

# Protection of Cyber Consumers in India

## 9.1 Introduction

- The cyber consumers in India are protected under the Consumer Protection Act. The Consumer Protection Act, 1986 is a social welfare legislation which was enacted as a result of widespread consumer protection movement.
- The main object of the legislature in the performance of this act is to provide for the better protection of the interests of the consumer and to make provisions for establishment of consumer councils and other authorities for settlement of consumer disputes and matter therewith connected.
- To promote and protect the rights and interests of consumers, quasi judicial machinery is required to be set up at district, state and central levels.
- The main object of these bodies is to provide speedy and simple redressal to consumer disputes. It is one of the benevolent pieces of legislation intended to protect the consumers at large from exploitation.
- The consumer protection act is intended to protect the legitimate interest of the consumers against traders, suppliers etc. The consumer protection act 1986 has opened up a new era in the field of business in India.

### 9.1.1 Objectives of the Consumer Protection Act (CPA), 1986

**Q. 9.1.1 What are the objectives of the Consumer Protection Act ?  
(Ref. Sec. 9.1.1)**

**(5 Marks)**



☞ **The following are the objectives of the CPA**

1. To provide for better protection of interests of consumers.
2. To protect the rights of the consumers such as :
  - The right to be given protection against marketing of goods which are hazardous, dangerous to life and property.
  - The right to get correct information on the quality, quantity, purity, standard and price of various goods. That is to protect the consumer from unfair trade practices.
  - The right to be able to make choice from a variety of products, at competitive prices.
  - The right to seek redressal against unfair trade practices or exploitation.
  - The right to consumer education.
  - In order to meet the aforesaid objective, to provide for the establishment of consumer councils and other authorities.
  - To empower the consumer councils and other authorities to settle consumers disputes and matters connected therewith.

☞ **Importance from Consumer's Point of View**

- **Unorganized consumers :** In developing countries like India, consumers are not organised. There are very few consumer organisations which are working to protect the interest of consumers. Consumer protection provides power and rights to these organizations as these organizations can file a case behalf of customer.
- **Consumer ignorance :** It spreads awareness so that consumer can know about the various redressal agencies where they can approach to protect their interests.
- **Wide spread exploitation of consumer's:** There is lot of exploitation of consumers as businessmen use various unfair trade practices to cheat and exploit consumers. Consumer protection provides safe guard to consumers from such exploitation.

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**Syllabus Topic : Are Cyber Consumers Covered Under the Consumer Protection Act?**

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**9.2 Are Cyber Consumers Covered Under the Consumer Protection Act ?**

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**Q. 9.2.1 Who is consumer ? What are the rights of consumer ? (Ref. Sec. 9.2) (5 Marks)**

The cyber consumers are same as ordinary consumers, only there is difference in purchasing the good or hiring the services. The consumers are defined in CPA (Section 2(1) (d)) as consumer means any person who;

Buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment, when such use is made with the approval of such 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

A person who hires or avails of any services for 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 services 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 (but does not include a person who avails of such services for any commercial purpose).

#### Examples

- When your mother buys Banana for you and you consume them, your father as well as you is treated as consumers. The same thing applies to hiring a taxi to go to your school.
- Consumer law regulates private law relationships between individual consumers and the businesses that sell those goods and services. Consumer protection means safeguarding the interest and rights of consumers.
- In other words, it refers to the measures adopted for the protection of consumers from unscrupulous and unethical malpractices by the business and to provide them speedy redressal of their grievances.

#### The Consumers have following rights :

1. Right to be informed.
2. Right to choice.
3. Right to be heard.
4. Right to seek redressal.

- 5. Right to consumer education.
- 6. Right to healthy environment.

### Syllabus Topic : Goods and Services

#### 9.3 Goods and Services

**Q. 9.3.1 Explain goods and services ? (Ref. Sec. 9.3)**

(5 Marks)

- According to (Section 2 (7)) of the sales of goods ACT, goods means, every kind of movable property other than actionable claims and money.
- Examples of goods include stock, shares, grass and things attached to, or forming part of the land which are agreed to be served before sale or under the contract of sale.

