

Consumer Protection: An overview of the state of Consumer Affairs and Consumer Protection Act,1986

A Research Paper submitted in fulfilment of the requirements for the completion of the Internship tenure-2021.

By

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BONAFIDE CERTIFICATE

This is to certify that this project report entitled “**Consumer Protection: An overview of the state of Consumer Affairs and Consumer Protection Act,1986**” submitted to Centre for National Policy Research is a bonafide record of work done by Himanshi Verma under my supervision.



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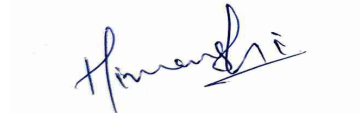
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A handwritten signature in blue ink that reads "Himanshi". The signature is written in a cursive style with a horizontal line underneath the name.

Research Intern

1.0 Introduction to the problems faced by the Consumers in India.

Consumer exploitation through unfair business practices is not a new phenomenon. The consumer is the forgotten and the least organized in the modern economy. Adulteration, poor quality, variations in the contents of the pack, use of deceptive or fractional weights, misleading and dishonest advertisements, unfair monopolistic and restrictive trade practices are the ways and means by which the consumer is exploited to the maximum extent possible. In India exploitation of consumers has assumed serious proportions. The ever-increasing population and the need for goods and services on a large scale without a corresponding matching supply have created a situation of near seller's market. The consumers have very weak bargaining power and therefore cannot exert their rights. As a consequence, various traders have resorted to follow certain practices which are unfair to consumers. Many manufacturers and traders in douching making false claims about their foreign collaboration. The position on rendering goods and services to the public at large by business houses is no better.

1.1 Meaning of the Consumer

A consumer is defined as a person who buys goods and services and makes use of public utilities as well as natural resources like air and water. In its most basic sense, it refers to those who use goods and services for the satisfaction of their wants. Thus, excluding buyers who purchase for manufacturing purposes or resale. Consumers present a striking contrast to purchasing agents of government or any private enterprise. Consumers purchase small quantities of a variety of goods. Extensive shopping and testing are not feasible and only in the case of affluent consumers, there is scope for having goods made to order. Buying is often crowded into 'spare moments' and is only one of the many tasks carried on. An efficient consumer buyer gets goods desired at minimum cost to himself and at the same time does not unnecessarily increase the cost of providing them.

1.2 Meaning of Consumer Education

Nowadays markets have become consumer orientated. The importance of consumers is increasing day by day. With the increase in production, many manufacturers have started using unfair means for selling their products. They cheat consumers in one way or another. In India, many people are still illiterate who can be easily cheated by the manufacturers and traders. Consumer exploitation is more common in rural areas where consumers are less aware of their rights. Consumer education means to educate the consumers about their rights like the right to be informed, right to choose, right to seek redressal, etc. Consumer education is an important determinant of consumer protection. This will help the consumer in protecting himself against fraudulent,



deceptive are misleading advertisements, and poor or negligent services. The aware consumer is said to be an empowered consumer. Consumers can be educated in various ways like-

- A) By advertising about the rights of the consumers in media such as newspaper, radio, TV, etc through various social campaigns like “JagoGrahakJago”
- B) By incorporating the rights of the consumers in the syllabus covered for schools and colleges.
- C) By promoting consumer organizations in India.
- D) By setting up Consumer Courts in India.
- E) By making it compulsory for the manufacturers to give all the necessary information about the product.
- F) By designing websites to creating awareness regarding consumer rights amongst internet users.

Thus, as a part of various consumer awareness schemes rural and remote areas have been given. The slogan “JagoGrahakJago” has played a very crucial role in successfully informing the common man of his rights as a consumer.

1.3 Concept of Consumer Protection

Consumer protection means the protection of consumers from exploitation by unfair practices of producers. Producers exploit the consumers in several ways such as adulteration, false information given regarding the quality of goods, less weight or measure, supply of inferior quality of goods, etc. The main concern of consumer protection is to ensure fair trade practices, quality goods, efficient services, and providing information to consumers regarding quantity, quality, composition, price, the potency of goods so that consumers can make the right choice of purchase.

