

Awareness Series 7: Speak Up! Your Voice Matters in Consumer Protection!

(A CSR initiative)



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I. Empower Yourself: Consumer Rights Awareness.

What is this?

Consumer protection is the practice of safeguarding buyers of goods and services, and the public, against unfair practices in the marketplace

Why?

It aims to prevent businesses from engaging in fraud, misleading practices, or unfair trade practices that could harm consumers.

Who?

A consumer is a person who consumes a product or service. The word consumer is often used interchangeably with the word customer. This is not entirely accurate. A customer is a person or organisation that purchases goods or services. Even online purchasing qualifies for protection under this law

Examples of Consumer Protection Measures:

- **Product Safety Standards:**

Regulations ensure that products are safe for consumers to use and not hazardous to health and life

- **Truth in Advertising:**

Laws prevent businesses from making false or misleading claims in their advertising. Example: Recent case on Patanjali misleading advertising

- **Fair Pricing:**

Regulations can prevent businesses from engaging in price gouging or unfair pricing practices.

- **Right to Redressal:**

Consumers have the right to seek compensation or other remedies for damages caused by defective products or service. Examples to follow.

Legal recourse

The Consumer Protection Act, implemented in 1986, gives easy and fast compensation to consumer grievances. This Act was repealed and Consumer Protection Act, 2019 was enacted. The Consumer Protection Act, 2019 provides for a three tier quasi judicial machinery at District, State and Central levels commonly known as "Consumer Commissions" for protection of the rights of consumers and to provide simple and speedy redressal of consumer disputes including those related with unfair trade practices. The Consumer Commissions are empowered to give relief of a specific nature and award, wherever appropriate, compensation to consumers. It safeguards and encourages consumers to speak against insufficiency and flaws in goods and services. If traders and manufacturers practice any illegal trade, this act protects their rights as a consumer

Who can avail?

any person who has purchased goods or services for personal, household, or commercial use can file a complaint in the consumer court. This includes individuals, sole proprietorships, partnerships, and corporations. Free goods and services not included except if related to poor community.

II. Duties First

To have rights imposes duties first. It is hypothesised that there are five duties consumers should undertake: critical awareness, involvement or action, social responsibility, ecological responsibility and solidarity elaborated in detail below:

A. Demanding Bill of the Purchase:

The bill is the proof of purchase and can be used to seek justice if the consumer feels cheated after buying the commodity. No suit can be made in the absence of bill thus it is essential to collect and retain pucca invoice for every purchase for goods or service. Through the bill the consumer also ensures that the government receives tax on the product because it is mandatory for the seller to mention the tax amount on the bill. Such act of the consumer makes him/her a responsible citizen of the country

B. : Dealing with Advertisements:

Consumers need to be cautious of such deceptive advertisements. Currently, many instances of deceptive advertising floating on social media leading to cyber crime

C. : Buying Quality Certified Products

Ensure that you buy certified products. For example the Indian Standard Institute (ISI) conducts quality testing of many consumer goods. If found proper the product is labelled with ISI mark on it. For many food products the quality assurance is certified by seal called AGMARK. Consumers should choose products with ISI mark and AGMARK. A very important thing before purchasing food products or medicines etc. is that the consumer must see the expiry date

D. : Being a Green Consumer:

A consumer must consume those products which do not cause damage to our environment. People should use biodegradable products which can easily mix with soil and water after they are disposed of. Similarly, people should save electricity, gas etc. by judicious use. Consumers are also responsible for automobile pollution in town and cities. They should use public transport system and eco-friendly vehicles.

E. : Consumers as Managers:

Consumers can unite together to provide themselves and the community at large of a locality or village some basic needs such as drinking water supply, health, education etc.