##### ☞ Service : S.2(1) (r)

- "Service" means service of any description, which is made available to potential users and includes, but not limited to the provisions of the facilities in connection with

- |                                |   |
|--------------------------------|---|
| 1) Banking                     | 2) Financing                            |
| 3) Insurance                   | 4) Transport                            |
| 5) Processing                  | 6) Supply of electrical or other energy |
| 7) Boarding or lodging or both | 8) House construction                   |
| 9) Entertainment               | 10) Amusement or                        |

- 11) The purveying or new or other information
- But does not include the rendering of any service free of charge or under a contract of personal service.

### Syllabus Topic : Consumer Complaint

#### 9.4 Consumer Complaint

**Q. 9.4.1 What is complaint ? Who can file a complaint ? (Ref. Sec. 9.4)**

(5 Marks)

- In the consumer protection act, 1986, Section 2(1) (c) defines the term 'complaint'.
- Complaint means any allegation in writing made by a complainant that :
  - o Any unfair or restrictive trade practice has been adopted by the trader;



- o The goods bought by him or agreed to be bought by him suffer from one or more defects;
- o The services hired or availed of or agreed to be hired or availed of by him suffer from some deficiency in any respect;
- o The trader has charged for the goods a price higher than the price fixed or displayed on the goods or the package containing them or under any law for the time being in force;
- o Goods which will be hazardous to life and safety when used, are being offered for sale to the public in contravention of the provision of any law for the time being in force, requiring traders to display information in regard to the contents, manner and effect of use of such goods.
- o When the price of any article is not fixed by any law or displayed on the goods or the package containing them, the act does not contemplate any complaint being instituted in respect of the price charged on the ground that such price is excessive.

#### 9.4.1 Who Can File a Complaint ? (Section 12)

1. The consumer to whom such goods are sold or delivered or agreed to be sold or such service provided or agreed to be provided, as we know consumer means a person who buys any goods or hires, avails of any services for a consideration. It is, however, not necessary that the consideration must have been paid. The person shall still be regarded as a consumer where either the whole consideration is promised to be paid in future or it has been partly paid and balance is promised to be paid in future. The term also includes:
  - o A buyer under any system of deferred payments.
  - o Any other user of goods or services provided such use is made with the approval of the buyer.
2. Any recognized consumer association, namely, voluntary consumer association registered under the company act 1956 or any other law for the time being in force. It is not necessary that the consumer is a member of such association.
3. One or more consumers where there are numerous consumers having the same interest, with the permission of the district forum, on behalf of, or for the benefit of, all consumers so interested.
4. The central or the state government as the case may be, either its individual capacity or as representative of interests of the consumers in general.



#### 9.4.2 How to File a Complaint ?

- The complainant or his authorized agent can present the complaint in person.
- The complaint can also be sent by post to the appropriate Forum/ Commission. The complaint should be addressed to the president of the Forum/Commission.

#### 9.4.3 Where to File a Complaint ?

1. If the value of the goods or services and the compensation, if any, claimed does not exceed rupees twenty lakhs, than the complaint can be filed in the District Forum within the local limits of whose jurisdiction the opposite party actually resides or carries on business or has a branch office or personally works for gain or were the cause of action, wholly or in part, arises (Section 11).
2. If the value of goods or services and compensation, if any, claimed exceeds rupees twenty lakhs but does not exceeds rupees 1cr, the complaint can be filed before the state commission (Section 17).
3. If the value of goods or services and compensation, if any, claimed exceeds rupees 1cr, the complaint can be filed before the national commission (Section 21).

#### 9.4.4 What Constitutes a Complaint ?

**Q. 9.4.2 What constitutes a complaint? (Ref. Sec. 9.4.4)**

**(5 Marks)**

The complaint should contain the following information :

- (a) The name, description, and address of the complainant.
- (b) The name, description and address of the opposite party or parties, as the case may be, as far as they can ascertain.
- (c) The facts relating to complaints and when and where it arose;
- (d) Document if any, in support of the allegations contained in the complaint;
- (e) The relief which the complainant is seeking.
- (f) The complaint should be signed by the complainant or his authorized agent. Minimum four copies of the complaint should be filed.

