

INDIAN CONSUMER: KING OR PAWN

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INTRODUCTION

In a democracy, consumer welfare is the responsibility of the government as every citizen is a consumer in one way or another. In a competitive market, the consumer rights can be protected by evolving a network of legal instruments as well as an institutional mechanism to redress their grievances. In India the Consumer Protection Act, 1986 is the major social welfare legislation enacted to protect the consumers. Legislation has no doubt played a major role in protecting consumers but the available evidence suggests that even today the average Indian consumer remains exploited due to lack of awareness and consumer education. There is, therefore, a need to enhance consumer awareness and strengthen the consumer movement by involving various stakeholders.

Consumer is the focal point of all the activities. In fact, he is the very basis which supports superstructure of all operations in the society. Consumer interest, therefore, should receive first priority of all. As a citizen, as a taxpayer and as a buyer, the consumer should have the right to expect that he will get the right type of goods and right quality at the right time and at the right price. In practice, it is well known that the consumer is not only the most ignored, the most harassed, the most suffered but also most docile citizen. The consumer's plight with regard to availability of items like kerosene, sugar and cooking gas is so pitiable that he has resigned himself to his "fate and classified himself as the unimportant person." On the one hand, there is often repeated statement that "customer is always right" and the customer is the "KING". On the other hand, the legal position of a buyer has been expressed in the famous expression "caveat emptor" or "Let the buyer beware." Consumer protection may be viewed from three angles. One is the physical protection of the consumer... measures to protect consumers against products that are unsafe and endanger health. A second aspect is the protection of the consumers economic interest... measures to protect him against deceptive and other unfair trade

practices and to provide adequate rights and means of redress. A third and equally important aspect is the protection of public interest against the abuse, the monopoly position and restrictive trade practices. Consumer protection is nothing but with providing safeguard for the basic rights of consumers. However, consumer protection is essential for a healthy economy because this protection alone can give necessary strength to him in the market and restore the balance in the buyer-seller relationship.

"A customer is the most important visitor in our premises. He is not dependent on us, we are dependent on him. He is not an interruption in our work, he is the purpose of it. He is not an outsider in our business, he is the part of it, we are not doing him a favour by serving him, he is doing us a favour by giving us an opportunity to do so." These words of Gandhiji stressed the importance of consumers to the producers and their activities involving marketing of goods and services.¹ Consumers, in fact play a very significant role in the economic development of a country. In fact, consumers are the pillars of the economy. Hence, every business organisation is required to set its objectives keeping in view the socio-economic and political structure of the society. The basic ideology of modern marketing is: do not sell what you happen to make and feel convenient to produce. Produce and make what the consumers want.

CONSUMERISM

The consumer movement in our country has been very weak, though endeavour has been made by the Union Government as well as Governments of States to popularise it. Its presence has been generally known but safely ignored by observers. Consumerism gives new emphasis to the Consumers Bill of Rights-The Magna-Carta of consumers, for instance consumer has a right to full and correct information on prices, on quality of goods and on costs and efficiency distribution. Importance of the consumer to the business has yet to be realised fully. Business makes profit only when goods are consumed or services utilised. This presupposes consumers existence. Business is entirely dependent upon the consumer not only for its very survival but also for its growth.²

¹ Sansar Singh Janjua, ADMINISTRATIVE MACHINERY FOR CONSUMER'S INTEREST: AN ANALYTICAL STUDY, *The Indian Journal of Political Science*, Vol. 68, No. 3 (JULY - SEPT., 2007), pp. 523-532.

² Supra note 1

In general, consumers are scattered over the whole country. They are highly disorganized. Individually, they have very weak bargaining power. They are not professional or shrewd buyers. Besides, in India, they have an additional handicap, namely, majority of consumer's are illiterate, ignorant and usually lack information to make intelligent purchases.