III. Consumer Power: Know Your Rights!

1. **Right to Safety** to be protected against products, production processes and services which are hazardous to health or life;
2. **Right to be Informed** to be given the facts needed to make an informed choice, and to be protected against dishonest or misleading advertising and labelling;
3. **Right to Choose** to be able to select from a range of products and services, offered at competitive prices with an assurance or satisfactory quality;
4. **Right to be Heard** to have consumer interests represented in the making and execution of government policy, and in the development of products and services;
5. **Right to Satisfaction of Basic Needs** to have access to basic, essential goods and services: adequate food, clothing, shelter, healthcare, education, public utilities, water and sanitation;
6. **Right to Redress** to receive a fair settlement of just claims, including compensation for misrepresentation, shoddy goods or unsatisfactory services;

7. **Right to Consumer Education** to acquire knowledge and skills needed to make informed, confident choices about goods and services, while being aware of basic consumer rights and responsibilities and how to act on them;
8. **Right to Healthy & Sustainable Environment** to live and work in an environment which is non-threatening to the well-being of present and future generations.

IV. **Some legal cases for references:**

A. Medical Negligence:

1. M/S. Spring Meadows Hospital & Anr v Harjol Ahluwalia:

This case established that parents can also be considered consumers when their child is treated in a hospital.

2. Arvind Shah (Dr.) v Kamlaben Kushwaha:

This case involved a medical negligence claim where the complainant's son died due to alleged improper treatment. The doctor was held liable and awarded compensation.

3. V.N. Shrikhande v. Anita Sena Fernandes:

This case highlighted the importance of timely action in medical negligence cases.

Fernandes underwent a stone removal surgery from her gall bladder performed by Dr. Shrikhande in November 1993. Post-surgery, she experienced intermittent abdominal pain for approximately nine years but did not report these issues to Dr. Shrikhande or seek alternative medical opinions. In 2002, a CT scan revealed a mass containing gauze pieces, leading to a second surgery. Dr. Fernandes filed a complaint in 2004 seeking compensation for alleged negligence. The Maharashtra State Consumer Disputes Redressal Commission dismissed the complaint as time-barred, a decision the National Consumer Disputes Redressal Commission reversed, allowing the case to proceed on merits. However, upon appeal, the Supreme Court reinstated the dismissal, holding that the cause of action accrued at the time of the original surgery in 1993, thereby rendering the 2004 complaint outside the permissible limitation period.

4. Nizam Institute of Medical Sciences v Prasanth S. Dhananka & Ors

This consumer protect act case arises out of a complaint of medical negligence where a 20-year-old engineering student was admitted to the Nizam Institute of Medical Sciences (NIMS) after he complaint about the acute chest pain. After several tests and x - rays, a tumor was revealed. Though, it could not be diagnosed whether the tumor was malignant or not, therefore, the patient was advised to undergo surgical removal of the same. After the surgery, the patient

developed paralysis. There was a complete loss of control over the lower limbs and other related complications also raised leading to urinary tract infections, bedsores, etc. The family of the patient held NIMS and the State of Andhra Pradesh statutorily liable (being a government hospital) liable for this utmost negligence. Family also claimed that no pre-operative tests conducted, no neurosurgeon was present during operation. Consent was only taken for the tumor excision, but the doctors also removed ribs, tumor mass and destroyed blood vessels leading to condition of paralysis.

Judgment: Based on the evidence, Supreme Court held that a huge negligence was made out on the part of doctors and the hospital. Hence, the court awarded damages worth Rs. 1 crore to compensate present and prospective medical expenses and suffering of life.

B. Defective Goods/Services:

1. Sehgal School of Competition v. Dalbir Singh:

This case involved a complaint regarding unsatisfactory coaching services provided by a coaching institute. A student was asked to deposit lump sum fees of Rs. 18,734 for coaching of medical entrance examination for the next two years. This amount was deposited by the student in two complete instalments. However, the student realized that the quality of the coaching institute was not upto the mark and therefore sought a refund for the remaining period which was further refused by the coaching institute. The appellant lodged a case against Sehgal School of Competition before National Commission. While Sehgal School of Competition submitted records that showed good results of the institute and alleged that it was wrong to observe that the coaching services are substandard.