#### 9.4.5 Essential Information in The Application

The complainant must have to write the following information in the complaint application form :

- Name and full address of complainant.



- Name and full address of opposite party.
- Description of goods and services.
- Quality and quantity.
- Price.
- Date and proof of purchase.
- Nature of deception.
- Type of redressal prayed for.

#### 9.4.6 Procedure on Receipt of Complaint (Section 13)

**Q. 9.4.3 Explain the procedure on receipt of complaint ? (Ref. Sec. 9.4.6)**

**(5 Marks)**

The procedure is given as follows :

1. Procedure in respect of goods where the defect alleged requires no testing or analysis.
  - (a) Refer a copy of the admitted complaint within 21 days from the date of its admission of the opposite party mentioned in the complaint directing him to give his version of the case within a period of 30 days or such extended period not exceeding 15 days, as may be granted by the District Forum.
  - (b) Where the opposite party, on admission of a complaint referred to him under (a) above, denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Forum, the District Forum shall proceed to settle the consumer disputes in the manner specified in the clause(C) to (G) hereunder.
2. Procedure in respect of goods where the defect alleged requires analysis or testing.
  - (a) Where a complainant alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, the district forum shall obtain a sample of the goods from the complainant, seal it and authenticate it in the manner prescribed. It shall then refer the sample to sealed the appropriate laboratory along with a direction that such laboratory make an analysis or test, whichever may be necessary, with a view to finding out whether such goods suffer from any defect alleged in the complaint or from any other defect and to report its findings thereof to the district forum within a period of 45 days of the receipt of the reference or within such extended period as may be granted by the District Forum (Clause C).

- (b) Before any sample of goods is referred to any appropriate laboratory under clause (C), the District Forum may require the complaint to deposit to the credit of the forum such fees as may be specified, for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question clause (D).
- (c) The district forum shall remit the amount deposited to its credit under Clause (d) to the appropriate laboratory to enable it carry out the analysis or test as aforesaid. On receipt of the report from the appropriate laboratory, the district forum shall forward a copy of the report along with such remarks as the District Forum may feel appropriate to the opposite party. [Clause (e)]
- (d) If any of the other parties disputes the correctness of the findings of the appropriate laboratory, or disputes the correctness of the method of analysis or test adopted appropriate laboratory, the District Forum shall require the opposite party or the complainant to submit in writing his objections in regard to the report made by the appropriate laboratory [Clause (f)].
- (e) The district Forum shall thereafter give a reasonable opportunity to the complainant as well as the opposite party of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the objection made in relation thereto under clause (f) and issue and appropriate order under Section 14. [Clause (g)].
3. If the complaint relates to goods in respect of which the aforesaid procedure cannot be followed or if the complaint relates to any services the District Forum shall after following the procedure in clause (a) and (b) of sub Section (1) of Section 13 (noted above) proceed to settle consumer dispute :
- I. On the basis of evidence brought to its notice by the complainant and the opposite party derives or disputes the allegations contained in the complaint.
  - II. Ex parte on the basis of evidence brought to its notice by the complainant where the opposite party omits or fails to take any action to represent his case within the time given by the Forum.
  - III. Where the complainant fails to appear on the date of hearing before the District Forum, the District Forum may either dismiss the complaint for default or decide it on merits.
  - IV. No proceedings complying with the procedure as aforesaid shall be called in question in any court on the ground that the principles of natural justice have not been

complied with.

- v. Every complaint shall be heard as expeditiously as possible and endeavor shall be made to decide the complaint within a period of 3 months from the date of received of notice by opposite party where the complaint does not require analysis or testing of commodity and within 5 months if it so requires.

### **Syllabus Topic : Defect In Goods and Deficiency In Services**

## **9.5 Defect In Goods and Deficiency In Services**

### **9.5.1 Defect In Goods**

**Q. 9.5.1 Explain defect in goods and deficiency in services ? (Ref. Sec. 9.5.1) (5 Marks)**

According to Section 2(1)(f) defect is defined as, " Any fault, imperfection, shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or is claimed by the trader in any manner whatsoever in relation to any goods."

