

Consumer Rights and Measures for Protection in South Asian Countries

Sheetal Kapoor

Department of Commerce, Kamala Nehru College
University of Delhi

Abstract: Under the modern concept of marketing consumer is considered as King as all business related activities revolve around providing the maximum satisfaction to the consumer. After economic liberalisation, a myriad of consumer goods and services have flooded the global markets. As consumers, we fall prey to tall claims of high quality, unfair trade practices, fancy packaging and many times are unable to make rational judgement. Consumer protection encompasses all aspects of consumer welfare and has been internationally recognized in recent times. This is in tune with consumerism as a social force to aid and protect consumers by legal, moral as well as administrative and economic policy measures. The main thrust of consumerism to-day has widened to include a multitude of group actions concerned with human values and environmental considerations besides issues such as consumer protection laws, availability of product and price information, checking fraudulent and deceptive business practices and product safety. Consumer protection is a vital, but often ignored, issue in developing countries.

Today consumers want value for money, a product or service that would meet reasonable expectations, should be safe in use and full disclosure of the product specification. With the rapid development of digital technologies and the increasing usage of e-commerce, smart phones, cloud and internet there is a change in the business paradigm. Business processes are transforming rapidly and Internet technology, mainly the World Wide Web (www) as an electronic medium of exchange has given rise to a de-territorial virtual

market place. Keeping these concerns the present study has been undertaken to understand the rights of consumers and the level of consumer protection available in South Asian countries.

Keywords: Consumer, Consumerism, Consumer protection, Consumer Rights

Introduction

Consumer Affairs today encompass all aspects of consumer welfare and has been internationally recognized in recent times. Consumer is considered as an inevitable part of the socio-economic-political system, where the exchange initiated and transaction realized between two parties, namely buyers and sellers has an impact on a third party i.e., society. The inherent profit motive in mass production and sales also offers the opportunity to many manufacturers and dealers to exploit consumers. Problems of defective goods, deficiency in service, spurious and duplicate brands, misleading advertisements are rampant and often the gullible consumer falls prey to it. Thus, the need for consumer satisfaction and consumer protection has been recognized globally.

Globalization has led to greater interaction across national boundaries and has affected many aspects of our economic, social, cultural and political environment. This involves studying the networks; service facilities, including transport and communications; a variety of professional business and financial services and furthermore the knowledge of their working patterns in different organizations are required to be studied. In the same way greater openness in the economies of the region in the face of current trends towards globalization and regionalization offers promising opportunities for infusing greater dynamism into their domestic, economies. However, this entails risks which countries must be aware of and must develop the capacity to manage. These capacities differ widely across large number of countries.

The present study involves studying the level of consumer protection in South Asian countries comprising India, Pakistan, Nepal and Bangladesh.

Objective of the Study

Keeping into account the growing digital market and the asymmetry of knowledge amongst the various customer segments in different markets regarding the redressal mechanism available to them in case of defective product or deficiency in service or unfair trade practice the objectives of the study are grouped as follows:

1. To study the various laws available to South Asian consumers for redressal of their complaints against them.
2. To analyse the nature of cases and compensation given by the Consumer foras in four South Asian countries.
3. To understand the steps taken by the government for the protection of consumers in the above mentioned countries.
4. To find out the nature of problems faced by the South Asian consumers and measures taken to empower them.

Consumer Protection in India

In India, The Consumer Protection Act, 1986 was enacted by the Parliament to protect the interests of consumers against substandard products, increased prices through market manipulation, failed warranties, poor after sales service and unfair trade practices on 24th December. Since then, 24th December is observed as National Consumer Day in India. Consumer Protection Act (CPA) is considered as a benevolent social legislature for protecting consumers from the malpractices of the manufacturers. CPA provides simple, speedy and inexpensive redressal to the grievances of the consumers. This Act is not only preventive but also compensatory in nature. Unlike other laws, it is civil and focuses on undoing the wrong to a consumer by way of remedial action or payment of compensation or damages to the aggrieved consumer. The Act has set in motion a revolution in the field of

consumer rights that perhaps cannot be paralleled anywhere else in the World. The Act applies to all goods and services unless specially exempted by the Central Government, in all sectors whether Private, Public or Co-operative.

The Act enshrines all the consumers' rights which are internationally accepted. As per the Act, the consumer protection councils have been established at Central, State and District levels to promote and protect the consumer rights. They are:

- Right to Safety: To be protected against the sale of goods and services which are spurious/ hazardous to life.
- Right to information: To know the quality, quantity, weight and the price of goods/services being paid for, so that one is not cheated by unfair trade practices.
- Right to Choose: To be assured, wherever possible, access to a variety of goods and services at competitive prices.
- Right to be heard: To be heard and to be assured that the interest would receive due consideration at appropriate fora.
- Right to Seek Redressal: To seek legal redressal against unfair or restrictive trade practices or exploitation.
- Right to Consumer Education: To have access to consumer education.