1.4 Consumer Exploitation



Consumers are generally exploited. They have to face several problems every day and tolerate all this because of illiteracy, poverty, lack of awareness, the traditional outlook of people to suffer in silence, and ignorance of their legal rights. Various forms of exploitations are described below-

1.4.1 Unfair Trade Practices

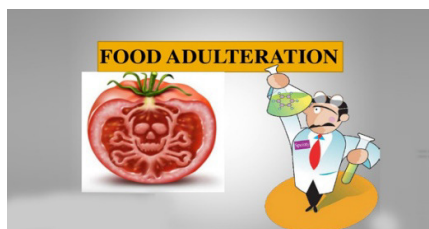
Sometimes traders adopt unfair trade practices for promoting the sale. They give misleading and deceptive advertisements, false promotional contests and fake lucky draw schemes, etc. They falsely represent that the goods are of a particular standard, quality, quantity, grade, composition, style, or model. Some of the unfair trade practices are discussed below-

a) **Misleading and Deceptive Advertisements-** The business class spends a large amount of money on advertising their products and services. Most of these advertisements are misleading or exaggerated. The quality of the products is also very undesirable.

b) **Deceptive Gifts and Prices-** There are sometimes offers of gifts, sale discounts, schemes, and prizes or lucky draws from various business firms to attract customers. The impression given to the public is that something is being given free of cost whereas this may not be true. Sometimes, some manufacturers marginally reduce the quantity, weight, size, etc before the announcement of the gift scheme.

1.4.2 Unreasonable Prices-Sometimes, the sellers charge a higher price than the Maximum Retail Price (MRP) due to consumer unawareness. These unreasonable prices are generally charged by Black marketers, hoarders, speculators, etc. They create artificial scarcity, leading to consumers exploitation.

1.4.3 Adulteration-Another ground on which the consumers are exploited is the adulteration of goods



that are sometimes dangerous to life or hazardous to health. The traders' resort to wrong practices for making high profits. For example, mixing animal fat with ghee, harmful seeds with grams and pulses, mustard oil with mineral oil, etc.

1.4.4 Poor Quality Products-Another ground of consumer exploitation is the poor quality or substandard products offered for sale. Mere declaration of manufacturers regarding ISI, AGMARK or FPO mark on the wrapper is not sufficient. There is no check on the manufacturers that the goods which are sold to the consumers meet the specification of safety. There is a large number of deaths and injuries on account of sub-standard and unsafe domestic products like pressure cookers, electric gadgets, cooking gas, kerosene stoves, etc.

1.4.5 Duplicate Brands-Many a time, the duplicate product is sold by using deceptive packaging. Some manufacturers copy the reputed brand name with minor changes in the spelling of a reputed brand, and the appearance of the wrapper is kept almost the same to give the impression that the product is of a reputed brand.

1.4.6 Deficiency and negligence in Services-Consumers suffer a lot because of poor or deficient services. For example, undue delay by the courier services, wrong billing by the electricity and telephonic department, over delay in settling accidental insurance claims, undue delay for handing over the possession of flats by development authorities. Negligence in services is another cause of consumer exploitation. In the newspaper, some cases of negligence in services are reported for example by an oversight the wrong leg also patient was amputated by a surgeon.

2.0 Rights of the Consumers

John F Kennedy, the former President of USA, had given the six rights which must be availed by the consumer which are illustrated as-

2.1) Right to Safety- The consumer has the right to be protected against the marketing of goods that are hazardous to health, life, and property. There are various risks involved in the consumption and use of products such as pressure cookers, electrical appliances or drugs. These products are must be safe to use. Producers should strictly follow the rules and regulations regarding the safety of products. Government should check and take action against the producers who do not follow the norms for goods and services that can be hazardous to life and property.



