

## CHAPTER 5

### Globalisation and Consumer Rights Protection

#### 5.1: Introduction

Consumer buys goods and services at a price and derives the utility from their uses. Every consumer thus shows his fascination towards buying a commodity as per his choice and preference. Consumer rights protection is an extremely important issue in the context of globalization and liberalization. Consumer protection becomes counter-productive when an economy faces huge business taxation, strict business laws and the laws relating to the protection of environment. Developed countries have developed stricter public opinions and the governments have framed laws to protect the interest of consumers. Literature shows that some developing economies have consciously avoided the consumer protection issues in order to attract foreign investors and multinational organizations (MNCs).

The present chapter deals with the issue of consumer protection rights in India with respect to globalization and liberalization. In this context also we will review the existing legislations relating to consumer rights protection.

For long the developed economies and their respective Central banks and the international financial organizations such as World Bank, International Monetary Organisation and the World Trade Organisation (WTO) have neglected the promotion of consumer protection legislations in the developing and less developed countries simply because of expansion of global trade with the help of MNCs. However, due to global effect of R &D, rising productivity through the world over, the impact of the Internet, outsourcing and the shifting of production points from most advanced nations to advanced and ultimately to developing world have brought a new global market promoting fast economic growth. This calls for wider application of consumer protection legislations that ultimately ensure quality products and services.

The Background of Consumer Protection Legislation and the First Act Consumer movement in India is not a new concept. It is as old as trade and commerce. Kautilya, for example, in his **Arthashastra** had discussed the issue of consumer protection. In Kautilya's

writing we find references of corruption and malpractices of traders and business enterprises against the consumers. The issue of consumers 'protection against such corrupt practices had been discussed elaborately by Kautilya. This document gives us an insight into the problems and difficulties faced by the consumer communities even during the old golden days of India. We can find some similarity of this sought of plights suffered by the then consumers with the present day consumers.

As we have mentioned, March 15, 1962 is a very remarkable day in the history of the movement for the protection of consumer rights. On this day the Bill for Consumer Rights was placed in the US Congress. In the presidential address John F. Kennedy had made a beautiful speech on consumer rights and in this speech he equated the rights of the ordinary American consumer with national interest. He rightly remarked: "If a consumer is offered inferior products, if prices are exorbitant if drugs are unsafe or worthless, if the consumer is unable to choose on an informed lairs, basis then his dollar is wasted, his death and safety may be threatened, and notional interest suffers".

President Kennedy thought four basic rights for protecting the American consumers. These are the right to safety, the right to choose, the right to information and the right to be heard. Later on President Gerald Ford felt that the four basic rights of the consumers were inadequate for a situation where most consumers are not educated enough to make the right choices. Thus, he added right to Consumer Education. The right to consumer education will ensure all the consumers not to be exploited so easily. The Consumers International (CI) formerly known as International Organization of Consumer Unions (IOCU) expanded the charter of consumers rights contained in the US Bill to eight, i.e. (i) basic needs, (ii) safety (iii) information (iv) choice (v) representation, (vi) redress, (vii) consumer education and (viii) healthy environment. The Consumer International, since 1983 has been observing the day of 15<sup>th</sup> March as the World Consumer Rights Day. India also observes the day as the National Consumer's Day. Mahatma Gandhi gave high esteem to consumers and considered them our great friends. Regarding their rights once Mahatma said: "A consumer is the most important visitor on 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. We are not doing him favours by serving him. He is doing us a favour by giving us the opportunity to serve him." The right to redress led to the passing of the Consumer Protection Act (COPRA) in 1986 in India. It

recognizes only six of the eight rights, i.e., safety, information choice, representation, redress and consumer education.

## 5.2: Evaluation of Consumer Protection

After enactment of the Consumer Protection Act, 1986 it was thought that the Act is remembered as revolutionary change in the society for curbing Economic crimes and for last 28 years, all sorts of benefits derived by the consumers have been highlighted. Educated and urban people, no doubt, are getting advantage of the legislation but rural people are completely left out of the impact of the legislation.

Recent years India has become a big market for multinational and Indian companies for FDI and globalization and for which consumer sovereignty is a vital factor when consumption is the sole purpose of all production and alternatively consumers keep the economy going by generating demand of goods and services and regarding the view it is generally viewed that consumption is something that benefits individual. From this perspective consumer as source of demand is central mechanism for making the economic system run.