The Consumer Protection Act is one of the progressive, comprehensive and unique piece of legislation enacted by India. It enshrines all the consumer rights which are internationally accepted. As per the Act, the consumer protection councils have been established at Central, State and District levels to promote and protect the consumer rights. Section 2 (1) (d) defines the term "consumer" under the Consumer Protection Act, 1986, as any person who buys, hires or avails of any goods or services for a consideration which has been paid, or promised or partly paid or promised or paid under a system of deferred payment. The term consumer, however, does not include a person

who obtains such goods and services for resale or for any commercial purpose. Thus the term consumer includes buyer, user, hirer and beneficiary of goods and services. In the proposed fourth Amendment of the Consumer Protection Act 1986 the term “consumer” would include buying of goods, hiring/availing of services made through any mode, inclusive of but not limited to offline, online through electronic means, teleshopping, direct selling etc.

Thus, the term “consumer” includes the following heads:

1. Buyer of goods or Purchaser of goods: Any person who purchases products for consideration that has been paid, or promised or partly paid and partly promised, or under any system of deferred payment for final consumption is a consumer. The position of the buyer depends upon the “contract of sale”.

2. User of the goods: Any person who uses goods with the approval of the buyer, who has bought goods for consideration is a consumer. Thus all family members are beneficiaries of a contract and included as consumers.

3. Hirer of services: Any person who hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment is included as a consumer. The service sector includes banking, telecom service, postal service, insurance, railways, air travel, doctors, caterers, contractors, transport operators, etc.

4. Beneficiary of services: In respect of services, the beneficiary of such service is also a consumer. According to *Indian Medical Association v. V. P. Shanta case*¹ it was decided that medical practitioners are not immune from a claim for damages on the ground of negligence. The patients who are

¹ Indian Medical Association v. V. P. Shanta (1995) 6 SCC651; AIR1996 SC 550

rendered free service are the beneficiaries of the services hired by the patients who paid for the services. In *Spring Meadows Hospital vs. Harjot Ahluwalia* (1998) (2), the Supreme Court held that a consumer would mean a person who hires or avails of any services and includes any beneficiary. Therefore, when a young child is taken to a hospital by his parents and treated by the doctor then the parents and the child would come under the definition of a consumer.

5. A trader or businessmen who buys the goods or services for resale is not a “consumer”. The Consumer Protection Act Amendment in 2002 excludes persons who buy goods or services for a “commercial purpose”. However, “commercial purpose” does not include the following:

- Goods bought and used for the purposes of earning livelihood by means of self-employment. This means that if an individual or a family buys goods for professional or vocational use s/he will be a “consumer”.
- Services availed for the purpose of earning livelihood by means of self-employment. This means that if a person or family buys services for professional or vocational use s/he will be a “consumer”. Thus, any person who buys goods either for resale or for making profit is not a “consumer” under the Consumer Protection Act. In *Raj Kumar vs. S. C. Verma*, 2001 (1) CPR 437 it was held that persons buying goods either for resale or for use in large scale profit-making activity would not be “consumers” entitled relief under the Act.

A complaint can be filed in the consumer Forum by a consumer to whom goods are sold or delivered or agreed to be sold or delivered or such services provided or agreed to be provided or by a Voluntary Consumer organization (VCO) or by the Central Government or the State Government, Union Territory Administration or by one or more consumers where they are of

same interest. In case of death of consumer, his legal heir or representatives have the right for filing a complaint. A complaint can be filed within two years from the date on which the cause of action has arisen. However a complaint may be entertained after the period if the complainant had sufficient cause for not filing the complaint within such period by recording its reason for condoning such delay. A complaint should contain the following details.

1. The name, description and address of the complainant.
2. The name, description and address of the opposite party or parties.
3. The facts relating the complaint, when and where it arises.
4. Documents, if any, in support of allegations.
5. The relief sought.
6. The complaint should be signed by the complainant or his/ her authorized agent.

No lawyer is required for filing a case in consumer forum.

Adjudicatory Bodies Set Up under CPA

In order to provide speedy and simple redressal of consumer grievances, Chapter III of the Consumer Protection Act makes provision for the establishment of Remedial Agencies for settlement of consumers' disputes and for matters connected therewith. There is a three-tier system in the Act, which has been set up at district, state and national levels. They are:

1. A Consumer Disputes Redressal Forum also known as the "District Forum"
2. A Consumer Disputes Redressal Commission also known as the "State Commission"
3. A National Consumer Disputes Redressal Commission also known as the "National Commission"

While the National Commission is set up by the Central Government, the State Commissions and District Forums are set up, in each, State and District, respectively by the State Government concerned. Provided that the state government may, if it deems fit, establish more than one District Forum in a state.