2.2) Right to be Informed- Consumer has the right to know important facts and information about the product, like try to be informed about the side effects of the product, date of the packaging expiry date, ingredients used, method of using the product, any precautions required to be taken, etc. This will help the consumer in taking the correct purchasing decision. It's the producer gives wrong information about the product, then the consumer can ask for compensation or replacement of the product. It is the right of the consumer to be informed about the maximum retail price of the product. The consumer can even bargain to buy the product at a price less than the maximum retail price (MRP). The government framed the Right to Information (RTI Act) in 2005 under which a person can ask for necessary information from concerned government departments.

2.3) Right to Choose-The consumer has the right to buy the product of his choice. The consumer should not be forced to buy products, which she doesn't wish to buy. For example, if a gas supply dealer insists on are consumer buying a gas stove at the time of taking a new gas connection, the Gas dealer is restricting the choice of the consumer to buy a gas stove. It is quite possible that the consumer may not prevail to buy the gas stove or wants to buy the gas stove from some other place at a lower price. But here he is being compiled to buy a gas stove from the gas supply dealer. Such tie-up sale is restricting the choice of consumer and hands not allowed by law.

2.4) Right to seek Redressal-The consumer has the right to seek redressal against the unfair trade practices or exploitation of the consumer. She has a right to get compensation from the manufacturer or trader if his interest is harmed. The amount of compensation will depend upon the degree of damage.

The consumer can see redressal through consumer courts functioning at district, state, and national levels.

2.5) Right to be Heard-The consumers has the right to be heard. If he finds any defect in goods or deficiency in services, then search preventions of consumers must be heard by business forms or service providers. Now many reputed companies have set up a consumer service centre to attend to consumer complaints.



2.6) Right to Consumer Education-The consumer has the right to consumer education. Consumer education means to educate the consumers about their rights, redressal machinery, etc. Government and valency organizations educate consumers by giving advertisements in media such as newspaper, radio, television etc. By using posters, neon signboards, arranging seminars, workshops, etc consumers are educated and made aware of they are rights. Educational institutes like schools and colleges are also creating consumer awareness.

3.0 Need for the Concept of Consumer Protection

The necessity of adopting measures to protect the interest of consumers arises mainly due to the helpless position of the consumers. There is no denying fact that the consumers have the basic right to be protected from the loss or injury caused on account of defective goods and deficiency of services. But they hardly use their rights due to lack of awareness, ignorance, or lethargic attitude. However, given the prevailing malpractice and their vulnerability there too, it is necessary to provide them physical safety, protection of economic interests or right to information, satisfactory product standard, and statutory measures for the redressal of the grievances. The other main arguments in the favour of consumer protection are illustrated-



4.0 Consumer Protection Act (1986)

4.1 Introduction

Several laws have been enacted by the government to safeguard the interests of consumers. One of them is the Consumer Protection Acts, 1986 which happens to be the landmark in the history of consumerism in India where a lot of efforts have been made to translate the saying “Consumer is the King” into reality. It is a small act that tends to protect the interests of the consumers and is unique in many aspects. This legislation was enacted in December 1986. It came into force on April 15, 1987. Further various provisions of the Act have been amended vide Consumer Protection (Amendment Ordinance), 1993 and Consumer Protection (Amendment) Act, 2002.

The Supreme Court said that it was one of the most benevolent piece of legislation intended to protect a large body of consumers from exploitation. The Act provided for an alternative system of consumer justice is by summary trial. The authorities under the act exercise Quasi-judicial powers for redressal of consumer disputes and are expected to arrive at a conclusion based on reason and it must give reasons.

Thus, the Consumer Protection Act was enacted on 24th December 1986 and came into force in April 1987. By July 1987, all the provisions of this act came into operation. The main object of this act is stated in the preamble of the act, according to which this Act was enacted for better protection of the interest of the consumer and for that purpose to make provisions for the establishment of consumer council and other authorities for the settlement of consumer disputes and the matters connected with it.