Consumer movement is a social and economic movement to protect the interests of consumers against the unfair trade practices and other forms of exploitation in matter of availability, quality, quantity and prices of goods and services. The growth of consumerism is the natural outcome of the forces generated by industrial and technological revolution witnessed in the developed countries. The impact of the consumer movement is not being felt in the developing countries which are engaged in the task of achieving an accelerated rate of economic growth.

There are a number of factors leading to an upsurge of consumerism. Industrialisation and mass production resulting in production and marketing of a large variety of consumer goods, no doubt, delight the consumers but also have them confused about their choice in the market place. Evolution of an array of questionable marketing practices by the manufacturers often mislead the consumers.

The consumer's sovereignty over the market place has been eroded due to wide prevalence of a seller's market, imperfect competition and various forms of monopolistic trade practices. The fast pace of technological change has, no doubt, brought in a stream of new products but has created information gaps for the consumers in regard to their quality, performance and utility. The problems are accentuated by the massive advertising campaigns for new products which on many occasions confuse the consumers. The modern technology and new marketing methods have been quite beneficial. But everything is not so pleasant and smooth. The marketers have taken undue advantage of the consumer ignorance and helplessness. They adopt only those methods and techniques which meet their ends. They have made the consumers a target of their unscrupulous practices. Consequently, the consumers have become the victim of various types of expectations. So, the phrases like 'Consumer is the sovereign', 'Consumer is always right', 'Consumer is king', 'Consumer can do no wrong', seem shallow. The consumer

may be a king of corporate activities, but his kingdom remains on the paper only. It has been estimated that Indian consumer is being cheated by about Rs 2000 crore every year.³

The social development manifest in education and consumer awareness has promoted various pressure groups of consumers, which seek legitimate protection of the interests of consumers. The need for consumer protection is now being felt more than ever before. Among the myriad products in the market, consumer is, today, nursing a feeling of helplessness, because he is being systematically victimised as regards quality, price of products and service available.

While the profit in any business is not a crime and it is essential for survival and growth, illegal profit or profiteering through questionable means like product adulteration, fraud, inflationary price practices like hoarding, speculation, black marketing and so on are considered both anti-social and anti-national.

The list of instances and kinds of exploitation through malpractices adopted by businessmen is a very long one. We may mention some of them to indicate the gravity of consumer exploitation so as to prove the dire need of consumer protection and education: lack of safety regulation; food adulteration, short weights and measures, misuse of coloring matter, limitation of manufacture, blatant misleading advertisement, conspicuous consumption; hire purchase plans, advertisement tactics, sales gimmicks, evil practices of powerful multinationals, massive profiteering, illegal trading etc.

The above types of malpractices and the consequent exploitation of consumer, exploitation of consumer interest on a large scale will certainly indicate the pressing, the urgent need for consumer guidance in India. We find that consumer is a very unimportant person in the market.

Consumer protection may be viewed from three angles. One is the physical protection of the consumer... measures to protect consumers against products that are unsafe and endanger health. A second aspect is the protection of the consumers economic interest... measures to protect him against deceptive and other unfair trade practices and to provide adequate rights and means of redress. A third and equally important aspect is the protection of public interest against the abuse, the monopoly position and restrictive trade practices.

³ Philip D., CONSUMERISM A WAY OF LIFE; CONSUMERS, CONSUMERISM AND CONSUMER PROTECTION INDIAN CONTEXT, K.N. BHATT, SURESH MISHRA, SAPNA CHADAH, (2010).

Consumer protection is nothing but providing safeguard for the basic rights of consumers. However, consumer protection is essential for a healthy economy because this protection alone can give necessary strength to him in the market and restore the balance in the buyer seller relationship. Considering the wants and needs of consumers, the consumer protection measures should essentially be concerned with:

- a) The protection from hazards to health and safety;
- b) The promotion and protection of economic interests;
- c) Access to adequate information;
- d) Control of misleading advertisements and deceptive representation;
- e) Consumer education; and
- f) Effective consumer redressal.