### **9.5.2 Deficiency In Service**

- Deficiency [Section 2(1)(g)] means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.
- "Deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance.
- Such quality and manner of performance of service should have been required to be maintained by or under any law for the time being in force or undertaken to be performed by a person in pursuance of a contract or otherwise.
- The deficiency must be in relation to a service.

## **9.6 Restrictive and Unfair Trade Practices**

### **9.6.1 Restrictive Trade Practice**

**Q. 9.6.1 Explain restrictive and unfair trade practices. (Ref. Sec. 9.6.1) (5 Marks)**



- Restrictive trade practice means a trade practice which tends to bring about manipulation of price or conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions and shall include :
  - (a) Delay beyond the period agreed to by a trader in supply of such goods or in providing the services which has led or is likely to lead to rise in the price;
  - (b) Any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent to buying, hiring or availing of other goods or services;

### 9.6.2 Unfair Trade Practices

- "Unfair Trade Practice" means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, namely;
  1. The practice of making any statement, whether orally or in writing or by visible representation falsely represents that :
    - The goods or services are of a particular standard, quality, quantity, grade, composition, style or model;
    - Any re-built, second-hand, renovated, reconditioned or old goods as new goods;
    - The goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;
    - The seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;
    - Makes a false or misleading representation concerning the need for, or the Usefulness of, any goods or services;
    - Gives to the public any warranty or guarantee of the performance, efficacy or Length of life of a product or of any goods that is not based on an adequate or Proper test thereof; permits the pub
  2. Permits the publication of any advertisement whether in any newspaper or otherwise, for the sale or supply at a bargain price, of goods or services that are not intended to be offered for sale or supply at the bargain price, or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement.

3. The offering gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given offered free of charge, when it is fully or partly covered by the amount charged, in the transaction as a whole.
4. Permits the sale or supply of goods intended to be used, or are of a kind likely to be used, by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods;
5. Permits the hoarding or destruction of goods, or refuses to sell the goods or to make them available for sale or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services.
6. Manufacture of spurious goods or offering such goods for sale or adopts deceptive practices in the provision of services.

### Syllabus Topic : Instances of Unfair Trade Practices

#### 9.6.3 Instances of Unfair Trade Practices

Where, by any method whatsoever, a belief is created in the minds of consumers as to some quality or utility of goods or services, and the goods or services actually fall short of those beliefs, the method adopted is an unfair trade practice. The unfair trade practices and its instances are explained below.