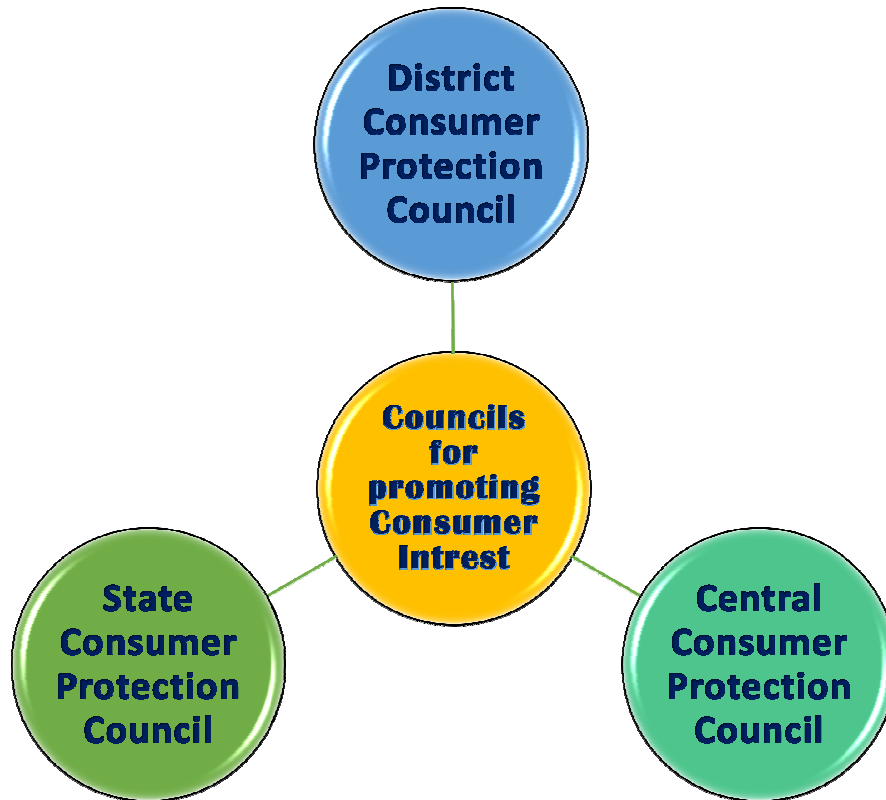
4.2 Salient Features of the Act.

It is indeed a very unique and highly progressive piece of social welfare legislation and as a claim as the Magna Carta of Indian consumers. The act has made the consumer movement going and more powerful, broad-passed and effective, and people-oriented. The act and its amendment in 1993 have brought fresh hopes to the beleaguered Indian Consumer. This is the only law that directly pertains to the marketplace and seeks to retrace complaints arising from it. Even before 1986, there were in force several laws that could be interpreted in favour of the consumers. But this app is the most powerful piece of legislation the consumer has had before 1986. Extrications are very comprehensive and highly effective. The salient features of the act are described below.

- It provides effective safeguards to the consumers against different types of exploitation such as defective goods,unsatisfactory or deficient services, unfair trade practices, etc.
- For enforcement of the rights of the consumers, the act has created consumer courts. The act provides for three-tier consumer grievance redressal machinery with District Forum at a base; the State Commission at the middle level; and the National Commission at the apex level.
- Under this Act, a consumer can submit complaints regarding excessive price, adulteration, underweight, unsatisfactory services, deceptive advertising, failure in executing guarantee, failure in providing self-assured services, unsafe products, expired products, etc. So it covers most of the types of grievances of the consumers.
- The act provides a simple, speedy, and inexpensive redressal of the consumer grievances relating to their complaints. It is not obligatory to engage any advocate. The complainant needs only to narrate the grievance in a simple form and furnish the name and address of the opposite party against whom the complaint is made.
- Under this Act, consumers having common interests can submit public interest litigation, i.e., complaint can be submitted by a group of consumers, also as to protect the public interest. Here the complainant can be filed even by persons who are not affected by unfair trade practice.