The industrial and economic development witnessed during the last four decades has transformed our economic and social scenario. Any Indian today can take pride in the rapid economic progress that we have achieved. The quantitative growth in outputs in industrial and agricultural sectors under planned economic development has been hailed as historic development from the elite economists and sociologists all over the world.

The present economic and technological developments have, no doubt, made perceptible social and economic changes but the consumer's control over the market mechanism has gradually diminished. Consumer's sovereignty in choice of goods and services has been greatly eroded by various forms of unfair, monopolistic and deceptive trade practices. Although there are about 200 voluntary consumer organisations in the country and many of them are doing immense service to promote consumer's cause, their activities are concentrated in metropolitan cities and towns. The movement is still in its infancy and at the grass roots level much more alertness and activity are required.

Self-regulation in business in minimise the need for extensive government intervention. The market profession can regulate its own behaviour and actions by self-discipline and by raising ethical standards. Business community must read the writing on the walls and take without delay, appropriate steps to regulate its conduct and cultivate self-discipline and self regulation

in the large national interests. Let it be noted that this is not merely for protecting the consumer interest but also for protecting the self-interest of the business community itself. Enduring and positive improvements in business practices can be brought about by the businessmen themselves and these changes should be based on the inner will or desire rather than coming from the external force or discipline. Many trade associations have moved positively to respond to growing consumer satisfaction. This response was due to increasing threat of government regulation. Purely voluntary efforts of self-regulation by industry or trade are not likely to be successful, because there are no sanctions in the form of some enforcement machinery. Moral sanction and moral responsibility or obligation may not be powerful for enforcement if all the members of the trade association do not have a higher sense of discipline and suitable temperament, self-regulation and self-control.

EARLY MEASURES

A number of consumer protection laws have been developed over the years to protect various interests of consumer. These include Essential Commodities Act, Prevention of Food Adulteration Act, Standards of Weights and Measures Act and MRTP Act. But these arrangements have not led to growth of an effective consumer protection movement in the country. Moreover, these laws are either preventive or punitive in approach and do not provide speedy reliefs and compensations to the aggrieved consumers.

The procedures for bringing the culprits to book under the existing laws are also long drawn and cumbersome. Litigation is a costly affair which most consumers cannot afford. The law of torts is not well developed in our present legal system. Besides, there is no common platform for officials and non-officials for discussing the consumer's problems and for advising the Government on policies and measures needed to promote and protect the rights and interests of the consumers.⁴

Consumer protection entails protecting the rights and interests of the consumers in matters of availability, quality, quantity and price of goods and services. Protecting the interests of the consumers from unfair and deceptive trade practices is of paramount concern to society.

⁴ *Supra* note 1, at 527.

CONSUMERS' RIGHTS

Consumer should have the right to be protected against marketing of goods which are hazardous to life and property. The right to be informed about the quality, quantity, potency, purity, standard and price of goods and to be protected against unfair trade practices is also theirs. Consumers also have the right to be assured, wherever possible, access to a variety of goods at competitive prices and also to be assured that consumers' interests will receive due consideration at appropriate forums. Redressal against unfair trade practices or unscrupulous exploitation of consumers and proper consumer education must also figure in consumers' rights, the right to consumer education and right to healthy environment also form a part of significant rights of consumer.

CONSUMER

Till now we discussed what consumer rights are and what steps were taken to protect those rights and many other aspects as to how consumerism came into light and addressed many of the consumer issues. Now we go to the main purpose of this whole article, who is a consumer. Section 2(d) of the Consumer Protection Act, 1986 as follows:

"Consumer" means any person who –

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and included 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; or

(ii) hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the service for consideration paid or promised or partly paid and partly promised or under any system of deferred payment when such services are availed of with the approval of the first mentioned person....