To protect the consumers' excessive strict provisions would be comfortable with the protection of the consumers for their welfare but in reality the spirit of this Act has failed to give full advantage of the legislation particularly to the rural people. To ventilate the above poor picture after collecting statement of cases filed and disposed for the year 2002 to 2013 of twenty two Consumer Forums including State Commission of West Bengal from the **Consumer Affairs Department, Govt. of W.B.**, it is found that in an overpopulated state like West Bengal total population at present is over eight crore whereas total filing and disposal of cases is very less. This is shown below in table- 5.1.

Table-5.1: Cases filed and disposed for the year 2002 to 2013

<b>Year</b>	<b>Total Cases Filed</b>	<b>Total Cases Disposed of</b>	<b>Total Cases Pending</b>
2002	5535	5594	Not Available
2003	5109	5300	DO
2004	4349	4379	DO
2005	4161	4027	5411
2006	4234	4395	5250
2007	4267	4366	5146

2008	5024	4561	5654
2009	5976	5736	5894
2010	4805	5216	5483
2011	4253	3926	5810
2012	6211	5636	6380
2013	8407	6688	8104

Consumer Affairs Department, Govt. of W.B, 2014

In spite of enacting the 1986 legislation especially in order to protect the interest of consumers; but even after 28 years of passing the Act no remarkable progress in filing complaint and no effective step has been taken against trading community and at the same time poor approach is taken by the Forums in giving effect to implement the Judgment and to handover the decretal dues to the relief seekers. Though the Act has provided for speedy and inexpensive redressal but in all levels a long drawn process is being adopted and in this regard traders and service providers are getting preference by adopting such process in Appeal Forum and it is most interesting without taking any preventive measures by the Appellate Forum at random the execution cases are being stayed and hearing the revision petition and appeal against execution cases are fixed after lapse of 6/7 months and ultimately same are disposed of after one year also but at the time of passing stay order no part of decretal amount is directed to be paid as precondition of passing stay in execution cases in the state level appeal but in this respect National Commission is no doubt very strict and in fact for lack of social movement, general picture of filing of complaint and also adopting of delaying process in disposing of the complaint and staying of all the execution cases without any condition is being followed and to improve this situation pressure from Consumer protection Association and Organization is highly required for welfare of the consumers but anyhow in West Bengal consumer movement is in fact no existence except the said type of associations are found in some Government Seminar and Mela (large gathering of people) organized by the Government except this consumer organization in West Bengal have no teeth and claws and so long the structure and nature of movement the degree of awareness among the people are not effective in nature and movement is not a massive combat of people in that case present redressal system shall shape as a long drawn process like Civil Court though for avoiding long drawn process of Civil Court present Act had been introduced but due to change of chair from Civil Court to Forums by the president, outlook has not been changed.

Most interesting fact is that as per provision of Sec.-7 of the C. P. Act there is State Consumer protection Councils and main object of the said Council is to promote and protect within the state the rights of the consumers but no such effective action is taken to control the present situation of the Forums and also to cover eight consumers of this state which is no doubt alarming despite undertaking several measures by the State Government along with Govt. of India.

At the same time forming of several consumer organizations will not save the consumers if consumers too shall not involve actively in the activities and function in the market hierarchy instead of depending upon legislative measures.

In the above perspective it is urgently required to form a permanent institution for Consumer Protection Movement to keep proper vigil against exploiters when designed several means of exploitation are being adopted due to present technological development and that is the need of the present days for actual implementation of the C. P. Act.

At the same time District Consumer Protection Council has failed to monitor the functions of Consumer Forum as yet only on the ground District Magistrate as Chairman of that Council does not chair the meeting and monitor the function of the Forums.

It is pertinent to say that in most of the cases in appeal compensation amount as awarded is reduced at low rate though as per spirit of the Act such compensation should be very high so that chances of repeating the practice of trader and service provider can be controlled. So some suitable amendment is highly required to remove such drawback of the hierarchy system when purpose of enactment is to give redressal for the interest of the consumers but same is overlooked in many cases so there is need for changing the outlook of the Forums at all levels for proper implementation of the Act and for speedy settlement of grievances, otherwise the present Act shall take shape of other legislation like Sale of Goods Act, Prevention of Corruption Act, Probation of Offenders Act, Merchantile and Trade Practice Act, Child Protection Act etc.