4.3 Consumer Protection Councils Under The ACT

To educate consumers about their rights under Consumer Protection Act, Consumer Protection councils have been setup at the district level state level, and at the Central level. The objective of this council is to promote and protect the rights of consumers such as to be protected against marketing of goods and services which are hazardousto life and property, to be informed about quality quantity and potency, etc so ask to protect oneself against unfair trade practices, to have access to a variety of goods and services at competitive prices, to be hurt and appropriate forums, to seek redressalagainst consumer exploitation, etc.



These councils are specially created to safeguard the interests of the consumers and how they function is described as-

- **District Consumer Protection Council-** In each district, the District Consumer Protection Council will be set up. The collector of the district will be its chairman and its other members will be nominated by State Government. The council shall meet as well necessary but at least two meetings must be held every year.
- **State Consumer Protection Council-**In each state, the State Consumer Protection Council will be set up. The minister in charge of consumer affairs in the state government will be chairman. Members of this council are appointed by State Government but the Central government may also nominate a member in this council. The state consumer protection council meets at least twice a year.
- **Central Consumer Protection Council-**Central Government shall establish the Central Consumer Protection council. The minister in charge of consumer affairs in Central format shall be its chairman. Its other members are appointed by the central government. The council shall meet at least once a year.

4.4 Redressal Machinery under the Act

The Act provides for the three tier-quasi judicial redressal machineries at District, State and National levels for the redressal of the consumer disputes and grievances. The District Forum has jurisdiction to

entertain complaints where the value of goods/services complained against is up to rupees twenty lakh; the State Commission for claims between rupees twenty lakh and rupees one crore; and the National Commission for claims exceeding rupees one crore. Further description of the redressal machinery-

District Forum

Section 9 of the act provides for the establishment of a district forum by State Government in each district of the state.. A person who is or has been or has the qualification of district Judge is appointed as its president along with two more members including at least one woman member. District forum can entertain complaints up to rs 20 lakh only. District forum passes orders against traders for any unfair trade practices or defects or deficiency in services. District forum has all the powers of civil court and appeal against the order of district forum can be filed to state commission within 30 days of its order.

State Commission

The act provides for the establishment of state consumers disputes redressal commission by the state government in the state by notification. A person who is or has been the judge of high court is appointed as the President along with two more members including at least one woman member. Section 17 of the act provides the jurisdiction of commission. State commission can entertain complaints where value of goods or compensation claimed is between 20 lacs to 1 crore and it has jurisdiction to entertain appeals against the orders of any district forum within the state.

National Commission

. A person who has been a judge of Supreme court has to be appointed by Central Government as the President along with four other members and at least one woman member. Section 21 provides that National commission shall have jurisdiction to entertain complaints for the value exceeding rs 1 crore and to entertain appeals against the orders of state. Appeal against the order of national commission can be filed to Supreme court within 30 days of its order

Thus, in this manner hierarchy is established in the act to empower to entertain a complete by the consumers and award compensation. The word compensation in legal science food constitutes actual loss or expected loss and makes 10 to physical mental or even emotional sufferings insult or injury or loss.

4.5 Appeals

Under section 15 any person who is aggrieved by an order of district forum can appeal to the state commission; under section 19 against the order of state commission to national; and under section 23 against the order of National commission to the supreme court within 30 days from the date of order of consumer courts.

4.6 Persons who can file a complaint

Following categories of persons can file complete with consumer court under the act within 2 years from the date on which the cause of action has arisen- a) Consumer or b) animal aunty consumer association registered under the Companies Act or the societies registration Act or c) centre government or d) any state government or e) what are more consumers having same interest or f) in case of death of consumer his legal representative. However, a complaint must insure that has a complaint is not futile. The court has the power to dismiss a complaint if it is found to be frivolous. The consumer is not to pay any court fees for filing the complaint under this act.

4.7 Cases when Consumer can file a Complaint

1. If a consumer has suffered huge loss or damage as a result of any unfair/restrictive trade practices adopted by the trader.
2. If the goods purchased suffer from any defect.
3. If the services hired/availed off, suffer from deficiencies in any respect.
4. If the consumer has been charged a price over the price displayed or fixed by or under any law in force or agreed between the parties.
5. If the goods purchased or services availed are hazardous to life and safety.

