

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 3

2021

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International Consumer Protection Framework & Policy

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ABSTRACT

Consumer Protection is one of the areas which ensures well-being of all and their prosperity in many other possible aspects. Consumer Protection not only deal with the protection of not only consumer but also ensures prosperity of their unit, mass, country at a large level. Consumer protection is such a practice which ensures a good exchange of goods and services not only among buyer and seller but also ensure establishment of a good relationship between two. Here, a consumer protection policy and framework are very important to regulate trade and all other soughts of buying and selling process in a market which will also help that market to grow up and which will ultimately help the economy to grow up in both national and International forum. Consumer Council, Consumer Forums and policy related to consumer protection in any economy is important because ultimately economy is built up of consumers and without consumer protection laws the economy cannot grow up. So, for these purpose huge UN Conventions were taken on and with it other provincial laws worked for it, and thus, it ensures Consumer Protection in International context.

Keywords: *Consumer, International framework.*

Consumer Protection is one of the most important and significant area of Law in any country, any state, any jurisdiction or in any other significant forum. Consumer Protection is one of the areas which ensures well-being of all and their prosperity in many other possible aspects. So, before coming into the detailed aspect of Consumer² Protection lets examine what it really is. Consumer protection is the practice of safeguarding buyers of goods and services, and the public, against unfair practices in the marketplace. Consumer protection measures are often established by law. Such laws are intended to prevent businesses from engaging in fraud or specified unfair practices in order to gain an advantage over competitors or to mislead consumers. They may also provide additional protection for the general public which may be impacted by a product even when they are not the direct purchaser or consumer of that product.

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² 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.

For example, government regulations may require businesses to disclose detailed information about their products particularly in areas where public health or safety is an issue, such as with food or automobiles. Consumer protection is linked to the idea of consumer rights and to the formation of consumer organizations, which help consumers make better choices in the marketplace and pursue complaints against businesses.

So, as of now we have come across the concept of consumer protection so let's now examine the significance of Consumer Protection. Consumer Protection not only deal with the protection of not only consumer but also ensures prosperity of their unit, mass, country at a large level. Consumer protection is such a practice which ensures a good exchange of goods and services not only among buyer and seller but also ensure establishment of a good relationship between two. It is very important in an economy³ to establish that relationship so that people also get confidence in further future to purchase goods in accordance of that good faith with that seller. These relationships are very essential to establish that chain which runs the economy because as the people are well accustomed with the existing market chain, buying and selling process, have confidence with the seller by whom they are buying products, make a base of the market and the market builds upon its structure in the near future for both itself and its consumer which in turns run the economy of the country and then at the wider and extended level ensure the development of the country from both exclusive and inclusive side. This also ensures development and prosperity in the international context and market which in future thus ensures a solid and concrete image of the country⁴, which in the forum also helps that country a lot build its International relations, strategy planning and also ensuring its protection from enemies. This helps that country a lot grow up and establish its position in the aspect of economy.

This fulfilling economy ensures growth at diverse levels, whether it is inclusive growths, exclusive growths, development at micro level or macro level or in International context at large. In an inclusive level it ensures good outflow of goods and products between buyers and seller, ensure employment in small units, ensuring economic and financial growth at micro level, ensuring good standard of living, etc. In exclusive level it ensures a good rate of per capita income, Gross Domestic Product, availability of products in market, Sensex etc. It is same in macro economics too. In micro level also it deals with the parameters of inclusive growth which finally leads to development in larger aspect.

³ the state of a country or region in terms of the production and consumption of goods and services and the supply of money.

⁴ a nation with its own government, occupying a particular territory.

So, we observed how important it is to have a good economy to ensure so many needs of people. These needs can only be fulfilled if we have a well planned and established economy and this can only be ensured if the market structure is well formulated with a good outflow of money and trading process. This can be only ensured when there is a good relationship between buyer and seller and then only it can be ensured. So, it is very essential to establish a good relationship between Consumers and sellers so that base of the market can be maintained further.

