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**Consumer rights: comparison between India and Japan.**

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**Introduction**

The Consumer Protection Act, 1986 defines the consumer as ‘one who buys any goods, hires any services or partly paid and partly promised or under any system of deferred payment”. The definition of Consumer right is ‘the right to have information about the quality, potency, quantity, purity, price and standard of goods or services’, as it may be the case, but the consumer is to be protected against any unfair practices of trade. It is very essential for the consumers to know these rights

The following are some of the basic consumer rights:

**The right to satisfaction of basic needs** – to have access to basic, essential goods and services such as adequate food, clothing, shelter, health care, education, public utilities, water and sanitation.

**The right to safety** – to be protected against products, production processes and services that are hazardous to health or life.

**The 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.

**The right to choose** – to be able to select from a range of products and services, offered at competitive prices with an assurance of satisfactory quality.

**The 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.

**The right to redress** – to receive a fair settlement of just claims, including compensation for misrepresentation, shoddy goods or unsatisfactory services.

**The 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.

**The right to a healthy environment** – to live and work in an environment that is non-threatening to the well-being of present and future generations.

**CONSUMER RIGHTS IN INDIA**

There are strong and clear laws in India to defend consumer rights, the actual plight of consumers of India can be declared as completely dismal. Out of the various laws that have been enforced to protect the consumer rights in India, **the most important is the Consumer Protection Act, 1986**. According to this law, everybody, including individuals, a firm, a Hindu undivided family and a company, have the right to exercise their consumer rights for the purchase of goods and services made by them. It is significant that, as consumer, one knows the basic rights as well as about the courts and procedures that follow with the infringement of one’s rights. The Consumer Protection Act, 1986 and several other laws like the Weights, Standards & Measures Act can be formulated to make sure that there is fair competition in the market and free flow of correct information from goods and services providers to the ones who consume them. **In fact, the degree of consumer protection in any country is regarded as the right indicator of the progress of the country**. There is high level of phistication gained by the goods and services providers in their marketing and selling practices and different types of promotional tasks viz. advertising resulted in an increasing requirement for more consumer arenes and protection. The government of India has realized the condition of Indian consumers therefore the Ministry of Consumer Affairs, Food and Public Distribution has incorporated the **Department of Consumer Affairs** as the nodal organization to protect the consumer rights, redress the consumer grievances and promote the standards governing goods and services provided in India. **If there is infringement of rights of consumer then a complaint can be made to Consumer Court under the following circumstances** and reported to the close by designated

* The goods or services purchased by a person has one or more defects or deficiencies in any respect
* A trader or a service provider resort to unfair or practices of trade
* A trader or a service provider if charges a price more than the price displayed on the goods or the price that was agreed upon.
* Goods or services that bring a hazard to the safety or life of a person offered for sale, unknowingly or knowingly, that cause injury to health, safety or life.

**On July 20th, 2020, the new Consumer Protection Act, 2019 came into force in India, replacing the previous enactment of 1986**. The new Act overhauls the administration and settlement of consumer disputes in India. It provides for strict penalties, including jail terms for adulteration and for misleading advertisements. More importantly, it now prescribes rules for the sale of goods through e-commerce. The **consumer is now truly the king!**

Here are some of the highlights:

* An aggrieved consumer can file complaints about a defect in goods or deficiency in services from where she lives, instead of the place of business or residence of the seller or service provider. The new law provides for e-filing of consumer complaint as well.
* No fees are required to be paid if the claim is within Rupees 5 lakhs.
* A consumer can conduct her own case via video conferencing. Engaging a lawyer is optional.
* A concept of product liability has been introduced by the new law, thereby allowing aggrieved consumers to claim significant compensation as a relief due to the negligence of the manufacturer or service provider.
* A group of aggrieved consumers can join hands and file a class action suit to reduce costs and improve chances of redressal or settlement.
* Producers of spurious goods may be punished with imprisonment.
* Misleading advertisements may be punished with imprisonment. Celebrities endorsing a product may not be punished but can be barred from endorsing if the ad is misleading.
* E-commerce is now tightly regulated, and e-commerce companies are now expected to disclose all relevant product information, including country of origin, and respond to the grievance of consumers withing prescribed timelines.
* Settlement of consumer disputes through mediation i.e., with the help of a neutral intermediary outside the consumer court is encouraged under the new law.

Corporates entities that cater to consumers will have to exercise greater care and caution in terms of quality, quantity, and product safety. The boards of corporates that manufacture or trade consumer goods must create a Consumer Affairs Committee to periodically review consumer complaints and address the need to proactively offer mediated settlements by holding online mediation and save themselves the expenses of defending a matter in Consumer Courts, in some remote part of India besides incurring the collateral damage to reputation.