At present there are 35 State Commissions, one in each State/UT and 629 district forums besides the National Commission at the apex. The government is monitoring the disposal of cases by the consumer courts through National Commission.

The pecuniary jurisdiction of the District Forum is upto Rs. 20 lakhs, and that of the State Commissions is above Rs. 20 lakhs and below Rs. 1 Crore and claims involving more than Rs. 1 crore are to be filled directly before the National Commission.

The law provides for the complaint to be decided within a period of 3 months from the date of receipt of notice by the opposite party where no analysis or testing of commodities is required to be done by the laboratory. If it requires analysis or testing of commodities the period for giving final order is five months. Till 30-11-2016, the Consumer courts at National, State and District level have together registered 46,87,864 cases and 42,73,208 cases have been disposed. Thus there are still 4.1 lakh cases which are pending within various consumer foras and the disposal rate is 91.36%.

Total number of Cases Disposed by Consumer Forums Since Inception

Table 1 depicts that 1,05,916 cases were registered since inception up to 30th November 2016 with the National Commission out of which 89% cases were disposed of, while 11% were still pending with the National Commission. In case of State Commission 7,28,526 cases were registered since inception up to Nov 2016 and 86.1 percent cases were disposed of. A staggering number of 38,53,422 cases were registered throughout the District Consumer Forums

in the country and performance of District Consumer Forums was better as 92.17 % cases were disposed of. This indicates that consumer redressal system is now being utilized at the district levels, which is a positive sign of generating awareness to seek redressal.

Table 1: *Total number of Cases Disposed by Consumer Forums since Inception (Update on 30-11-2016).*

Sl. No.	Name of Agency	Cases filed since inception	Cases disposed of since inception	Cases Pending	% of total Disposal
1	National Commission	105916	94270	11646	89.00%
2	State Commissions	728526	627289	101237	86.10%
3	District Forums	3853422	3551649	301773	92.17%
	TOTAL	4687864	4273208	414656	91.15%

Source: Annual Report, 2016, Ministry of Consumer Affairs, India

Consumer Protection in Bangladesh

The Consumer Rights Protection Act, 2009 was enacted by the government of Bangladesh in April 2009 to ensure consumer protection by realising consumer's right to quality goods and services at fair prices. It also highlights consumers' right to information regarding quality, quantity, standard and value of the goods and services.

To fulfil the objectives of the Act, a National Consumer Right Protection Council has been established. A Director General of the Consumer Rights Protection Council is appointed under the Act to oversee the consumer rights practices throughout the country. To facilitate the functioning of National Consumer Rights Protection Council, a district committee in every district named District Consumer Rights Protection Committee has been constituted.

The new law bans the sale at high price, checks adulteration and fake products, forgery in weighing goods, selling expired items and misleading advertisements. It also bans the sale at high price, adulteration and fake products, forgery in weighing goods, selling date-expired items and fraudulence with advertisement. These are considered as serious crimes, and the law also spells out punishment for such offences.

According to the bill, any businessmen found guilty under the law would be penalised with a punishment ranging from one year to three years imprisonment and minimum Tk 50,000 to Tk 200,000 as fines. There are provisions for at least 20 types of crimes ranging from hoarding, flouting of packaging rules to over-charging for products. The law stipulates formation of a National Consumer Protection Rights Council to be headed by the Commerce Minister and branches at the district level.

Besides, the Consumer Rights Protection Tribunals have been set up in districts and sub-districts to check unfair practices related to consumers' goods. Consumers are allowed to take legal steps individually. They can file complaint through e-mail, fax or other sources to the Director General concerned regarding such crimes.

Complaining is Rewarding in Bangladesh

Complaints about any anti-consumer rights practice under this Act have to be filed by any person to the Director General or any person authorized by the directorate within 30 days of the incident. The authority upon receiving a

complaint shall immediately investigate or inquire into such a complaint. If such a complaint is proved to be true after investigation, the Director General or any officer authorized by him may, in his administrative action, impose fine upon the guilty person. If any fine is imposed and realized, 25% of such realized fine shall immediately be paid to the complainant concerned.

If any regular criminal case is filed in a court or in a special tribunal under The Consumer Rights Protection Act, 2009 and if the accused is fined upon found guilty and if the fine is realized, 25% of the realized fine shall be paid to the complainant concerned. Any person may make complaint by examining the matter of adulteration or copying of goods in a public or private laboratory at his own initiative.

