when a consumer is not educated about his rights as a consumer, no law or right can save him from being deceived. The problem of unawareness is alarming in the rural areas of the country as compared to the urban areas. Thus exploitation of consumers of rural areas is increasing at a terrifying rate. The scenario in rural areas of eastern states is worse. Thus the right of consumer education is the final right provided under the Consumer Protection Act 1986. The right makes sure that the consumers in the country have informational programs and materials which are easily accessible and would enable them to make purchasing decisions which are better than before. Consumer education might refer to formal education through college and school curriculums as well as consumer awareness campaigns being run by non- governmental and governmental agencies both.¹¹

IV. CONSUMER RESPONSIBILITIES

- **Introduction To Consumer Responsibilities**

Apart from the rights incorporated with the consumers against the unprofessional trade activities of the sellers, the consumers are also vested with some responsibilities. These responsibilities are not clearly defined in any statute, but it is upon the conscience and knowledge of the consumers as to how they should act in a responsible

¹¹ www.consumerrights.org.in, 30/03/2018 , 11:38p.m.

manner. Consumers' responsibilities are often referred to the acts of awareness among the consumers. It refers to responsibility to speak out, and to inform manufacturers and governments of needs and wants and the Responsibility to Complain or inform business along with other people about discontentment with a product or service in an honest way.¹²

- **Consumer' Responsibilities**

Every right of the consumer is corroborated with a responsibility. So, consumers also have a few responsibilities against the rights provided to them. The responsibilities provided to consumers are as follows:

1. Responsibility to be aware.
2. Responsibility to be organized.
3. Responsibility to get the transaction documented.
4. Responsibility to address the grievances.
5. Responsibility to be cautious.
6. Responsibility towards the environment

Consumers provided with only rights and no responsibilities will render the society in a chaotic situation. Even the Constitution of India has provided 11 fundamental duties under article 51(a) against the fundamental rights. The aim of this article was to prevent the society from being in a topsy-turvy situation. So in view of that, the consumers too were bestowed with the above stated responsibilities.

Responsibility to Be Aware

Awareness is an important aspect in consumer responsibilities. Awareness is concerned to the Matters which involve the various standards like Quality, Quantity, Purity, Price & Best before date of the product. In general terms, the consumer must be aware of all necessary standards of that product which he is going to buy. In legal terms, this responsibility is defined as rule of Caveat Emptor. The rule of caveat emptor states "let the buyer beware". The buyer must make himself informed about the quality, quantity etc. On the other hand, consumer should also inquire about the relevant information regarding the product. If, due to the negligence of the consumer to make him informed about the product, he suffers any injury, he himself will be responsible for that because he acted in a negligent manner. Such injury will not be compensated by the consumer redressal forums.

Responsibility to Be Organized

This responsibility is all about the protection of the consumer's against seller's and manufacturers' unfair or

¹² www.consumerrights.org.in, 31/03/2018, 01:12p.m.

unprofessional trade practices. This responsibility emphasizes on the creation of consumer organizations and consumer groups & also emphasizes that these consumer groups hold regular meeting and awareness programs from time to time. Such type of consumer organizations tend to discourage & pressurize the sellers to restrict the unfair trade practices. When the consumers will be organized, the spread of awareness among the consumers will be at a large scale.

Responsibility to Get The Transaction Documented

The act of Documentation of the whole transaction is a responsibility of the consumer. Documentation includes bills, cash memos, warranties, guarantees and the user manual of each and every product which the consumer purchases. Absence of such documents will render the consumer helpless because without such documents no forum will address the grievance of the consumer. That is why the campaign “Jaago Grahak Jaago” was initiated by the government. Under this campaign, government ran advertisements on television to educate the consumer to procure proper documents of the transaction. The campaign just had a slight contribution in the awareness among the consumers & there’s still a long way to go in the concern of documented transaction as major part of India’s population is illiterate.

Responsibility to Address Grievance

A Mexican proverb which says “he who doesn’t speak will get no help from god” is totally related to this responsibility. The consumers are provided the right to seek redressal with a view that the consumers will exercise this right, thus there lies a responsibility with the consumer to address the grievance. If the consumer himself is not willing to address the grievance or raise voice against the exploitation, no statute or forum can redress and compensate the aggrieved consumer. This responsibility is as important as the right to seek redressal is. But the consumer has to make sure that he is actually aggrieved or should address his grievance otherwise no forum will take up his grievance. Consumers who file fake law suits against the companies are often referred to as whistle-blowers & no pays attention towards such whistle-blowers. When a consumer does not address his grievance to the respective forum, the sellers get encouragement to continue the acts of exploitation. Such silence shall lead to increase in the unprofessional acts of the sellers.