4.8 Award of Compensation/Relief Available to Consumer

The consumer forums commissions can order the relief by removal of defects from the goods, replacement of the goods, refund of the price paid, award of compensation for the loss or injury suffered, removal of defects or deficiencies in the services, refund of litigation cost, to discontinue the unsure trade practice or restrictive trade practices, to withdraw the hazardous goods from being offered for sale, issue correction to the neutralized effect of misleading advertisement.

5.0 Limitations of the Consumer Protection Act 1986

So, Consumer Protection Act 1986 is now in operation for more than two decades. The act has been amended several times for enlarging its scope. However, there are certain shortcomings in the Act which are described below-

1. Presently the position is that only those services come within this act for which specific payment is made such as electricity banking telephone etc. The doctors as well as hospitals including those where treatment is given free such as government hospitals do not come within the Ambit of the act. Also, the mandatory civil services such as sanitation water supply, etc provided by the state or local authorities are not covered by the act. The government cannot remain a silent spectator to the sorry state of affairs in the government hospitals. The government hospital doctors have failed to improve themselves in extending satisfactory services to the public.

2. The Consumer Protection Amendment Act, 1993, Incorporated clauses regarding the supply of hazardous goods but it does not impose strict liability on those who supply such goods.
3. Further. the Consumer Protection Act, 1986, does not give any definition of safety requirements and permitted hazard levels. Whatever safety regulations are already prescribed under some law of the other would have to be gone into as to whether they have been violated or not. The act itself should incorporate certain product safety requirements.
4. Under the act, a consumer can seek redressal only he has suffered a loss on damage as a result of the unfair trade practice or deficiency in service or the unfair practices resorted by a trader. However, the perse rule is not invoked. The per se rule in shorts that any act or practice which prima facie appears to be unfair shall be recorded as unfair and against consumer interest such as painting its justifications by the opposition party.
5. The Act does not empower the Consumer Redressal Forum, to issue either interim injunction or cease and desist orders. These powers are vested in the Monopolies and Restrictive Trade Practices Commission under the Monopolies and Restrictive Trade Practices Act 1969.
6. The Act does not empower the Consumer redressal Foitums to take up cases This act does not empower consumer forums to establish the names of manufacturers traders and dealers whose goods are found to be hazardous to public safety the simple movement is made will work as a texturing to the arraying business community and make the consumers informed so moto unlike Monopolies and Restrictive Trade Practices Act 1969 which empowers its commission to do so.
7. It has been observing that there is a rift existing between the judicial and non-judicial members of the consumer courts. This is a growing day-by-day issue partly and threatening to affect the functioning of these Quasi-judicial bodies. The nonjudicial members feel that they are recorded second-class status by the Presidents or judicial members. They won't start the Presidents of consumer courts should read them after equals.
8. This act conceit six rights of consumers but completely knows the right of consumers to a healthy environment. Acknowledges only six rights of the consumers as recognized by the international organization of consumer units.

6.0 Suggestions for improving the working of the Consumer Protection Act,1986-

1. Section 2(1)(d) and 2(1)(o) of the Act should be suitably amended to modify the definitions of the terms consumer and services to make it clear that consideration shall not be condition president in case of availing medical and municipal services provided by the government. A victim of medical negligence in a government hospital should be in title to compensation by enlarging the definition of consumer and printing free services provided to the public by the government.