##### The Unfair Trade Practices

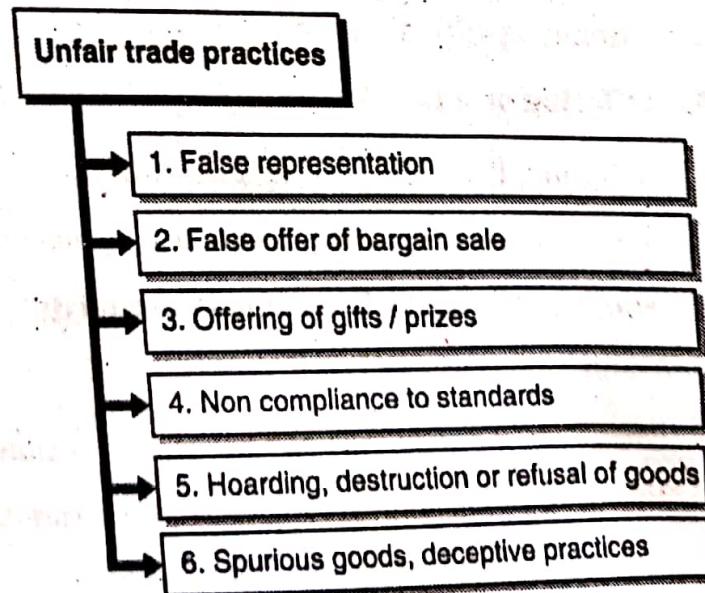


Fig. 9.6.1 : Unfair trade practices

→ **1. False representation**

- Adopting misrepresentation of facts to promote sale, use or supply of goods or services, e.g.
  - o Misleading buyers about another's goods or services. E.g. Pepsodent whitens teeth twice as effectively as Colgate.
  - o Falsely claiming a sponsorship, approval or affiliation. E.g. Our software is tested and approved by Microsoft.
  - o Offering misleading warranty or guarantee. E.g. A computer with 3 years warranty requires entering into an AMC from the beginning.
- Adopting misrepresentation of facts to promote sale, use or supply of goods or services, e.g.
  - o False suggestion as to quality, efficacy etc. E.g. If you use our fairness cream, you become as beautiful as SS or KK.
  - o False need or requirement creation. E.g. Unless you regularly take our Vitamin tablets after 50, you cannot remain healthy.
  - o Suggest false recommendation by doctors. E.g. Dentist ka sujhaya no. 1 brand , approved by leading specialists.

→ **2. False offer of bargain sale**

**Examples**

1. Shirt prices slashed by two third.
2. 50 % discount clearance sale.
3. Buy fans at 30% discount.
4. Motors at 40% discount.

→ **3. Offering or gifts / Prizes**

- Offering, then with holding gifts/prizes.
- False claim of offering gifts/services when cost is included partly in the price.

→ **4. Non-compliance to Prescribed Standards**

**Examples**

1. Medicines not manufactured according to standards.
2. Electrical items not manufactured as per standards.
3. Food purity not as required.

Services not provided as per standard e. g. Surgical procedures not done as per requirements, Auditing not done as required.

#### 5. Hoarding, Destruction , Refusal of goods

- Output restraint on delivery / flow of supplies to impose unjustified costs / restrictions on consumers.
- Hoarding and creating false scarcity.
- Destruction of goods to create scarcity and price increase.
- Refusing to sell on unjust grounds.

#### 6. Spurious Goods, Deceptive Practices

- Collusive tendering; market fixing territorially among competing suppliers, depriving consumers of free choice, fair competition.
- Supplying only to particular distributors or on condition of sale only within a territory.
- Delaying in supplying goods/services leading to rise in price.
- Requiring a consumer to buy / hire any goods or services as a pre-condition for buying/hiring other goods or services.
- Spurious services.

#### Examples of UTP

1. In the Glaxo Ltd and Capsulation Services Ltd., the allegation was that Glaxo marketed a drug 'phexin', manufactured by capsulation, showing logo of Glaxo prominently on the packing strip and name of Capsulation written in small print, thereby giving the impression that Phexin is being manufactured by Glaxo. In the course of the inquiry it was found:

- The said drug was manufactured and packed by Capsulation on the basis of technical know-how supplied by Glaxo and under its supervision as per its quality control standard and therefore, the said product was not an inferior product.
  - The price of this drug compared well with similar products manufactured by other leading pharmaceutical manufacturers. The commission held that the ingredient of loss or injury being absent, even though the impugned practice may fall under one or more clauses of Section 36 A of the Act, it is not an unfair trade practice.
2. In the Bombay Tyres International Limited, the respondent company was supplying tyres to TELCO under the brand name 'modistones' which, however, were not manufactured



by it, but by Modi Rubber Limited at Modipuram. It was alleged that it was an unfair trade practice attracting clause (i) of Section 36 A(1). The commission holding that no UTP was involved closed the enquiry with the following observations :

"As regards unfair trade practices, U/S 36A(1)(i) it would be objectionable only if for the purpose of promoting sale, use or supply of goods the respondent company falsely represents that the goods are of a particular standard, quality, grade, composition, styles or model. Section 36 A of the Act does not inhibit procuring of particular goods from another manufacturer so long as the quality or the standard which the said goods represented to possess are not allowed to deteriorate in any way.

#### ☞ **Monopolies and Restrictive Trade Practices Commission (MRTPC)**

- Complaints related to unfair trade practices can also be made to the Monopolies and Restrictive Trade Practices Commission.
- They prove redressal of such complaints by ordering that.
- Such practice be stopped.
- By cancelling contracts involving such practices, and
- By awarding compensation for loss or injury to consumer.

