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THE BEGINNER'S MODULE

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**CS EXECUTIVE GROUP - 1
NEW SYLLABUS**

~ CS MADHAV PAHWA

C.S EXECUTIVE (Group-2)
ECONOMIC, COMMERCIAL
&
INTELLECTUAL PROPERTY LAWS

By

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FIRST STEP

***Even the Greatest was first a Beginner.
Don't be afraid to take that first step.***

***No amount of blessings can benefit you
if you don't take the first step***

***Remember, one step leads to the other and
therefore never neglect the first step.
It will give you the confidence
you need to sail through with victory.***

The Consumer Protection Act, 2019



DETAILED DESCRIPTION

<u>Topics</u>	<u>Description</u>
<u>Introduction</u>	<p>Consumer protection is the practice of safeguarding buyers of goods and services against unfair practices in the market. It refers to the steps adopted for the <u>protection of consumers from corrupt and unscrupulous malpractices by the sellers</u>, manufacturers, service providers, etc. and to provide remedies in case their rights as a consumer have been violated.</p> <p>In India, the protection of the rights of the consumers is administered by the Consumer Protection Act, 2019. The <u>Consumer Protection Act, 2019 was introduced to replace the Consumer Protection Act, 1986</u>. The new Act contains various provisions which incorporate the challenges faced by modern and technology-dependent consumers. The Act also contains various provisions for the protection and promoting the rights of the consumers.</p> <p><u>Preamble of the Consumer Protection Act, 2019</u> provides for <u>protection of the interests of consumers</u> and for the said purpose, to <u>establish authorities</u> for timely and effective administration and settlement of consumers' disputes and for matters connected therewith or incidental thereto.</p>
<u>Objective</u>	<p>The main objective of the Act is to <u>protect the interests of the consumers and to establish a stable and strong mechanism for the settlement of consumer disputes</u>.</p> <p>The Act aims to:</p> <ul style="list-style-type: none"> • Protect against the marketing of products that are <u>hazardous to life and property</u>. • <u>Inform</u> about the quality, potency, quantity, standard, purity, and price of goods to safeguard the consumers against unfair trade practices. • <u>Establish Consumer Protection Councils</u> for protecting the rights and interests of the consumers. • <u>Seek redressal</u> against unfair trade practices or unscrupulous exploitation of consumers. • Protect the consumers by <u>appointing authorities</u> for timely and sufficient administration and settlement of consumers' disputes. • Lay down the <u>penalties for offences</u> committed under the Act. • Provide <u>consumer education</u>, so that the consumers are able to be aware of their rights. • Provide <u>speedy and effective disposal of consumer complaints</u> through alternate dispute resolution mechanisms.

Definitions

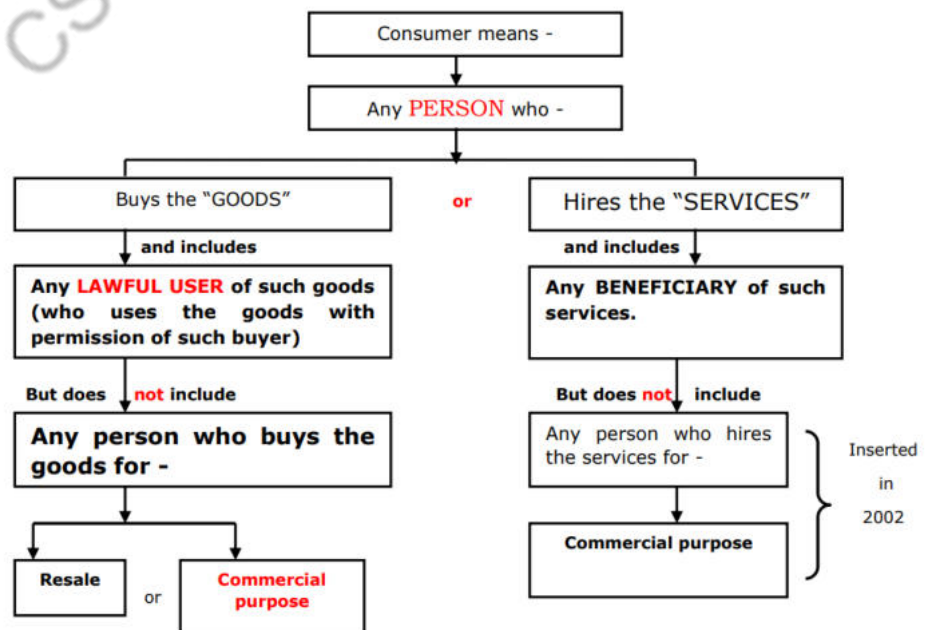
CONSUMER - Section 2(7)

Any person who—

- i. buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment **and includes** any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, **but does not include** a person who obtains such goods for resale or for any commercial purpose;
- ii. 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 **and includes** any beneficiary of such service other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed with the approval of the first mentioned person, **but does not include** a person who avails of such service for any commercial purpose.