Judgment: National Commission stated that fees once paid shall not be refunded is an unfair trade practice. It quoted UGC guidelines declaring that even if a student has not attended a single class, an amount of 1000 can get deducted and proportionate charges for hostel fees, etc, and the balance amount could be refunded. State Consumer Forum, mentioned that not just the balance amount of fee, but also a higher compensation for legal costs as well as the pain that the student had to undertake, could be availed in such cases.

2. Delhi Development Authority v. D.C. Sharma:

This case dealt with a complaint against the Delhi Development Authority for alleged malpractices in housing allotments, the court scrutinized the actions of the DDA, revealing a blatant administrative oversight where the same flat was allotted to two different individuals in separate draws. The DDA's initial negligence was compounded by its attempts to deflect blame onto Sharma by claiming non-payment of required amounts for a flat that was not available for

his allocation. The National Commission found the DDA's defense to be flimsy and indicative of deliberate malpractice aimed at avoiding accountability.

C. Financial Disputes:

1. HDFC Bank Limited v Balwinder Singh:

This case involved a bank's alleged harassment and forcible repossession of a vehicle

2. Sapient Corporation Employees Provident Fund Trust v. HDFC & Ors.:

This case concerned a wrongful debit from a bank account

D. Bad Practices:

M/S. REEBOK INDIA COMPANY vs UNION OF INDIA & OTHERS

Government of NCT of Delhi had seized a pair of footwear with the label which did not mention that the maximum retail price was inclusive of all taxes. **Held**, “No exception can be taken to the action of the authorities under the act and Rules, and the notices impugned cannot but be said to be valid and legal.”

E. Restaurant's unfair trade practices:

1. UOI&ORS. Vs. FEDERATION OF HOTEL RESTAURANT

The question entailed in the writ petitions from which these appeals arise was whether it is impermissible for the members of writ petitioners i.e. Hotels and Restaurants to charge their customers / guests for the mineral water packaged and bottled by third parties any price above the maximum retail price (MRP) mentioned there on. The learned Single Judge held that charging price for mineral-water in excess of MRP printed on the packaging, during the service of customers in hotels and restaurants does not violate any provisions of the Standards of Weights and Measures Act, 1976 (SWM Act) as the same does not constitute a sale or transfer of those commodities by the hotelier of restaurateur to its customers. It was held that the customer does not enter a hotel or a restaurant to make a simple purchase of these commodities and even though the customer may order nothing beyond a bottle of water or a beverage but his direct purpose in doing so would clearly travel to enjoying the ambience available in the hotel or the restaurant and incidentally to the ordering of any article for consumption. This was affirmed by Hon'ble Supreme Court.

2. DCDRC directs restaurant to pay Rs 40,000 as compensation

for ordeal sustained by the complainant due to its failure to deliver 'Sadya' on Thirunam day. While deciding the instant consumer complaint wherein the complainant had raised grievance against a reputed multi-cuisine restaurant for its failure to deliver 'Onam Sadya'; the Bench of D.B. Binu (President) and V.

Ramachandran and Sreevidhia T.N (Members) held that the restaurant's serious deficiency in service has caused the complainant mental agony, inconvenience, hardship and financial loss. The Commission directed the restaurant to pay Rs 40,000 to the complainant as compensation towards the agony and hardship sustained by the complainant due to the restaurant's failure to deliver 'Onam Sadya'.

3. Veg biryani case

Currently one matter is under adjudication where chicken biryani was delivered instead of veg biryani during Navratri attacking the religious faith of the consumer.

4. McDonalds vs. Mrs. Vimal Lunaich Chaudhary

she had placed order with Mc Donalds for one Vegetarian Surprise Burger and one Mc Aloo Tikki Burger for which she was charged Rs.64/- including Rs.15/- for packaging charges vide invoice No.000201800007832. While ordering she had categorically stated that she was a vegetarian and requested the concerned person to be careful while delivering the same. It was alleged that on eating the Aloo Tikki Burger, she found the same to be a non-vegetarian Burger. By that time she had already finished half of the burger. She started vomiting and reported to the OP who behaved in a rude manner. The religious feelings/belief of the complainant were hurt.