Selling or using poisonous or dangerous chemicals in Bangladesh

There is a prohibition of sale or use of poisonous or dangerous chemicals, intoxicated food, color etc. The High Court ordered on 28th February 2012 the police to file criminal cases against culprits for using toxic chemical to ripen and preserve fruits and sell them under the Special Power Act. The maximum punishment for such offence is “death penalty”. The order came following a writ petition filed by lawyer Manzill Murshid as public interest litigation on behalf of Human Rights and Peace for Bangladesh on May 10, 2010 seeking court directives on the government to take steps to stop the use of chemicals in fruits as well as their sale.

The court in its earlier ruling in 2010 asked the government to explain why it should not be directed to take effective measures to protect public health by stopping the use of chemicals in fruits, especially apples, mangoes, grapes, bananas and papayas. The court had also asked the commerce, food and home secretaries to form a committee to make recommendations to the government to stop the use of chemicals in fruits and submit a report to the court within 15 days. But the respondents did not make any reply to the ruling and order. Between these days, law enforcers and officials of

authorities concerned including Bangladesh Standards and Testing Institute, market monitoring cell of the commerce ministry used to conduct drives against the perpetrators. The High Court also asked the National Board of Revenue (NBR) and the Customs Department to monitor land and sea ports and test imported fruits to find out whether they are free from chemicals. The HC said the use of chemicals to ripen and preserve fruits is illegal, and ordered the BSTI and law enforcers to constantly monitor fruit depots across the country to prevent storage or sale of contaminated fruits.

Most of the red chilli powder used in the market is adulterated in most cases the spices are mixed with brick dust. Fine sawdust is also often mixed with cumin and other ground spices, say CAB members. Honey is also frequently adulterated, as lab tests have found sugar syrup is often mixed with honey to enhance the sweetness. Nowadays, pure butter oil and ghee are also very rare in the market. Dishonest traders use a host of ingredients such as animal fat, palm oil, potato mash, and vegetable oil to produce fake butter oil. They even mix soap ingredients like steirian oil with ghee, to increase the proportions. Rasogolla, kalojaam, and chamcham are the essential delicacies for all festivals in Bengali culture. But food and sanitation officers from the Dhaka City Corporation (DCC) say most of these mouthwatering sweetmeats, despite looking attractive in the shop displays, are made with adulterated ingredients and produced in a filthy environment. In a survey conducted by DCC officials found that 100 percent of examined samples of Rasogolla, kalojaam, curds, and sandesh were adulterated. Bangladesh's Pure Food Ordinance (1959) states that at least 10 per cent milk fat is mandatory in sweetmeat. But in most cases, the percentage of milk fat is not more than five per cent.

Consumer Protection in Nepal

In Nepal the Act is known as “**The Consumer Protection Act, 1998**”. It came into force on 13 April 1999. It has 30 sections in total and establishes the Consumer Protection Council. The functions of the Council are:

- a. Advising the government on matters relating to the protection of rights and interest of consumers.
- b. Prices, quality and purity of consumer goods and services
- c. Disseminating information
- d. Conducting various studies

The Act regulates the powers of Inspection officers to inspect and investigate where there are reasons to believe that products and services which are not safe or of prescribed standards are being produced sold or supplied. The Act has a total of 30 sections. It establishes the Consumer Protection Council. Amongst the functions, duties and powers of the Council include advising the government on matters relating to the protection of the rights and interests of consumers, prices, quality and purity of consumer goods and services, disseminating information, conducting studies, and advising the government on policies relating to the protection of the rights and interests of consumers. The Act also regulates the powers given to Inspection Officers to inspect, investigate or search any place where there are reasonable grounds to believe that consumer goods or services which are not safe, efficacious or of the prescribed standard are being produced, sold or supplied.

Objectives of the Nepal Consumer Protection Act, 1998

1. To make provisions for protecting consumers from irregularities concerning the quality, quantity and prices of consumer goods or services,
2. Ensuring that no one lowers or removes the attributes or usefulness of consumer goods or services,
3. Preventing circumstances in which monopolies and unfair trading practices may lead to an increase in prices, as well as false and misleading propaganda about the use and usefulness of consumer goods or services,

4. Selling, supplying, importing, exporting and storing safe and quality consumer goods or services,
5. Protecting the rights and interests of consumers through the establishment of an agency for redressing the hardships of consumers,
6. Maintaining the health, convenience and economic welfare of consumers, now therefore, the Parliament has enacted this law in the 26th year of the reign of the King, Birendra Bir Bikram Shah Dev.