#### **Syllabus Topic : Reliefs under CPA**

#### **9.7 Reliefs under CPA**

**Q. 9.7.1 Explain the reliefs under Consumer Protection Act. (Ref. Sec. 9.7)**

**(5 Marks)**

The following are the reliefs available against complaint in consumer protection act [Sections 14 to 22].

- (a) To remove the defect pointed out by the appropriate laboratory from the goods in question;
- (b) To replace the goods with new goods of similar description which shall be free from any defect;
- (c) To return to the complainant the price, or, as the case may be, the charges paid by the complainant;
- (d) To pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party;
- (e) To remove the defects or deficiencies in the services in question;

- (i) To discontinue the unfair trade practice or the restrictive trade practice or not to repeat it;
- (ii) Not to offer the hazardous goods for sale and to withdraw the hazardous goods from being offered for sale.

### 9.7.1 Beware Consumers

**Q. 9.7.2 What are the responsibilities of consumer ? (Ref. Sec. 9.7.1)**

**(5 Marks)**

- Consumer Protection Act, 1986. After finding a low level of consumer rights among public, Govt. of India started a national level-media awareness campaign, Jago Grahak Jago, in 2005. The slogan 'Jago Grahak Jago' has now become a household name as a result of the publicity campaign.

- The consumers' should perform the following duties :

1. Examine the expiry date of the product you buy.
2. Check the M.R.P of the product before buying.
3. Check the quality of mark on the products.
4. Check the warranty and guaranty terms.
5. Check net quantity in the package.
6. Check the name of the goods.
7. Always Ask for bill.

### 9.7.2 Consumer Foras, Jurisdiction and Implications on Cyber Consumers In India

**Q. 9.7.3 Explain the different forum and different level? Explain the district forum. (Ref. Sec. 9.7.2)**

**(5 Marks)**

- A consumer disputes redressal forum to be the 'district forum'. This is to be established by the state govt. in each district of the state by means of a notification. More than one can also be established in a single district.
- A consumer disputes redressal commission to be known as the "state commission". This has also to be established by the government in the state by means of a notification.
- A national consumer disputes redressal commission to be established by the central government by means of a notification.

- The act provides different Forums at different levels, these foras are :

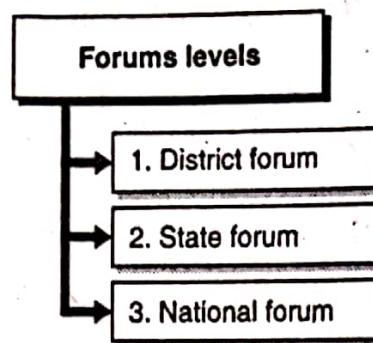


Fig. 9.7.1 : Forums levels

### 9.7.3 District Forum (Sections 9 to 15)

**Q. 9.7.4 Explain the district forum. (Ref. Sec. 9.7.3)**

**(5 Marks)**

- District consumer forum is the first and lowest court to be established under consumer protection act.
- State govt. will establish a district forum, in each district.
- If state govt. thinks fit, more than one forum can also be established in one district.
- Each district forum shall have one president and two members, one of whom shall be a woman. The president will be the person who is or has been qualified to be a district judge.
- Every member of the forum shall hold office for a term of 5 years or up to the age of 65 years whichever is earlier.
- District forum dispose a complaint generally within 3 months of the receipt of notice by opposite party (within 5 months if it requires analysis or testing of commodities by a laboratory).
- Any person aggrieved by the order made by the district forum may appeal to state commission within 30days from the date of order.
- District forum shall refer a copy of complaint to the opposite party.
- District forum shall entertain the complaint up to the value of ₹ 20 lakhs.

#### ☞ **Appeal (Section 15)**

Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission within a period of thirty days from the date of the order, in such form and manner as may be prescribed: Provided that the State commission may entertain an appeal after the expiry of the said period of thirty days If it is satisfied that there

was sufficient cause for not filing it within that period.