It was held that there was deficiency in service on the part of the OP in delivering non vegetarian Burger instead of vegetarian Burger and directed the appellant to pay Rs.10,000/- as compensation and Rs.5,000/- as cost of litigation.

5. Rishabh Wadhera vs. M/s McDonald's Restaurant

Before the Ld. Lower Commission, it was case of the complainant/appellant that through electronic service provider - Zomato, he ordered food items worth Rs.79/- from McDonalds. However, apart from Rs.79/- and taxes, the Opposite Party charged a sum of Rs.35/- extra for a carry bag. The carry bag was mentioned and billed as "packaging charges". It is averred in the complaint that the complainant never intended to buy the carry bag which was deceptively sold to him at about 46% of the total value of the food items ordered. On enquiry, he was informed that 'packaging charges' is a charge for the carry bag in relation to the complainant's order. It was further averred that the seller is under obligation to bear all the expenses which renders a good to be put into deliverable state and includes charges for a carry bag. McDonalds was directed to pay Rs.500/- towards compensation for harassment and mental agony and to pay Rs.1,100/- as litigation expense

F. Deficiency of services by beauty Salons

1. Jasleen Kaur vs. Naoki Salon & Davines India - Consumer court awards ₹1.25 lakh to Sikh woman forced to cut hair after salon botched treatment

The woman alleged that due to the poor hair treatment, she was forced to cut her hair, which went against her religious beliefs as a Sikh.

The Hyderabad District Consumer Disputes Redressal Commission (DCDRC) recently ordered a hair salon to pay ₹1 lakh as compensation, apart from ₹25,000 as costs, to a woman who was forced to cut off her hair after a botched hair treatment. The complainant's hair became extremely tangled after getting a hair spa treatment. As all efforts to untangle her hair went in vain; she had to cut her hair, which went against her religious tenets and beliefs as a Sikh and the affected her mentally, emotionally and professionally

2. Aashna Roy vs ITC Hotels –

A woman in Delhi has won a Rs 2 crore compensation against the ITC Maurya three years after a bad haircut and a botched hair treatment at the salon there, Aashna Roy, 42, was awarded the compensation by the National Consumer Disputes Redressal Commission (NCDRC) for the mental trauma and jeopardised career prospects due the haircut. The court underscored that Roy had done modelling assignments for hair products and beauty clinics because of her long hair.

3. Pooja vs Lakme Beauty Salon

The complainant aged 24 years visited the salon to beautify herself as some family was to visit her for matrimonial puposes. She got number of treatments done and after 2-3 days red patches and rashes developed on all her body. She approached the salon for compensation which refunded all her money. On visiting the doctor, she was told that the patches were of permanent nature. The complainant failed to prove any negligence or deficiency in services hence no compensation awarded.

Vitals to remember:

In case of unsafe or deceptive products and practices or deficiency of service, the consumer has following options to file the complaint:

- a. Online complaint:
<https://consumerhelpline.gov.in/public/>
- b. Email id: nch-ca@gov.in
- c. Call to register your grievance 1800114000 or 1915
(All Days Except National Holidays (08:00 AM To 08:00 PM)) OR

- d. Register your grievance through web portal [Signup here→](#) OR
- e. SMS on this Number 8800001915. We will get back to you. OR
- f. Register your grievance through WhatsApp [Chat now→](#)
OR
- g. Register your grievance through NCH APP [Download App→](#) OR
- h. Register your grievance through UMANG APP [View Details→](#)
- i. Approach your lawyer

Disposal Time

In terms of Section 38 (7) of the Consumer Protection Act, 2019, every complaint shall be disposed of as expeditiously as possible and endeavour shall be made to decide the complaint within a period of three months from the date of receipt of notice by opposite party where the complaint does not require analysis or testing of commodities and within five months if it requires analysis or testing of commodities

REMEMBER

"Consumer is King: Demand Quality and Fairness!"

Stay Informed, Stay Protected

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