Consumer Rights

For the purpose of protecting the rights and interests of consumers, every consumer has the following rights:

1. Right to be protected from the sale and supply of consumer goods and services which may harm life, body, health and property.
2. Right to be informed about the prices, attributes, quantity, purity, quality, etc. of consumer goods and services so as to be safe from unfair trading practices.
3. Right to be assured of an opportunity to select consumer goods and services at competitive prices as far as possible.
4. Right to be assured that an appropriate agency will hear matters right to be assured that an appropriate agency will hear matters concerning the protection of the rights and interests of consumers.
5. Right to be heard and compensated against exploitation and hardships resulting from unfair trading practices.
6. Right to consumer education.

Functions, Duties and Powers of Consumer Protection Council:

A Consumer Protection Council has been formed in order to formulate policies relating to the protection of the rights and interests of consumers, and offer suggestions to Government on matters concerning the rights and

interests of consumers. The functions, duties and powers of the Council are as follows:

- (i) To offer suggestions to the Government on matters relating to the protection of the rights and interests of consumers, the supply system, and prices, quality and purity of consumer goods and services. To disseminate information relating to the rights and interests of consumers in order to inform them about the standard of goods and services so as to protect them in matters concerning consumer goods and services.
- (iii) To inform consumers about the prices, quality, quantity and purity of consumer goods and services, as well as about unfair trading practices concerning them, or make arrangements for doing so.
- (iv) To conduct studies in connection with the protection of the rights and interests of consumers, or make arrangements for doing so.
- (v) To offer suggestions to the Government on changing the existing policies or framing new policies relating to the protection of the rights and interests of consumers.
- (vi) To maintain updated national and international information relating to the protection of the rights and interests of consumers, and make arrangements for doing so.
- (vii) To monitor the rights of consumers, or make arrangements for doing so, and offer suggestions to the Government to rectify the shortcomings noticed in the course of such monitoring. To discharge the functions prescribed by Government, or make arrangements for doing so.
- (ix) To discharge such other functions as are deemed appropriate for the protection of the rights and interests of consumers, or make arrangements for doing so.

Redressal Mechanism

In case any consumer suffers a loss or damage of any kind as a result of the sale of any consumer good or service in a manner opposed to this act, such consumer, or any Consumer Association on his behalf, may file a complaint

with the Compensation Committee within 35 days from the date of such loss or damage, requesting for the realization of compensation from the person who has sold or supplied such consumer good or service. Claims for Compensation are made to the Compensation Committee.

Compensation Committee:

Compensation Committees are formed in each district in order to conduct investigations into complaints filed under Section 22 and realize compensation in consideration of losses or damages suffered by consumers.

The compensation committee consist of:

- (a) Chief District Officer: Chairman
 - (b) District Government Advocate: Member
 - (c) District Medical Officer: Member
 - (d) Representative of District Consumers Association designated by His Majesty's Government: Member
 - (e) Representative, District Chamber of Commerce and Industry: Member
 - (f) An officer designated by Government: Member Secretary
- (2) The Compensation Committee takes decision on complaints filed in connection with compensation within the prescribed time-limit.

Provisions for Investigation/ Inspection of Spurious/ Defective Goods/Services

If any person is engaging in any unfair trading activity in such a manner as to adversely affect the rights and interests of consumers, or affecting the price and the supply system of consumer goods or services by exercising a monopoly or through any other means, or producing or selling sub-standard goods, or taking any action which is contrary to this act or the rules framed hereunder, the Government may conduct necessary investigations and inspections, or make arrangements for doing so. It can take necessary action

according to current laws against any producer, dealer, agent, vendor, individual or institution found guilty through investigations and inspections conducted under Sub-Section (1). For inspection purpose Government can appoint Inspection Officers or designate any officer-employees to work in that capacity in the prescribed manner in order to monitor the supply of quality consumer goods or services to consumers in a simple manner and at fair prices by making the market and supply systems effective.

Penalties:

Any person who takes or instigates others to take any of the following actions is punished as follows, depending on the degree of his offense:

(a) Any person who takes or instigates others to take any action in violation of Section 7 shall be punished with imprisonment for a term not exceeding three years, or with a fine not exceeding Rs 50,000, or with both.

(b) Any person who takes or instigates others to take any action in violation of Clause (a) of Sub-Section (1) of Section 9 shall be punished with imprisonment for a term not exceeding two years, or with a fine not exceeding Rs 30,000 or with both.

(c) Any person who takes or instigates others to take any action in violation of Clause (a) of Section 10 shall be punished with imprisonment for a term not exceeding three years, or with a fine not exceeding Rs 50,000, or with both.

(d) Any person who takes or instigates others to take any action in violation of Clauses (b), (c) and (d) of Section 10 shall be punished with imprisonment for a term not exceeding five years, or with a fine not exceeding Rs 100,000, or with both.