But everytime it does not take place likewise. It is impossible to imagine a situation like this which will exist like this everytime. These types of situations can be found in a very minimum levels of the process of buying and selling. But still these aspects should be there so that consumers come, buy things and the chain of the market goes on and does not break. But as it is mentioned these types of market style is very difficult to find, so there is a very less chance that trust building will take place and thus people will not come much and so the whole chain of trade will collapse as there will be no buying and selling. This will collapse the entire economy and many of the needs will not be fulfilled. So, what can be done in this situation because anyhow the economy should run? What are the possible measures that can be taken and what would be the possible persecutions of it? Which type of structure will it frame out and which type of problem-solving measures will it take up? All of these depends on what type of mechanisms will be undertaken. In this situation, it becomes very necessary to think upon, analyse and constructing a system which will ensure protection to consumers from all soughts of ill-practices, cheating, hazardous practices, malpractices etc. This will ensure the entire population a framework of protection and security against all soughts of malpractices and cheatings which will keep the interests of the consumers alive to come in market and purchase goods. For establishing this system, it is very important to build a concrete and binding set of laws which will ensure protection to consumers against all soughts of ill-practices and malpractices. With this it is also important to build a compelling regulatory body which will take care of the consumer related issues and execution of the framed laws. This body will ensure protection of consumers from all types of malpractices and also hazardous practices which will ultimately help in the functioning of the economy in a speedy and qualitative manner. So, it is very important to have policies and regulatory body in any country or state to ensure protection of consumers from all soughts of hazaourds and malpractices which will ultimately help the economy of that country or state to boom up.

So, a consumer protection policy and framework are very important to regulate trade and all other soughts of buying and selling process in a market which will also help that market to

grow up and which will ultimately help the economy to grow up in both national and International forum. Consumer Council, Consumer Forums⁵ and policy related to consumer protection in any economy is important because ultimately economy is built up of consumers and without consumer protection laws the economy cannot grow up. These forums and laws are very necessary in a National level so that the inner economic condition of the country and financial situation of the people can be maintained. With this it is also very important in International level also because there are also consumer related issues in International level. Trade, buying and selling of goods in International level is very important as it establishes relationship between different States, ensure exchanges of essential goods and maintains the inflow and outflow of money in the Globe⁶. It is also important as the States also earn a lot through it and which is proved to be lifeline of their Country, as from that earning only many of the aspects of States work. So, it is very important to have International trade in World forum which will ensure well- being, prosperity and development the World at whole. So, if trading aspect comes here there are also chances that there will be also malpractices and hazardous activities which will affect the consumers at large, and in International context it is very difficult to safeguard consumers against all soughts of practices because here the ambit is very wide and enlarged. So, a strict Consumer protection framework and set of policies are required to ensure protection of consumers.

In modern context also with the emergence of new technologies and growing global connections between countries posed the need to have a strong regulatory framework and policies for Consumer protection. With the emergence of Globalisation⁷, privatisation and Liberalization too the need of this went upto a higher extent because this opened up the market, levied out trade barriers, invited Multi National Companies in developing countries and privatised the sector which pushed consumers towards a much wider aspect of exploitation. Globalization has drastically changed the consumer behaviour in past few years. With development in market strategies by different sellers to attract consumers, the probability of consumer exploitation increases. Especially in digital era, most of the consumers prefer to avail goods and services through the web. This is because, currently consumers prefer affordability and easy accessibility of the necessary products that they need and the easiest way to obtain the product is over the internet where there are sellers with variety of products to offer. But there is a lot of chance of cheating and malpractices in it as the platform is online and at any

⁵ a court or tribunal.

⁶ the earth.

⁷ the process by which businesses or other organizations develop international influence or start operating on an international scale.

cost and anytime through technological malpractices cheating can be done here. One such method being unfair terms and standard form of contracts. The online transaction between the buyers and sellers in the international market is virtual contract. So there is a high possibility of sellers misusing and exploiting consumers by providing a contract which is long, one-sided and unfair. Most of the time, consumers just randomly accept the term without thoroughly cross-referencing its content because of the poor structure of the standard contracts. This may mean that consumers cannot rationally compare the terms on the offer with those of other traders; that he is unaware of the need to seek to negotiate for better terms or protect his interest in some other way; and that, if he enters into a contract, he does so in ignorance of important risks to which he is exposed. However, on the other hand, with ever-growing demands of the society, the consumption level of consumers' increases resulting in resource depletion⁸ which in turn has social and ecological problems in the long run. This can also exploit consumers at a higher level as with less availability of resources sellers can play pranks with the buyers anytime in terms of their pricing, quality etc. Another aspect comes here about the consumers who are not aware of their rights. Ofcoursely International market is a wide-ranging aspect and in it to expect that every consumer are aware of their rights are not possible. In this situation the seller make use of the aspect and in some other terms do fraud with the consumers. Also, consumerism have not been thorough to create such awareness, since there are still loopholes that have been used by sellers for exploiting consumers in physical as well as virtual market. The importance of consumer protection has a momentous impact on the international level with growing technology and modern ideas. Given the ease with which such contact can be established over great physical distances, many of the transactions will be international in the sense that each of the transacting parties will be based in different countries. Here consumers are also not aware of their surroundings, probably because they are not familiar with the background of the market abroad.