**Objectives of the Act**

**The purpose of the Act is to provide for the establishment of the Commission:**

· To prevent practices having adverse effect on competition;

· To promote and sustain competition in markets;

· To protect the interests of consumers and

· To ensure freedom of trade carried on by other participants in the markets, in India

**The major focus of the Act is on the following areas:**

· Prohibition of anti-competitive agreements;

· Prohibition against abuse of dominant position;

· Regulation of combinations;

· Advocacy of competition policy.

This Act is regarded as the **'Magna Carta'** in the field of consumer protection for checking unfair trade practices, ‘defects in goods’ and ‘deficiencies in services’ as far as India is concerned. It has led to the establishment of a widespread network of consumer forums and appellate courts all over India. It has significantly impacted how businesses approach consumer complaints and have empowered consumers to a greater extent.

**Various Consumer Organizations**: To increase the awareness of consumers, there are many consumer organizations and NGOs that have been established. **CONSUMER GUIDANCE SOCIETY OF INDIA (CGSI) was THE FIRST CONSUMER ORGANISATION ESTABLISHED IN INDIA IN 1966.** It was followed by many others such as Consumer Education And Research Centre (Gujarat), Bureau Of Indian Standards, Federation Of Consumer Organisation In Tamil Nadu, International Consumer Rights Protection Council, Consumer Voice (New Delhi), Legal Aid Society (Kolkata), Akhil Bhartiya Grahak Panchayat, The Consumers Eye India, United India Consumer's Association.

**Consumer Disputes Redressal Agencies and Consumer Protection Councils** are established at the national, state and district level to increase consumer awareness

**District Consumer Disputes Redressal Forum (DCDRF)**: Also known as the "District Forum" established by the State Government in each district of the State. The State Governments may establish more than one District Forum in a district. It is a district-level court that deals with cases valuing up to ₹2 million (US$28,000).

**State Consumer Disputes Redressal Commission (SCDRC)**: Also known as the "State Commission" established by the State Government in the State. It is a state-level court that takes up cases valuing less than ₹10 million (US$140,000)

[**National Consumer Disputes Redressal Commission**](https://en.wikipedia.org/wiki/National_Consumer_Disputes_Redressal_Commission)**(NCDRC**): Established by the Central Government. It deals with matters of more than 10 million.

**Comparison Between India and Japan:**

|  |  |
| --- | --- |
| **Japan** | **India** |
| 1. The Act on Liability for Injury from Unsafe Products | |
| Does not focus on the whether the defendant is negligent. Plaintiffs just have to Prove that the loss is caused due to the product | Focus is to prove that the product is defective, not necessarily unsafe |
| 1. The Medical Malpractice Victim Fund Bill | |
| NO FAULT COMPENSATION SCHEME | Defendant responsible for paying compensation only if proved guilty or negligent |
| 1. The Act on Court Proceedings for Consumer Cases | |
| Special masters are appointed for speedy and fair proceedings | Three-tier quasi-judicial system |

**History of Consumer policy in Japan**

In Japan, consumer policy is increasingly important and has become a topic with an increasingly broad scope. Japan experienced an increase in consumer problems during the 1950s and 1960s as its economy grew rapidly. Thus, several important steps were taken in terms of formulating consumer policy in 1960s, such as the establishment of the Installment Sales Act in 1961 and the Act against Unjustifiable Premiums and Misleading Representations in 1962.

Consumer policy has continued to develop since then. The Consumer Protection Fundamental Act, first legislated in 1968, was amended to become the Consumer Basic Act in 2004. In 1973, the Consumer Product Safety Law was legislated. An act first created in 1976 as an act to regulate door-to-door sales, has been amended several times to include provisions over other sales transactions and became the Act on Specified Commercial Transactions. The Consumer Contract Act was legislated in 2000 with provisions on civil rules for relations between consumers and business enterprises.

**Consumer Rights**

**1. General Consumer Policy**

The Consumer Basic Act sets the basic framework for Japan's consumer policies. The Act also sets out the responsibilities of the government, local governments, business operators and consumers. For example, the Act states that there is a discrepancy in quality and quantity of information and the negotiating power between consumers and business operators. It then states that consumer rights are respected as the basic concept of consumer policies. It also states that business enterprises must secure the safety of consumers and fairness in contracts with consumers, and provide necessary information to consumers in a clear and plain manner. The Consumer Policy Council, established by the Consumer Basic Act, discusses basic items concerning the promotion of consumer policies. It drafts the basic consumer plan, and monitors the actions taken in accordance with the plan. The Quality-of-Life Bureau in the Cabinet Office works as the secretariat of the Council, and carries out general coordination of basic consumer policies in the Government.