(e) Any person who takes or instigates others to take any action in violation of Clause (e) of Section 10 shall be punished as follows:

(1) If there is a threat to life, for a term not exceeding 14 years, or with a fine not exceeding Rs 500,000, or with both.

(2) In case the strength of any organ of the body is likely to be reduced or lost, with imprisonment for a term not exceeding 10 years, or with a fine not exceeding Rs 500,000, or with both.

(3) In other circumstances, with imprisonment for a term not exceeding 5 years, or with a fine not exceeding Rs 300,000, or with both.

(f) Any person who takes or instigates others to take any action, other than those mentioned above, which violates this act or the rules framed under this act shall be punished with imprisonment for a term not exceeding two years, or with a fine not exceeding Rs 200,000, or with both.

Realization of Compensation:

In case the Compensation Committee holds that any consumer has suffered a loss or damage following investigations into a complaint filed for compensation under

Section 22, it shall arrange for the payment of compensation on the basis of such loss or damage to the concerned consumer or his heir.

Appeal: Any person who is dissatisfied with the decision taken by the Compensation Committee under Section 24 may file an appeal with the concerned Appellate Court within 35 days from the date of such decision.

Prohibition to Influence Demand, Supply or Price

No one shall influence the demand, supply and price of any consumer good or service by taking any of the following actions in collusion with others:

(a) By fixing the quota of raw materials needed for any consumer good, or reducing the production of any consumer good, or taking any other similar actions.

(b) By hoarding any consumer good or service or otherwise creating an artificial shortage, or selling and supplying such good or service at specified times or places only, or taking any other similar actions.

Power to Systematize and Control Supply of Consumer Goods and Services:

(1) For the purpose of protecting the rights and interests of consumers, the Government can exercise the following powers in order to systematize, control and regulate the supply of consumer goods and services:

(a) To formulate policies relating to the quality, price and the supply system of consumer goods or services.

(b) To formulate action plans in connection with the monitoring, prevention and control of unfair trading practices and monopolies which are likely to harm the rights and interests of consumers, and implement such plans.

(c) To analyze and review the situation in respect to the demand and supply of consumer goods consumed within the country.

(d) To make necessary arrangements for checking any undesirable increase in prices by producers, vendors or distributors of consumer goods.

(e) To discourage unfair trading practices which are likely to create shortages through artificial or other improper means.

(2) The Government can make necessary arrangements in order to effectively implement the provisions concerning the protection of the rights and interests of consumers, regulation of the supply system, and control of the prices and quality of consumer goods and services.

Particulars to be Mentioned in Consumer Goods:

A producer must mention the following particulars on the labels of consumer goods on a mandatory basis:

(a) Name and address of the producer, and registration number of the industry.

(b) In the case of consumer goods such as food and medicines, their ingredients as well as their quantity and weight.

(c) Quality of consumer goods whose quality has been determined, if any.

- (d) Method of consuming consumer goods and possible impact of such consumption.
- (e) Price, batch number, production date and expiry date of the consumer goods.
- (f) In the case of consumer goods such as electronic goods, hardware and machinery, guarantee thereof, date of guarantee, and other necessary matters.
- (g) In the case of consumer goods which are inflammable, dangerous or fragile, precautions for their safety.
- (h) Other particulars as prescribed.

Actions Which Must not be Taken in Respect to Consumer Goods or Services

No one can take or instigate others to take any of the following actions in respect to any consumer good or service:

- (a) To produce, sell, supply, export or import a sub-standard consumer good.
- (b) To imitate any consumer good in such a manner as to mislead consumers.
- (c) To sell or supply any consumer good or service by making false or misleading claim that it is another consumer good or service, or by describing a sub-standard consumer good or service as of high standard.
- (d) To engage in unfair trading practices in such a manner as to make false or misleading publicity or advertisements relating to the use, usefulness, or efficacy of any consumer good or service.
- (e) To produce, sell or supply any consumer good or service which is likely to harm consumers' health.

(f) To take such other actions as are prescribed.

Standard of Consumer Goods or Services:

(1) In case the limits of the quality or quantity of any ingredient to be used in any consumer good or service have been determined, the Government determines the standard of such good or service according to the prescribed procedures.

(2) The Government can publish a notice of the determination of the standard of any good and service under Sub-Section (1) in the Nepal Rajapatra.

Price Lists to be Kept by Shopkeepers in Nepal

According to this Act every vendor must keep at a conspicuous place of his shop a price-list of every consumer good sold and supplied by him, explicitly mentioning its wholesale and retail prices.