So, these were the problems associated with the consumers while taking International trade as there are wholesome possibilities of frauds, mischiefs, hazardous practices and cheating. The environment of trade is also not safe. Thus, there are lot of insecurities in the aspect of International trade. So, what should a consumer do in this situation? Should he stop purchasing goods from outside or should he deny the concept? But if he does this there is a lot of dangers to the global market and too individual nations. So, to resolve these problems there are various organisations which were formed in the International level which will deal with the consumer related issues and problems. Among these Institutions the most prominent and significant

⁸ reduction in the number or quantity of something.

Institution is United Nations Socio- Economic Council which gives United Nations Guidelines on Consumer Protection. These guidelines gives a valuable set of principles for setting out the main characteristics of effective consumer protection legislation, enforcement institutions and redress systems and for assisting interested Member States in formulating and enforcing domestic and regional laws, rules and regulations that are suitable to their own economic and social and environmental circumstances, as well as promoting international enforcement cooperation among Member States and encouraging the sharing of experiences in consumer protection. The guidelines were first adopted by the General Assembly in resolution 39/248 of 16 April 1985, later expanded by the Economic and Social Council in resolution E/1999/INF/2/Add.2 of 26 July 1999, and recently revised by the General Assembly in resolution 70/186 of 22 December 2015. UNCTAD promotes the guidelines and encourages interested member States to create awareness⁹ of the many ways in which member States, businesses and civil society can promote consumer protection in the provision of public and private goods and services. The Intergovernmental group of experts on consumer protection law and policy has been established to monitor the implementation of the guidelines, provide a forum for consultations, produce research and studies, provide technical assistance, undertake voluntary peer reviews, and periodically update the UNGCP. Its first session will be held on 17 and 18 October 2016 in Geneva.

For the protection of Consumer protection another body that was formed was the Federal State Commission. The FTC pursues the development of an international market-based consumer protection model, which focuses on protecting consumers from significant harm while maximizing economic benefit and consumer choice. The challenges for the FTC and other law enforcers have included the global reach and speed of the Internet; the ability of scammers to cloak themselves in anonymity; the ease of moving ill-gotten gains to offshore asset havens; and the roadblocks to information sharing and cooperation created by national laws¹⁰ and borders. As more U.S. companies and consumers do business overseas, and as technological developments make consumer protection a more global concern, the FTC's work involves international cooperation. The FTC works with more than 100 foreign competition and consumer protection authorities around the world, and cooperates with foreign authorities on enforcement and policy matters through formal and informal agreements. In the area of consumer protection enforcement, the FTC relies on 4 key tools that is information sharing,

⁹ concern about and well-informed interest in a particular situation or development.

¹⁰ the system of rules which a particular country or community recognizes as regulating the actions of its members and which it may enforce by the imposition of penalties.

investigative assistance, cross-border jurisdictional authority and enforcement relationships. The US SAFE WEB Act enables these international consumer protection tools. The FTC also participates in consumer protection fora such as the Organization for Economic Co-operation and Development (OECD), the International Consumer Protection and Enforcement Network (ICPEN), the London Action Plan, the Asia-Pacific Economic Cooperation (APEC) Forum, among others. Privacy¹¹ enforcement and policy also has an international dimension. The FTC enforces the U.S.-EU Safe Harbor Framework. The FTC also participates in several privacy networks, such as the Global Privacy Enforcement Network (GPEN), the International Conference of Data Protection and Privacy Commissioners (ICDPPC), the Asia Pacific Privacy Authorities (APPA) Forum, and the APEC Cross Border Privacy Enforcement Arrangement (CPEA). For policy work on e-commerce and emerging technologies, the FTC participates in the Committee on Consumer Policy of the OECD, the Working Party on Information Security and Privacy of the OECD, the APEC Electronic Commerce Steering Group and its Data Privacy Subgroup, and the APEC Telecommunication and Information Working Group. The FTC also supports econsumer.gov, a project sponsored by the International Consumer Protection and Enforcement Network ICPEN and consumer agencies in more than 35 countries. Consumers can use econsumer.gov to report cross-border complaints. Enforcement agencies can use those complaints to investigate fraud.