**2. Protect Consumers from Fraudulent Sales**

**2.1 The Consumer Contract Act:** The Consumer Contract Act was legislated in 2000, setting civil rules on consumer contracts. A consumer contract is a contract between a consumer and a business operator, but it does not include a labor contract. Under the Act, a consumer can cancel his or her will to conclude a contract under certain conditions. For example, a cancellation is possible if the consumer decided to conclude the contract because the seller had intentionally lied on an important matter or had failed to represent important disadvantageous facts to the consumer. Here, the "important matter" includes information on the goods such as quality and use, and conditions of the contract such as price and terms of payments. The Act also includes a rule to nullify unfair provisions in consumer contracts. One example of such an unfair provision is a provision which excludes a business operator from liability to compensate damage to a consumer arising from the business operator's default

**2.2 Act against Unjustifiable Premiums and Misleading Representations**: The Act against Unjustifiable Premiums and Misleading Representations has provisions for administrative regulations. The Fair-Trade Commission (FTC) is responsible for enforcing the administrative regulations under the Act. The Act aims at preventing inducement of customers by means of unjustifiable premiums and misleading representations. The FTC may restrict the maximum value of a premium or the total amount of premiums under the Act. If there is a violation of the restriction or prohibition, the FTC may order the entrepreneur concerned to cease the act of violation.

**2.3 Act on Specified Commercial Transactions:** The Act on Specified Commercial Transactions is an act that is frequently used to protect consumers from fraudulent sales. The Act has gone through several amendments to enlarge its mandates, as complaints from consumers have increased.

**3. Product Safety**

**3.1 Reporting of Serious Accidents:** In order to prevent serious accidents associated with consumer products, Consumer Product Safety Law requires the reporting on such accidents. Every manufacturer or importer of a consumer product must report to the Minister of economy, Trade and industry, if the manufacturer of importer obtains information that a serious accident happened when a consumer was using the product. This requirement covers all consumer products except automobiles, medicine and other products that are regulated by other laws and rules. "Serious accidents" include accidents causing death, amputation of body parts, carbon monoxide poising and fires. The information on accidents thus obtained is publicized through the website of the government on product safety in Japanese When necessary, the Minister may order manufacturers or importers to recall products in order to prevent further accident

**3.2 Safety Measures on Accidents by Age-related Deterioration of Consumer Products:** Amendments were made to the Consumer Product Safety Law for the enhancement of safety measures concerning age-related deterioration of consumer products in November 2007. The amendments took effect in April 2009, will introduce a maintenance support system for products used over the long term.The products to be regulated under the system include instantaneous gas water heaters, bath water heaters, kerosene fan heaters and bathroom dryers, among others. Such products are difficult for consumers to perform maintenance on and they have a high potential risk of causing serious accidents as a result of aging. Therefore, the manufacturers and importers of such products are required to provide maintenance information for consumers as appropriate and to set up a system to offer inspections.

**3.3 Disseminating Information to Consumers:** Consumers are likely to have less information than businesses, which tends to create disadvantages on the part of consumers. Thus, the government has been making efforts to provide information to consumers, as an important part of its consumer policy. In order to make sure that information effectively reaches consumers, it is necessary to be aware of the fact that most consumers do not have enough knowledge or time to digest a large amount of information, and make efforts to translate legal or technical terms into words used in daily lives. Thus, a number of institutions collaborate to provide appropriate information to consumers in accessible ways

**Organization that looks into consumer rights and protection in Japan are:**

* National Consumer Affairs Center of Japan (NCAC)
* Ministry of Economy, Trade and Industry (METI)
* National Institute of Technology and Evaluation (NITE)
* Local Government and Cabinet Office (They have consumer month every may)

**Conclusion**

 It provides the person with the basic knowledge to handle consumer problem. ¬Technological developments have flooded the market with a variety of products, goods and services, it is therefore important that a person possess basic knowledge and skills to judge the product. ¬Consumers education can alert the people to the corporate dumping of dangerous pharmaceuticals and similar products

1. CASE STUDIES IN INDIA ′ SC orders record Rs 5.96 Crore in a Medical Negligence matter against Kolkata Hospital ′ Nokia to pay Rs 67,000 for selling Defective Cell Phones ′ Punjab Institute fined Rs 38 Lakhs for selling Diploma as MBA
2. CASE STUDIES ABROAD ′ Case #1: The Disappearing Car ′ Case #2: The Pickup with Problems ′ Case#3: The Chair Shortage
3. CASELETS ′ Case #1: Jerome and Judith O'Callaghan sued American Airlines for $100,000 ′ Case #2: Zeynep Inanli sued Starbucks for millions of dollars

<https://www.ide.go.jp/library/English/Publish/Download/Vrf/pdf/408.pdf>

<https://www.slideshare.net/funwithsiddh/consumer-protection-act-33680123>