Powers of Inspection Officers to Inspect, Investigate or Search:

(1) In case there are reasonable grounds to believe that any consumer good or service which is not safe, efficacious or of (the prescribed) standard is being produced, sold or supplied, or that any action is being taken in violation of this act or the rules framed hereunder, at any place, the Inspection Officer may inspect, investigate or search such place.

(2) In case it is found in the course of an inspection, investigation or search conducted under Sub-Section (1) that any good or service which is not safe, efficacious or of the (prescribed) standard is being produced, sold or supplied, or that actions are being taken in violation of this act or the rules framed hereunder, the Inspection Officer shall take a sample of such good (or

service) in the prescribed manner and impose a ban on the production and sale or supply of such good or service for a prescribed period.

(3) Reports of actions taken by Inspection Officers under Sub-Section (2) must be submitted to Government within three days.

(4) The working procedures to be adopted by Inspection Officers while conducting inspections, investigations, or searches are prescribed in the law.

(5) The other functions, duties and powers of Inspection Officers, and provisions concerning the implementation of the reports submitted by them, are prescribed in the law.

Testing of Consumer Goods:

Samples of consumer goods taken by an Inspection Officer under Section 15 shall be sent to the laboratory for a test within the prescribed time-limit.

Sub-Standard Consumer Goods to be Seized:

In case any consumer good is held to be of sub-standard following the test of its sample at the laboratory where it is sent under Section 16, it is seized.

Investigation Lawsuits and Filing of Lawsuits

The offences punishable under this act shall be investigated by Inspection Officers. Lawsuits must be filed with the concerned District Court within 35 days from the date of completion of such investigations. While investigating and filing lawsuits under an Inspection Officer may seek the opinion of the government lawyer, and such cases can be defended by the government lawyer. The procedure mentioned in the 1972 Summary Trial Procedure Act can be adopted while taking action on and disposing of lawsuits filed under this act.

Power to Initiate Lawsuits under Current Laws:

In case any action which is an offence under this act is also an offence under any other current Nepal Law, this act shall not be deemed to have prejudiced the right to initiate lawsuits under the other act.

Power to Form Sub-Committees:

The Government or the Council may form necessary Sub-Committees in order to fulfil the objectives of this act. The functions, duties, powers and working procedures of a Sub-Committee formed under Sub-Section (1) are prescribed by Government or the Council. The Government or the Council may delegate some of the powers vested in it under this act to any Sub-Committee formed under Section 27, or to any officer employee, according to need. Inspection Officers, Compensation Committees or employees of the Government are not to be held personally liable for any action taken by them with good intentions in the course of fulfilling their duties under this act or the rules framed hereunder.

Consumer Protection in Pakistan

The Act in Pakistan is known as “The Islamabad Consumer Protection Act, 1995” and it extends only to the Islamabad Capital Territory. The Islamabad Consumer Protection Act, 1995 has 12 sections in total. It provides for the promotion and protection of consumer interest through “Islamabad Consumer Protection Council”.

Under the Act, Section 2(f) defines 13 types of conduct, which would be considered as unfair trade practice. Section 8 of the Act describes the complaint handling manner by the Islamabad Court of Sessions. Before the enactment of Islamabad Consumer Protection Act, 1995, the Sale of Goods Act, 1930 has been in force in Pakistan since 1 July 1930.

The other laws applicable to the different provinces are:

- 1) NWFP Council, 1997
- 2) Balochistan, Consumers Protection Bill, 2003
- 3) Punjab Consumer Protection Act (Punjab CPC), 2005
- 4) Sindh Consumer Rights Council (CRC), 2005

Objectives:

The objectives of the Islamabad Consumer Protection Act can be broadly divided into two categories:

1. To determine, promote and protect the rights of consumers and
2. To formulate polices for the fair and honest trade practices by manufacturers, producers and suppliers of goods and services.

Consumer Rights:

Section 5 provides for consumer rights as follows:

1. The right of protection against marketing of goods which are hazardous to life and property;
2. The right to information about the quality, quantity, potency, purity, standard and price of goods and services;
3. The right of access to a variety of goods at competitive prices;

4. The right for redressal against unfair trade practices or unscrupulous exploitation of consumers;
5. and the right of consumers' education.

Consumer Protection Council:

After the commencement of this Act, the Federal Government by notification in the official Gazette, established the Islamabad Consumers Protection Council.

