

CONSUMER PROTECTION AND RIGHT TO INFORMATION
BY
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A welfare State preserves the interests of its citizens. This protective role of the State depends upon the social activity it is protecting. The criminal proclivity is eliminated by punishing the offender through the penal law of the country. Similarly, the civil breaches and distortions are taken care of by various civil laws including imposition of liability under the law of torts. However, we need to tackle the issues associated with consumers with a different perspective and framework. The Indian Parliament enacted the Consumer Protection Act, 1986 and amended it from time to time to meet the contemporary requirements.

I. Introduction

The Consumer Protection Act, 1986, (CPA) protects the interests of the consumers in the widest form in India. This is so because the CPA is an additional forum to vindicate consumer's claim and it is not an alternative remedy. In **Skypak Couriers Ltd v. Tata Chemicals Ltd.** the Apex Court observed that even if there exists an arbitration clause in an agreement and a complaint is made by the consumer, in relation to a certain deficiency of service, then the existence of arbitration clause will not be a bar to the entertainment of the complaint by the Redressal Agency, constituted under the Consumer Protection Act, since the remedy provided under the Act is in addition to the provisions of any other law for the time being in force. Thus, the scope of CPA is very wide and it practically covers all sorts of disputes between a consumer and provider of goods and services.

II. Rights of the consumers

The CPA provides the following rights to the consumers:

- (a) Right to be protected against the marketing of goods and services which are hazardous to life and property,
- (b) Right to be informed about the quality, quantity, potency, purity, standard and price of goods or services so as to protect the consumer against unfair trade practices,
- (c) Right to be assured, wherever possible, access to a variety of goods and services at competitive prices,
- (d) Right to be heard and to be assured that consumers' interests will receive due consideration at appropriate fora,
- (e) Right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers.
- (f) Right to consumer education.¹

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¹ Section 6 of CPA, 1986 as amended by the 1993 amendment.

III. Reliefs available to the consumers

A District Forum may give order for one or more of the following reliefs namely:

- (a) Removal of the defects from the goods,
- (b) Replacement of the goods with new goods of similar description,
- (c) Return of the price or charges paid by the consumer,
- (d) Grant of compensation for the loss or injury suffered due to the negligence of opposite party,
- (e) Removal of defects or deficiencies in the services in question,
- (f) Discontinuance of unfair trade practices or restrictive trade practices or their repetition,
- (g) Withdrawal of the hazardous goods from being offered to sale, or
- (h) Award of adequate costs to parties.²

These reliefs are available only when a quasi-judicial authority like District Forum exercises its jurisdiction. The contemporary requirements are, however, totally different. This is so because the authorities under the CPA are quasi-judicial and they can provide a “curative solution” only. The need of the hour is to adopt a “preventive approach” as well. That essentially requires an action on the “administrative side”. This is the reason why Right to Information Act, 2005 (RTIA-05) assumes significance in the context of consumer rights. While the CPA provides a “quasi-judicial remedy” the RTIA-05 takes care of the ‘administrative remedy’. A good “combination” of both can protect the consumer’s rights in the widest form.

IV. RTI HELPDESK

The RTIA-05 is a proactive, enabling and dynamic statute. For an enhanced consumer protection we need to combine the benefits of both CPA and RTIA-05. The best remedy to a consumer can be provided if we club both the preventive as well as curative remedies. The problem seems to be lack of awareness in these two fields more particularly regarding the RTIA-05. The RTIA-05 is a recently enacted legislation and public awareness in this regards is not up to the mark. To achieve this task we have constituted the first ever and sole [RTI HELPDESK](#) in India. It is regularly spreading awareness about the RTIA-05 and solving the problems and queries of people of India. The [RTI HELPDESK](#) has discussed the [scope of RTIA-05](#) for the benefit of general public. In fact, both CPA and RTIA-05 are assisting in enforcing the constitutional mandates of right to [speedy trial](#) as mentioned U/A 21 of the Constitution of India. So much so that RTIA-05 can be said to be [protecting basic feature of the Constitution](#). However, the RTIA-05 has both positive and negative aspects that are aptly mentioned in the [annual review](#) of the [RTI HELPDESK](#). The [liability of Public Information Officer \(PIO\)](#) assisting a [Public Authority](#) must be properly appreciated and agitated before the appropriate forum so that RTIA-05 can be meaningfully used. Interestingly [Section 22](#) of RTIA-05 provides an overriding authority to the provisions of RTIA-05 even against the Official Secret Act. The intention of the Legislature seems to be clearly in favour of

² Section 14 (1) of the CPA, 1986 as amended by the 1993 amendment.

maintaining transparency in the governmental functioning. The same can be very effective if we adopt a sound e-governance policy in India. The [RTI HELPDESK](#) made a [request](#) to the Central Information Commission to use Information and Communication Technology (ICT) for its various administrative purposes. The Commission was kind enough to not only consider those suggestions but also playing a pro-active role in utilizing ICT for its administrative purposes. However, the Government seems to be lagging far behind particularly regarding a sound [E-mail base](#) that can effectively help in the effective implementation of RTIA-05. With a pro-active Commission, we can hope for the best.

V. Conclusion

The protection of consumers is not only a responsibility of the State but also a mandate against commercial and business entities. A satisfied consumer base is essential for the successful existence of commercial enterprises. At the same time consumer matters must be taken care of by the use of Information and Communication Technology in India. An online environment must be provided to take care of consumer rights and disputes in a transparent, efficient and hassle free manner. The consumer dispute resolution essentially requires use of “Alternative Dispute Resolution Mechanism” (ADRM) as well as “Online Dispute Resolution Mechanism” (ODRM). Although [ODR in India](#) has started gaining momentum yet there is lot to be done. If we analyse the [culture of ADR in India](#) than one fact is very clear. In India we have not yet given due importance to the ADRM, much less to ODRM. The e-governance plan of India is silent in this regard. This is one of the flaws of the [ICT strategy of India](#) that is not in conformity with the contemporary standards. The [electronic governance in India](#) is not taking care of the ODR perspective and the same will be a fatal mistake by all counts in this consumer driven society. We need to capatilise “[collective expertise](#)” and an “[ideal public-private partnership](#)” base in India to effectuate consumers rights in India. Let us hope that the Consumer Protection Act, 1986 will be amended suitably to accommodate the concerns discussed in this work.