### Jurisdiction : (Section 11)

- (i) Subject to the other provisions of this Act, the District Forum shall have jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed [does not exceed rupees twenty lakhs].
- (ii) A complaint shall be instituted in a District Forum within the local limits of whose jurisdiction :
  - o The opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or 2[carries on business or has a branch office or] personally works for gain.
  - o Any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or 2[carries on business or has a branch office], or personally works for gain, provided that in such case either the permission of the District Forum is given, or the opposite parties who do not reside, or 2[ carry on business or have a branch office], or personally work for gain, as the case may be, acquiesce in such institution; or
  - o The cause of action, wholly or in part, arises.

### 9.7.4 State Commission (Sections 9 and 16 to 19)

**Q. 9.7.5 Explain the state forum. (Ref. Sec. 9.7.4)**

**(5 Marks)**

- State commission is the higher court after district consumer forum. State government shall establish state commission. State commission shall have one president and at least two members, one of whom shall be women.
- The president of state commission shall be the person who is or has been the judge of a high court. State commission shall entertain complaints where the value of claim exceeds ₹ 20 lakhs but does not exceed ₹ 1 crore.
- Besides, it shall entertain appeals against the order of any district forum within the state also. State commission shall decide a complaint within 3 months from the receipt of notice by opposite party.
- Any person aggrieved by an order of state commission may prefer an appeal to national commission within 30 days from the date of order. State commission shall refer a copy of complaint to the opposite party and sample of goods to the laboratory.



- Every member of state commission shall hold office for a term of 5 years or up to the age of 67 years, whichever is earlier.

☞ **Appeals : [Section (19)]**

- (i) An aggrieved person of state commission can appeal to the national commission.
- (ii) 30 days period from the order of the state commission is allowed for carrying the matter before the national commission. A late appeal may also be entertained provided that the commission is satisfied that there was a sufficient cause for not preferring an appeal within the prescribed period.

☞ **Jurisdiction : [Section (17)]**

- (i) To entertain complaint where the value of the goods or services and compensation, if any, claimed exceeds ₹ 5 lakhs but does not exceed ₹ 20 lakhs.
- (ii) To entertain appeals against the order of any district forum within the state.
- (iii) To call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Forum within the state.

### 9.7.5 National Commission (Section 9 and 20 to 23)

**Q. 9.7.6 Explain the national forum. (Ref. Sec. 9.7.5)**

**(5 Marks)**

- National commission is the highest court established under consumer protection act.
- Central government shall establish a national commission.
- National commission shall have one president and at least four members, one shall be a women.
- President of national commission shall be a person who is or has been a judge of Supreme Court.
- Every member of national commission shall hold office for a term of 5 years or up to the age of 70 years, whichever is earlier.
- National commission shall entertain complaint where the value of claim exceeds ₹ 1 crore.
- National commission enjoys all power which is enjoyed by a civil court.

Any person aggrieved by the order made by national commission may prefer an appeal to Supreme Court within 30 days from the date of order.

#### Appeals : [Section (23)]

1. The working procedure is the same as that of the Forum U/S [13(4)], (5) and (6) and for the rest it has been prescribed by the central government.
2. The national commission has the power to issue an order to the opposite party directing him to do any one or more of the things referred to Section 14(1)(a) to(i).

#### Jurisdiction : [Section (21)]

- (i) The national commission is to entertain complaints where the value of the goods or services and compensation claimed exceeds ₹ 20 lakhs.
- (ii) The appellate jurisdiction is to entertain appeals against orders of any of the state commission.

**Syllabus Topic : Applicability of CPA to Manufacturers, Distributors, Retailers and Service Providers Based In Foreign Lands Whose Goods are Sold or Services provided to a Consumer in India**

#### 9.8 Applicability of CPA to Manufacturers, Distributors, Retailers and Service Providers Based in Foreign Lands Whose Goods are Sold or Services provided to a Consumer in India

- Under the CPA the foreign manufacturer or distributors are may or may not be liable for manufacturing defects or for unfair trade practices.
- If a foreign manufacturer is not authorized to sell in India then he is not liable under CPA. The foreign manufacturer or distributors id conscious and intends that its products are sold in India, then such a manufacturer or distributors would be liable to the consumer under CPA for any manufacturing defect.
- All the service providers and retailers based outside India, operating through internet are legally responsible under CPA for defective goods or deficient services if they sell goods or provide services to consumers in India. Thus, foreign retailers, service providers and the aforesaid category of conscious manufacturers and distributors would be amenable to



the jurisdiction of consumer foras in India because the cause of action in an ordinary sale of goods or hiring of services would substantially or at least partially arise in India.