Justice J. D. Kapoor, former President of Delhi State Commission in National Seminar on Role of Consumer Disputes Redressal System in India stated "An enlightened person is empowered person" and also gave stress for a good Endeavour to provide full protection to the consumer but he was not satisfied with the way Consumer Courts are

functioning and judicial process in getting complex leading to harassment and suffering the consumer victims don't feel encouraged to go to the Forum and thousands of cases are pending for years together and so consumers are increasingly losing faith in quasi judicial proceeding and also not happy with a way laws are being interpreted and so each and every related laws should be considered to give meaningful and effective judgment for protecting consumer rights and unfortunately Consumer Forums, being Quasi Judicial bodies, are not in a position to expeditiously reduce the sufferings of consumers due to certain inherent weaknesses and delay in disposing of cases is another challenge when for industrialization and global market economy is becoming more exploitive and traders and businessmen show reluctance to protect consumer rights and thereby Consumer Disputes Redressal System is gradually becoming dysfunctional.

The expression of Justice Kapoor cannot be challenged in view of the figure of past twelve years filing and disposal of complaints and appeal and revision by the District Forums and Commission of West Bengal and no doubt this poor figure of filing complaint in the District Forum is due to inadequate knowledge of consumer jurisprudence and also absence of knowledge of consumerism, consumer psychology, consumer behaviour and home economy and corporate social responsibility etc. In fact, Consumer Forum has tremendous responsibilities to uphold the spirit of the Act of 1986 but spirit of the Forum is found very evaporating which is proved from the above data of yearly disposal and filing complaints, appeal and revision which no doubt pathetic though huge amount of Govt. fund is being spent for running the hierarchy of Forum but even then market exploitation is rampant but Forum has failed to create such impact in the market to control uncontrolled trade or business but even then particularly one or two Forum of West Bengal has no doubt established a remarkable impact in the mind of businessmen / traders and market for deceiving and exploiting consumers and so traders and businessmen are liable to pay fine and for noncompliance even they are being sent to Jail also and fact remains for said particular Forums active attitude to implement the spirit of the C. P. Act huge penalty is collected per year and probably said particular Forums attitude and approach should be followed by all Forums of West Bengal for proper protection of the consumers.

In the above context it can be said Forum is not always in a mood to serve its role effectively and another factor is always overlooked by all corners and that is nothing but

many Forums' attitude to ask the consumer to appeal Ld. Lawyer to proceed with the complaint and for which many consumers are very shaky to move their own grievances before Forums and they also do not render such help through office for defending his case personally and no doubt it is against the spirit of the Act but same is still a conservative practice in most of the Forums in West Bengal.

No vital support from Forum's office staff to consumers are at all provided to process the complaint and for preparing affidavit, for filing evidence in chief or for preparing execution cases by the consumer unless extra amount is paid and it is now very common scenario but Forum is not taking any such step against such erring staff. But fact remains that corruption is rampant but if same is found rampant in the Forum in that case in place of getting protection from Forum consumers are being exploited by the Forum's Staff and if it is not properly checked by the Forum, Government Administration and State Commission the whole object of implementation of the C. P. Act shall be frustrated. Solution is highly required to take stringent step against those corrupt staff by the appointing authority.

But several factors are not in a position to give social justice to the consumer but same is being evaporated daily for negative attitude of the Quasi Judicial system. In this regard justice V. R. Krishna Ayer introduced social justice in his book "Social Justice – Sunset or Dawn" and we also need the same in implementing the C. P. Act.

It is equally important to note that Law as it is would no longer exist if Judges do not from time to time accept the challenges and bodily lay down new principles to meet the new social problems and no doubt inventive decisions reflect a social revolution but in this respect landmark judgment in this field is a few but in the hands of Forum and Commission there are ample power to enforce the spirit of the Act, 1986 and the fundamental rights of the consumers and to conserve not only the safety but also the moral welfare of consumers also.