The above definition of consumer makes it clear that a person is a consumer in his capacity as buyer of a commodity or service; further it removes the doctrine of privity of contract when it includes a lawful user of the goods or beneficiary or service even when there is no contractual nexus between him and supplier of goods or service. The definition of "consumer" does not cover breach of contract of potential consumers, i.e., a person who has entered into an agreement for purchase of goods or hiring of any service, and if there is a breach of contract by an unscrupulous trader, manufacturer or provider of a service a consumer has no remedy. In this manner a person suffers harm or damage but such potential consumer is not covered by definition of "consumer" under the Act.⁵

CONSUMER IS THE LOSER

Plenty of things on the business horizon appear appeasing the consumers with the claim of doing 'favour to consumers'. But a close scrutiny of the business practices in Indian scenario reveals that the claims are not supported by sincere actions. Most of the business offers simply delude the customers and still try to win their loyalty without fully safeguarding their long term interests. In this age of globalization and neo liberalization the consumer remains deprived of the basic rights. The buyer by and large is misled, deceived and robbed as usual. The theoretical perspective reflects more of consumer being the king but it is different in real life. The business, in order to demonstrate a more consumer friendly is supposed to adopt self regulation as a policy. As consumer preferences become more important, some traders will attempt to influence those preferences. Past negotiating positions suggest at least three types of government response: providing choices to consumers, limiting choices to consumers, and monitoring the information provided to consumers to make choices. If the consumer is king, then the role of national governments is to assure consumers access to the maximum number of choices and the information needed to make those choices. In reality, this is the road less taken. An alternate role is to limit consumer preferences. If consumers do not have specific preferences, governments argue that banning product entry is a valuable service. Everyone is a consumer in the economy—from the company CEO to the shopper buying fruit at the local grocery store. How, then, within the cultural and political context of a given country, can a

⁵ G.I.S. Sandhu and Arvind Kaur, CONSUMER PROTECTION IN INDIA: SOME AREAS OF ILLUSION, *Journal of the Indian Law Institute*, Vol. 38, No. 3 (July-September 1996), pp. 377-386.

national government define aggregate consumer preference for products or product attributes? A middle ground is the monitoring of consumer information. Examples are defining what can or must be included on product labels and ensuring truth in advertising. To protect consumers from such malpractices, mass media programmes like Jago Grahak Jago, Grahak Dost, Upbhoktajagan came into light to bring consumer awareness in India.⁶

CONCLUSION

If the consumer is king, then why so much controversy? If we truly believe that consumers will vote with their pocketbooks and move the economy towards greater efficiency, why isn't there a rush to provide consumers with the maximum number of choices? What political economy forces are at work? Marketers and advertisers have known for years that consumer preferences can be influenced through a variety of sources. The age-old customer service messages weaved into the entertaining and memorable format were tenets of sound business:

- The customer is king
- Don't make the customer a pawn in your organizational chess game
- The customer isn't there for your gratification or to make your life easier
- Neglect your customer at your peril – the competition is waiting to make a move

Fast forward nearly 50 years and those messages are as relevant and poignant today; unless Customer Experience has become irrelevant to business success over the last 6 years. Considering markets like India and China, and emerging demographics, a consumer is a mere speck of dust on the global market chess board and maybe the Customer Experiences that companies design simply aren't targeted at customers. The entire question of consumer protection is not some failure or discrepancies in product it is the system and lacunae in law that encourages cheating and defrauding.⁷ Closer to 70 years ago, business guru Peter Drucker said the purpose of a business is to create a customer. This has often been expanded to: ***find and keep a customer*** and treat him like a king. I want to end this article on a positive note of

⁶ Rais Ahmad, Mohd. Awais, Madhav Goel; CONSUMER PROTECTION IN INDIA: AN OVERVIEW, *Supra* note 3.

⁷ *Supra* note 3.

hope where consumer finds an apt market and a good market finds and keeps a consumer retaining his authority in the economy.