The another body which works upon it is EU's Consumer Protection Cooperation Regulation Network. At a regional level, the Consumer Protection Cooperation (CPC) network provides a framework for consumer protection enforcement co-operation in the European economic area. It enables consumer authorities from participating countries to jointly take actions against breaches of consumer rules when consumers and businesses¹² are located in different jurisdictions. Under the CPC regulation, participating countries are obliged to provide mutual assistance. Specifically, the CPC fosters co-operation among its member states through an information request system, through which authorities provide each other with information on whether a trader registered on its territory has breached the EU consumer laws; and there is reason to suspect that such a breach might take place. Moreover, within the CPC network, an authority can ask its counterpart to take enforcement actions to stop the breach of law which causes harms against its consumers. The CPC regulation also provides a list of minimum powers which each authority must have to ensure and facilitate enforcement co-operation for consumer protection. The CPC facilitates information sharing among its member countries

¹¹ a state in which one is not observed or disturbed by other people.

¹² commercial activity.

through an alert system, by which an authority can report to other authorities'¹³ information about unfair and misleading commercial practices that could spread to other countries. This assists in co-ordinating consumer protection enforcement efforts to combat widespread infringements. In November 2017, the European Council adopted a new regulation, which addressed the need to better enforce the EU consumer laws, in particular in the field of digital economy. The newly adopted regulation enables consumer protection enforcement bodies of participating countries to have the powers to request information from domain registrars and banks to identify the responsible trader. It will also increase powers to carry out mystery shopping exercises and order the immediate closing of scam websites. Furthermore, the European Commission will be able to notify EU-wide problematic practices to the authorities of member states which then might start a co-ordinated action against the business concerned, asking it to change its practices.

The other body is The International Consumer Protection Enforcement Network. The International Consumer Protection Enforcement Network (ICPEN) is an organisation comprised of consumer protection law enforcement authorities from over 60 countries. The presidency of the ICPEN rotates on an annual basis. ICPEN facilitates information sharing on cross-border commercial activities that may affect consumer interests and encourages international co-operation and collaboration among consumer law enforcement agencies. Since its formal start in 1992, the ICPEN is mainly a network of collaboration, used by its membership to develop and maintain regular contact between consumer protection enforcement agencies. ICPEN members exchange information on consumer problems related to cross-border transactions, and facilitate information sharing through monthly teleconferences, national reports and the econsumer.gov website, as well as biannual meetings.

The body of The Global Privacy Enforcement Network also works for this purpose. The Global Privacy Enforcement Network (GPEN) is an informal network which was established in 2010 and is currently comprised of 59 privacy enforcement authorities in 43 jurisdictions around the world. It primarily aims to promote and support co-operation in cross-border enforcement of laws protecting privacy. GPEN seeks to promote cooperation through: exchanging information about relevant issues, trends and experiences; encouraging training opportunities and sharing of enforcement know-how, expertise and good practice; promoting dialogue with organisations having a role in privacy enforcement; creating, maintaining, and supporting processes or mechanisms useful to bilateral or multilateral co-operation; and undertaking or supporting

¹³ the power or right to give orders, make decisions, and enforce obedience.

specific activities. In 2015, GPEN launched a new information-sharing system (GPEN Alert) that allows participants to share confidential information about investigations.

With this the Unsolicited Communications Enforcement Network works for it. The Unsolicited Communications Enforcement Network (UCENet) is a global co-operation network which aims to enhance international anti-spam efforts and address spam-related problems such as online fraud and deception¹⁴, phishing, and dissemination of viruses. The network was set up in 2016 after consultation with members of the London Action Plan (LAP), which was developed to curb the activities of international spammers in 2004, in to better reflect the aims and work of the LAP's network.

Lastly, the Ibero-American Forum of Consumer Government Agencies is also a significant body who works for it. The Ibero-American Forum of Consumer Government Agencies (FIAGC) is a regional forum composed of consumer protection agencies in Latin America, Portugal and Spain. Its objective is to promote co-operation among member countries through the exchange of information and experiences aiming to improve public policies on consumer protection. FIAGC holds a regular meeting to address issues concerning consumer protection, including product safety, e-commerce and financial services.

Also, to raise the issue of consumer protection in the International level the concept of "consumerism" also came into picture. It refers to the consumerist's movement¹⁵, client activism or consumer safety which seeks to protect and inform customers by way of having required these practices as sincere advertising and packaging, product guarantees, and better standards of safety. In this regard it's far a movement or an array of policies having an assignment of regulating the products, methods, services, and standards¹⁶ of dealers, producers and advertisers within the consumers' interests.

So, Consumer Protection is a wider aspect and needs a lot of attention in designing its framework. In International level it too possesses its significance and thus a wide ranging framework has been created to protect consumers against the malpractices, hazardous works, cheating and all soughts of ill wills of the seller.

¹⁴ the action of deceiving someone.

¹⁵ a change or development.

¹⁶ a level of quality or attainment.