So consumer and consumer organization may hope that the speed of justice delivery system will be accelerated by and all imagination in near future by the existing Fora, persons trained in consumer science after warming up well.

It is evident from the above discussion that the C. P. Act is a social legislation so it is predominant function of the Act to bring vital change in the Consumer Society and in reality the present Act is not static but dynamic and branded as the threshold of social reform.

In view of the above situation President and Members of the hierarchies should not be guided by old and any bureaucratic ideas which is no doubt detrimental to the development of consumer rights and protection and for reorientation of the thought of the Members and President some reorientation courses should be organized by expert team of the field to give chances to them to realize the factual aspect of consumer rights, need of consumer society at present, true spirit of the guidelines of the Consumer Protection and also to minimize the agonies of the consumer. So need of collective thinking and wisdom of all levels of Forums are highly required to take pro consumer approach and adjudicate the matter on merit and to take good endeavor to provide full protection to the consumers.

No doubt in this respect in all level Government particularly Consumer Affairs Department should act as constant watch dog to assess the performance of Forum otherwise like Prevention of Corruption Act, 1988, the present C. P. Act, 1986 shall be a toothless legislation even after spending huge amount from consolidated fund for running Forums at all level.

### **5.3: Globalisation and the Consumer Protection**

The trend of the globalization is market driven by new technologies and advances in product marketing and service delivery and is the continuing retreat of Governments in many nations from traditional forms of regulating the market place. In this regard Foreign Direct Investment (FDI) is an important tool in the Economic development of the nation. Indian retail sector is one of the most important sectors that carry great potential for attracting FDI. Entry of Global retailers is expected to have direct impact on consumers as well as common man. It is expected to bring down commodity prices of the common man. Large scale and high volume sourcing and technology edge of global retailers help in realizing greater operational efficiency and wide assortment of goods at lower prices may be made available to consumers. Food-safety hygiene and quality are value additions. More than 60 percent of the wastage can be prevented if specialized cold storage chains are built

up on mass scales which eventually shall help common man. However, aggressive opposition parties from nearly all quarters of India have raised voice and alleged that consumer shall benefit due to variety quality and availability of wide merchandise. However, it is feared that in the long run consumers may have to face the risk of higher prices, substandard quality and limited options once these big retailers settle down comfortably in Indian market. But it is also true that FDI in retail trade will also help in integrating the modern Indian retail market with that of global retail market but at the same time legal and regulatory authority and strong mechanism is necessary to ensure that big retailers do not dislocate small retailers by unfair means. However, uniform regulatory structure needs to be set up with respect to taxes and duties as regards modern retail sector.

#### **5.4: Consumer Awareness through Consumer Groups**

Access to global market through the process of the opening up of economies places many opportunities before the consumers as well as the producers. For wholesale markets initiative such as trade liberalization and the increasing adoption of international standard are playing an important role in the Indian and International economy. Despite this, some difficulties are surfaced in finding out the mechanism to improve consumer's access to justice in the global market place. Under such a condition, consumer group can help to improve global market condition through education and warning of consumers about the global market and at the same time Industry and traders should play an important role through concerted coordination and cooperation and maintaining standard and at the same time global code of conduct should be introduced to spread industry based protection for consumers into the global market place. In this regard consumer protection agencies and authorities can contribute most effectively to improve the well-being of the consumers but even then the rural people live below poverty line, have their no time to think over their rights because they always feel helpless before the might of the exploiters even when they know that they are cheated with impunity. In fact, at present in India mechanism to protect the interest of the consumer is not full proof. A considerable section of the consuming public is not at all aware that it has certain legitimate rights and there are legislative measures enacted by the Government relating to protection.

Thus an environment is created which is conducive to the trading community and detrimental to the interest of consumers. Power system, roads, transportation system and Ports are facing a huge demand for the booming economy of India. However, shortages are eroding the competitiveness of the country and affecting the business growth especially export-oriented manufacturing. But slow growth in agriculture is a concern because nearly two thirds of Indian Population depends on rural employment. Farmers' access to market is hampered by poor roads, poor market infrastructure and excessive regulation. The trade deficit is large and has increased due to excessive hike in oil price and increased volume of imports of oil and non-oil products.