Responsibility to Be Cautious

The consumers are also supposed to act in a cautious manner. Every consumer should act like a reasonable person. The consumer should use his own rationale as to whether he is being exploited or not. Caution cannot be defined exactly in this context, but in general terms caution can be defined as any act of care & is necessary for the protection of person’s life or property. So in the context of consumer’s responsibility, it can be stated that when a person acts in a reasonable manner, acquires full knowledge about the product, about its quantity,

quality and standards, he is acting in a cautious manner. The advertisements of the products could be mesmerizing at times but a reasonable consumer is the one who does not get carried away by the promotions of the product & rather takes precautionary steps before buying the product. Checking of quality standard marks like ISI, BIS or AGMARK can also be held as cautious acts.

Responsibility towards Environment

The biggest duty of a consumer is towards the environment. Environment is as much essential as blood in a human body. Thus the consumer should know the consequences of their purchases. So the responsibility towards environment is at any cost is to be performed by the consumer. This responsibility constitutes acts of recycling, refusing to take plastic bags & encouraging the use of non toxic products among the consumers,. The consumers should act in the manner as to the resources of environment. In general terms, it includes all the acts which a consumer can perform on his behalf such as avoiding the use of products which emit radiation & use of products which are eco-friendly. For instance, the introduction of revised emission norms in vehicles, also known as Bharat Stage vehicles, is an act of fixing consumer's responsibility towards environment. The consumer groups play a vital role in contributing towards environmental protection. The consumer groups are organizations which have access to ground zero & this access helps in creating awareness related to environment protection. For the sake of environment protection, companies have also launched many products which contribute minimal levels of emissions and pollution in the environment. The refrigerators and air conditioners were earlier fitted with chloro-floro carbons, but now they are fitted with eco-technology. Consumers, nowadays, too have started asking for products which emit minimal pollution and radiations in the environment.

V. INTERNATIONAL ASPECT OF CONSUMER RIGHTS & RESPONSIBILITIES

Consumer is always a consumer whether he is in a developing country like India or in a developed country like U.S.A & China. The difference is just that the rights and responsibilities of every consumer in their respective countries will be defined by the law of those respective countries. The similarity between the consumers of different countries is that the consumers are supposed to use their own rationale in the matters of their rights & responsibilities. The consumers of the developed countries are well aware of their rights & responsibilities. They are fully informed about the rights and responsibilities. The governments of those counties spend a fortune to educate the consumers because of their capitalist nature. This is done so as to make the consumer self sufficient and well aware & reduce the chances of exploitation of consumers. Most of the consumers, in countries like U.S.A, are a member of consumer protection groups & organizations, which spread necessary education to consumers against their exploitation. Although the government of India has taken many steps to

spread awareness among the consumers, but still there is a long way down to make the consumers completely free from exploitation. Campaigns like Jaago Grahak Jaago, Consumer Protection bill 2018 are looking forward to increase the protection of consumers and their rights. It can be hoped that consumer protection will become an important concern in the near future.

VI. CONCLUSION

Well, the rights of the consumer are aimed at safeguarding the interest of the consumers and protecting them against exploitation and they have, till now, somehow, served this purpose but the contribution of these rights in safeguarding the interest of the consumer is negligible. The Consumer Protection Act, 1986 was aimed at providing the consumer a speedy redressal, but there's still a long way to go. There are many lacunas in the act. The main purpose of the 1986 act stand defeated because even after the establishment of various forums at grass root level, they have failed to provide speedy recovery to the consumers because of being overburdened with workload. The government should take steps to increase the workforce in these redressal forums. The duty also lies with the consumers to exercise their rights and perform their duties responsibly so that they are protected against the exploitation of the consumers. In view of the present scenario, the Consumer Protection bill 2018 has been presented in the Lok Sabha. The bill is still pending but is supposed to be passed soon. This bill carries major changes and also tends to increase the consumers protection. Introduction of Central Consumer Protection Authority & penalties for misleading advertisements will surely reduce the unfair trade practices prevalent in the country.¹³

¹³ Published at www.prsindia.org, 26/02/2018, 12:02a.m.