2. The consumer redressal fora should be vested with powers to issue interim injunctions restraining, and undertaking or person from carrying on any unfair trade practice such as defined in the Act. In this connection, section 12 of the MRTP Act, 1969 is worth nothing. Under this section, the MRTP Commission is empowered to grant temporary injunction restraining and Undertaker or person from carrying on any monopolistic restrictive or unfair rate practices until the conclusion of an inquiry or until further orders. Also, the power to a what temporary in junction produces and includes the power to grant injunction without giving notice to the opposite party.
3. It is essential to ensure the quality and competence of non-judicial members who are selected to work on the benches of the consumer to Redressal agencies. Also, emoluments of the President's, as far more than that of members. This anomaly should be rectified. The government should follow a policy of equal pay for equal work. After all the members on the consumer courts whether judicial or nonjudicial have to play an equal role in the redressal process. The consumer of course is expected to benefit from the combined filtered of judicial and nonjudicial members. To ensure smooth functioning of consumer redressal forums, the common should be more prudent in the selection of non-judicial members and provide proper training if necessary to make them good adjudicators.
4. The presence of lawyers should be permitted only where the complainant engages a lawyer which will justify the engagement of the lawyer by the respondent. Otherwise, a lawyer should be allowed only where the court specifically permits or considers it necessary. Further, it should be provided that is no case more than two adjournments will be allowed.
5. The consumers should be allowed to lose a complaint but the consumer forums even wear an alternative remedy is available under another enactment. The consumer redressal agencies should be equipped with the person for the execution of their orders and in this way to the necessity of depending on civil or criminal courts would be observed.
6. The act should be modified to recognize a very important right of the consumers that happens to be the right to a healthy environment. The act should be amended to make the six rights of consumers justifiable.
7. An express provision like the one found in several enactments imposing liability on the chief executive manager or director where an offense is shown to have in committed by an organization be made.
8. The app should be amended to empower consumer courts to publish the names of manufacturers traders and dealers whose goods are found to be hazardous to public safety. This empowerment food work as a deterrent to arraying business community. The app should be amended to streamline the procedure that would facilitate expeditious disposal of consumer cases. First of all

as regards the time same provided in the, in order to adhere to this time frame it is necessary to prescribe a procedure fair in any complaint that is received in the consumer court at the district level is intimately scrutinized by authorized and competent personnel to determine whether the case falls within the act and weather should its pursuit.

9. These are some of the suggestions to improvise upon the functioning of the Consumer Protection Act,1986, and to make it more transparent and vindicative.

7.0 Conclusion

Consumers invariably are a vulnerable lot for exploitation, more so with the prevalence of mass poverty and illiteracy in a developing country. India to is not an exception to it. Instances like black marketing, adulteration, overcharging are very rampant that talking about them seems to be platitudinous. From time to time to comment has tried to save cut in trust of the consumers through legislation and the Consumer Protection Act of 1986 is considered as the most progressive statute for consumer protection. Procedural simplicity and speedy and inexpensive consumer literacy provinces as uniquely consist in this act. Implementation of the activities that consumer centers are better protected than ever before. However, consumer awareness through consumer education and actions by the government consumer activists and associations are mostly needed to make the Consumer Protection movement a success.

The consumer protection act 1986 is a consumer's specific legislation designed to provide for a speedy and inexpensive remedy to the consumers. The act for the first time gives statutory recognition to the rights of the consumers. Three-tier to dry cell machinery at the district state and the national level has been constituted. The act of remedies to consumers not only in respect of defects in goods artificial services but also for overcharging and a host of unfair restrictive trade practices. The actin details have to find who a consumer is who can make a complaint to the different types of machinery under the act for the protection of the consumers. The scope of the act needs to be extended to government hospitals and the mandatory civil services. The act should incorporate certain product safety standards. The courts should we were given some more power such as the power to issue interim injunction and cease and desist orders. They should also have half the discretion to publish the names of those traders whose quotes are found to be hazardous to public safety.

Apart from this act, in the history of consumer protection in India, various measures have been taken against the purchase tail and storage of spurious goods but for trade practices continue unabated; false advertisements are common features. The problem of underweight and adulteration is more or less unchecked. These substandard misbranded quotes posts aggravate danger to the life health and safety of the public. It needs public awareness and change in the attitude of business to sort the consumer. There is a great need to emphasize consumer education and propaganda by following an integrated approach, publicity, authorizing consumer welfare fund, standardization and quality control, for student consumer

organizations and consumer clubs, effective working of national consumer, establishment of Consumer Online Research And Empowerment Center (CORE Center), Computerisation and Computer Networking of Consumer (CONFONET).

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