### **5.5: Improving Consumer Awareness through Technology and Media**

However, Government efforts may not be sufficient to provide basic services to its citizen but many other stake- holders must be involved to achieve the development goal and in this regard corporate sector has a vital role to play in ensuring the private investment flows in those rural areas that have been left out of the development process till date.

New ideas and strategies for products and services surface when accurate consumer needs are obtained and analyzed. Certain improvements in other business sectors such as customer service and phone support can also be made through determining consumer needs. For example, product lines, such as phones created by NOKIA have been successful because of their campaign to connect the rural villages also and long back in the year 2000 the lines promotes satisfying the need for belonging and love and in fact people of all status purchase to satisfy different kinds of needs. When a need is established the choice of product or service to fully satisfy it comes after the pragmatic or practical individual is likely to buy useful, cost effective products and consumers (customers) are always attracted to product and services that promote increased acceptance and favour in society and all these have become possible due to globalization and now many other foreign bands have entered into market to compete NOKIA and so Samsung, Micromax and other companies are in the market to satisfy the consumers.

Similarly, Market places have been enormously expanded as shopping centre. Shops have started to become important places to meet and socialize and these trends are vastly accelerated to change the idea, fashion and desire of the consumers and no doubt the

globalization has increased the availability of the consumer goods and consumers can buy an astonishing variety of goods all in one place and shopping has become a popular activity and at present for the first time products are available in outstanding qualities at moderately low prices.

Beginning in the year 2000 school and college students are also in need of personal computer, cellular telephone, digital media and even compact disc player and upper class's tastes, lifestyle and preferences have become the standard of all such consumers and no doubt those consumers are the most attractive targets of marketing by different companies and traders. This purchasing behaviour may co-exist in the mind of a consumer with an image of oneself as being an individual.

For some years, Electronic technologies are operating within National boundaries and across to provide entertainment marketing and client service delivery to retailer consumers and the advent of global electronic market place presents many opportunities for consumer. Not only that ,since establishment of world wide web(www) the internet in particular, is transcending in national boundaries in a manner never before seen for retail transaction. Other technologies are increasingly operating across the national boundaries to provide entertainment, marketing and client service delivery to retail customers and two such trends are call centres and cable televisions.

Similarly, online commerce has encompassed various forms of home shopping, home banking and home entertainment accessed through both open and closed online computer networks. Some industries are feeling the effects of these new technologies, especially those which are essentially information and booking services particularly in travel services and ticketing. Electronic commerce has the potential to deliver significant gains to consumers in terms of price, quality and service through increased competition and it happens for two correlated reasons – lowering barriers to entry and increasing number of suppliers competing in product markets. To cope with the process of globalization India initiated a wide range programme of trade liberalization and economic deregulation with the object of integrating the Indian Economy more closely with world economy. The principal object of India's trade policy defined in the Export-Import Policy for 1997 to 2002 is to accelerate the country's transition to a globally oriented, vibrant Economy with a view to deriving maximum benefits from expanding global market opportunities and to enhance the

technological strength and efficiency and to encourage the attainment of internationally accepted standard of quality and also to provide consumers with good quality products at reasonable prices.

## **5.6: Conclusion**

Several stages of reforms in trade policy have lifted all licensing restrictions on imports of capital goods, liberalized partially imports of consumer goods and reduced maximum tariffs etc. Decontrol of the banking system is also continuing and competition in the banking system and sector has increased gradually as a result of which a good number of new Private Sector banks have entered. Similarly in the insurance sector, some private insurance companies have entered into this sector. Significant capital market reforms have introduced and encompassed primary and secondary markets, equity debt and foreign institutional investment. However, for proper administration of different foreign sectors trade in India several authorities are established to control them and also for saving the interest of consumers and for which RBI has no doubt a proper watchdog in this regard but even then for Telecommunication Sector TRAI (Telecom Regulatory Authority of India) for Insurance Sector Insurance Regulatory Authority of Indian and for controlling primary and secondary equity markets and debt and foreign investment. Securities and Exchange Board of India have been assigned to protect the interest of the consumers. Very recently, to safeguard consumer interest Government of India has been thinking over establishing National Consumer Protection Control Authority as a policy making body of the Ministry of Consumer and Food Supplies Department.