- Cause of action in India in such case would consist of any or more of the following facts taking place in India :
  - o The consumer buys the goods or hires services from India.
  - o The goods are sold or services are provided to the consumer in India.
  - o The product is delivered or services are availed of in India.
  - o The consumer suffers the manufacturing defect or deficiency in services in India.
  - o The consumer makes payment for the goods from India.
- So, the websites which are intending to sell the goods and services have to exercise caution and adjust their actions in line with the law of consumer protection in India.

#### ☞ The CPA is applicable in following places

1. The act in terms of geographical applications extends to the whole of India except the state of Jammu and Kashmir [U/S 1(2)].
2. Further it applies to all goods and services, unless otherwise expressly notified by the central government [1(4)].

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### Syllabus Topic : Amendments in Indian IT Act 2000

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#### 9.9 Amendments in Indian IT Act 2000

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The following are the amendments brought in the IT Act, 2000; the changes are given in schedule 1-4:

- **Schedule 1:** It schedule contains the amendments in the Penal Code. It has widened the scope of the term "document" to bring within its ambit electronic documents.
- **Schedule 2:** It deals with amendments to the India Evidence Act. It pertains to the inclusion of electronic document in the definition of evidence.
- **Schedule 3:** It amends the Banker's Books Evidence Act. This amendment brings about change in the definition of "Banker's-book". It includes printouts of data stored in a floppy, disc, tape or any other form of electromagnetic data storage device. Similar

change has been brought about in the expression "Certified-copy" to include such printouts within its purview.

**Schedule 4 :** It amends the Reserve Bank of India Act. It pertains to the regulation of fund transfer through electronic means between the banks or between the banks and other financial institution.

### 9.10 Exam Pack (Review Questions)

**Q.1** What are the objectives of the Consumer Protection Act ?  
(Refer Section 9.1.1)

(5 Marks)

☛ **Syllabus Topic : Are Cyber Consumers Covered Under the Consumer Protection Act?**

**Q.2** Who is consumer ? What are the rights of consumer ?  
(Refer Section 9.2)

(5 Marks)

☛ **Syllabus Topic : Goods and Services**

**Q.3** Explain goods and services. (Refer Section 9.3)

(5 Marks)

☛ **Syllabus Topic : Consumer Complaint**

**Q.4** What is complaint ? Who can file a complaint ? (Refer Section 9.4)

(5 Marks)

**Q.5** What constitutes a complaint ? (Refer Section 9.4.3)

(5 Marks)

**Q.6** Explain the Procedure on receipt of complaint. (Refer Section 9.4.5)

(5 Marks)

☛ **Syllabus Topic : Defect In Goods and Deficiency In Services**

(5 Marks)

**Q.7** Explain Defect in Goods and Deficiency in Services.  
(Refer Section 9.5)

(5 Marks)

☛ **Syllabus Topic : Instances of Unfair Trade Practices**

(5 Marks)

**Q.8** Explain restrictive and Unfair Trade Practices. (Refer Section 9.6)

(5 Marks)

☛ **Syllabus Topic : Reliefs Under CPA**

(5 Marks)

**Q.9** Explain the reliefs under Consumer Protection Act.  
(Refer Section 9.8)

(5 Marks)

**Q.10** What are the responsibilities of consumer ? (Refer Section 9.9)

(5 Marks)

(5 Marks)



- Q. 11** Explain the different Foras and different level. Explain the district forum. (Refer Section 9.10) (5 Marks)
- Q. 12** Explain the district forum. (Refer Section 9.10.1) (5 Marks)
- Q. 13** Explain the state forum. (Refer Section 9.10.2) (5 Marks)
- Q. 14** Explain the national forum. (Refer Section 9.10.3) (5 Marks)

THE NEXT LEVEL OF EDUCATION

Chapter Ends...