The Council consists of the following:-

- (i) The Chairman, to be nominated by the Prime Minister from amongst prominent social workers;
- (ii) One Senator and the Member National Assembly elected from Islamabad Capital Territory, to be nominated by the Federal Government as Member
- (iii) Chief Commissioner, Islamabad Capital Territory, Islamabad as Member
- (iv) Chairman, Capital Development Authority as Member
- (v) A representative of the Cabinet Division who shall not be below the rank of Joint Secretary as Member
- (vi) A representative of the Ministry of Interior who shall not be below the rank of Joint Secretary as Member
- (vii) A representative of the Ministry of Law, Justice and Parliamentary Affairs, who shall not be below the rank of Joint Secretary as Member
- (viii) a representative of the Finance Division who shall not be below the rank of Joint Secretary as Member
- (ix) a representative of the Ministry of Health who shall not be below the rank of Joint Secretary as Member
- (x) a representative of the Food, Agriculture and Livestock Division who shall not be below the rank of Joint Secretary as Member
- (xi) a representative of the Ministry of Industries and Production who shall not be below the rank of Joint Secretary as its Member

(xii) A representative of the Ministry of Women Affairs who shall not be below the rank of Joint Secretary as Member.

Functions of the Council:

The function of the Council is to determine, promote and protect rights of consumers. The Council is responsible for formulation of the policies for promotion and protection of the rights of consumers, fair and honest trade practices by the manufacturers, producers and suppliers of goods and services in relation to interest of consumers and their effective implementation. For promotion and protection of the interests of consumers, the Council acts as a coordinate body between the Government, manufacturers, producers, suppliers and consumers.

Redressal Mechanism:

(1). The Authority formed by the Islamabad Consumer Protection Council, is responsible for receiving the complaints of consumers and those made on behalf of the Council, their investigation and determination. The Police, Capital Development Authority and other agencies of the Federal Government and Islamabad Capital Territory Administration Act in aid of the Authority for Performance of the functions under this Act.

(2). Under the Consumer Protection Act of Punjab Province, consumer courts and councils are established at divisional level and district DCOs are also authorized to hear public complaints, impose fine upon unruly manufacturers or refer their cases to consumer court/council. In addition to action on public complaints, CPC can also act suo motu.

(3). In Sindh Province, Government has set up a 15-member Consumer Rights Council (CRC) in September 2005, with a jurisdiction restricted to Karachi city only. However, the government has not been able to adopt a

formal law so far and establish the necessary infrastructure and consumer courts across the length and breadth of the province.

(4). The NWFP Assembly adopted a Consumers Protection Bill in 1997, which was amended in 2005. This law provides for the setting up of a provincial council for protection of consumers rights. However, the provincial government has not enforced this bill so far.

(5). The Consumers Protection Bill of Baluchistan was adopted by the Provincial Assembly on October 30, 2003. A provincial council for protecting consumer rights has been constituted under this law, however district councils are yet to be formed. The law empowers judicial magistrates to hear consumer complaints instead of establishing special consumer courts.

Procedure for disposal of the complaints of the consumers in Pakistan

A complainant can file complaint regarding goods sold or delivered or any service provided or supplied or against any unfair trade practice with the Authority. The Council may, in the case of any unfair trade practice coming to its notice, directly make complaint to the Authority through an officer authorized by it. On examination of the complaint received the Authority is of the opinion that any right of the consumer has been infringed, he can cause the notice of the complaint to be served on the respondent who is be required to give his reply within a period of seven days. After considering the complaint and the reply of the respondent and after providing the parties an opportunity of being heard, or if no reply is received and after such enquiry as the Authority may deem appropriate, he may pass such orders as the circumstances may require.

Penalties:

Where any right of consumer is infringed, the person responsible for such infringement shall be punished with imprisonment which may extend to two

years, or with fine, or with both. Any misleading advertisement through print or electronic media or by chalking on walls or in any other manner in contravention of the Act the manufacturer or service provider shall be punished with imprisonment which may extend to two years, or with fine, or with both. The Authority may order for payment of compensation to the consumer to the extent the consumer has suffered any damage or loss through any unfair trade practice. The Authority may, where it deems necessary for protection of the right of other consumers, order for confiscation of any goods or material or direct for their destruction.

Appeal:

An appeal against the order of Authority shall lie to the High Court and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), in respect of appeals to the High Courts shall, *mutatis mutandis*, apply. No suit, prosecution and other legal proceedings shall lie against the Council, its members, the Authority and other officers and authorities acting under the directions of the Council or, as the case may be, the Authority in respect of anything done under the provisions of this Act or any rules or orders made there under.

Recommendations: An efficient consumer protection legislation of inhabitants not only protects and promotes the privileges and happiness of its consumers, but it also enhances socio-economic targets of its macro economy, such as scarcity alleviation, competent, fair and translucent market method, good governance and beyond all, socio-economic impartiality for its citizens. It was found that all the four South Asian countries ie, India, Bangladesh, Nepal and Pakistan have consumer protection legislations in place but what is required is proper enforcement and implementation of them so that the manufacturers do not indulge in wrongful practices.

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