Explanation—For the purposes of this clause,—

- a) the expression "commercial purpose" **does not include** use by a person of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;
- b) the expressions "buys any goods" and "hires or avails any services" **includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing;**



Example 1: A purchased a scooter which was in B's possession from the date of purchase. B was using it and taking it to the seller for repairs and service from time to time. Later on B had a complaint regarding the scooter. He sued the seller. The seller pleaded that since B did not buy the scooter, he was not a consumer under the Act. The Delhi State Commission held that B, the complainant was using it with the approval of A, the buyer, and therefore he was consumer under the Act. **[Dinesh Bhagat v. Bajaj Auto Ltd. (1992)]**

Note : This is an exception to the general rule of law that a stranger to a contract cannot sue.

PERSON BUYING GOODS FOR SELF EMPLOYMENT IS A CONSUMER

To save the interests of small consumers who buy goods for self-employment to earn their livelihood, (like a **taxi driver** buying a car to run it as a **taxi**) they are considered as consumer. **Note:** This is an exception to the rule that a buyer of commercial goods is not a consumer under the Act.

Example 2: a) Mr. A was running a small typing institute to earn his livelihood. He purchased a **photocopy machine-canon NP 150**. It proved defective. He sued the seller who contended that "A" is not a consumer under the Act as he purchased the photocopier for commercial use. The Commission held that by no stretch of imagination it can be said that the photocopier would bring large scale profits to A. He was construed as consumer under the Act.

Bhupendra Jang Bahadur Guna v. Regional Manager and Others - A person purchased a **tractor** primarily to till his own land, **and let out** the tractor on hire during the **idle time** to till the lands of others.

NCDRC held that above situation would **not amount to commercial use**.

"A" hires an **advocate** to file a suit for recovery of money from his employer. He **promises** to pay fee to the advocate after settlement of the suit. "A" is a consumer of advocate, under the Act.

BENEFICIARY OF SERVICES IS ALSO A CONSUMER –

A Narasamma vs. LIC of India - The State Commission held that as the term 'consumer' includes any beneficiary of service other than the person who hires the services for consideration, the widow being the beneficiary of services is a 'consumer' under the Act entitled to be compensated for the loss suffered by her due to negligence of the LIC.

Example: A takes his son B to a doctor for his treatment. Here A is hirer of services of the doctor and B is beneficiary of these services. For the purpose of the Act, both A and B are consumers.

In **Laxmiben Laxmichand Shah v. Sakerben Kanji Chandan and others**, the Supreme Court held that the tenant entering into lease agreement with the landlord cannot be considered as consumer under Section 2(1)(d) of the Act. Where there was no provision in the lease agreement in respect of cleaning, repairing and maintaining the building, the rent paid by tenant is not the consideration for availing these services and therefore, no question of deficiency in service.

Supreme Court in **Northern Western Railway and Another vs. Sanjay Shukla** judgement dated September 8, 2021, held that railways are liable to pay compensation for late arrival of trains if delay is not explained or justifiable. The railways were required to lead the evidence and explain the late arrival of train to establish and prove that delay occurred because of the reasons beyond their control. At least the railways were required to explain the delay which the railways failed. It cannot be disputed that every passenger's time is precious and they might have booked the tickets for further journey, like in the present case from Jammu to Srinagar and thereafter further journey. Therefore, unless and until the evidence is laid explaining the delay and it is established and proved that delay occurred which was beyond their control and/or even there was some justification for delay, the railway is liable to pay the compensation for delay and late arrival of trains.

"The Apex Court observed that these are the days of competition and accountability. If the public transportation has to survive and compete with private players, they have to improve the system and their working culture. Citizens/passengers cannot be at the mercy of the authorities/administration. Somebody has to accept the responsibility."

PERSON – Section 2(31)

"Person" includes—

- a) an individual;
- b) a firm whether registered or not;
- c) a Hindu undivided family;
- d) a co-operative society;
- e) an association of persons whether registered under the Societies Registration Act, 1860 or not;
- f) any corporation, company or a body of individuals whether incorporated or not;
- g) any artificial juridical person, not falling within any of the preceding sub-clauses;

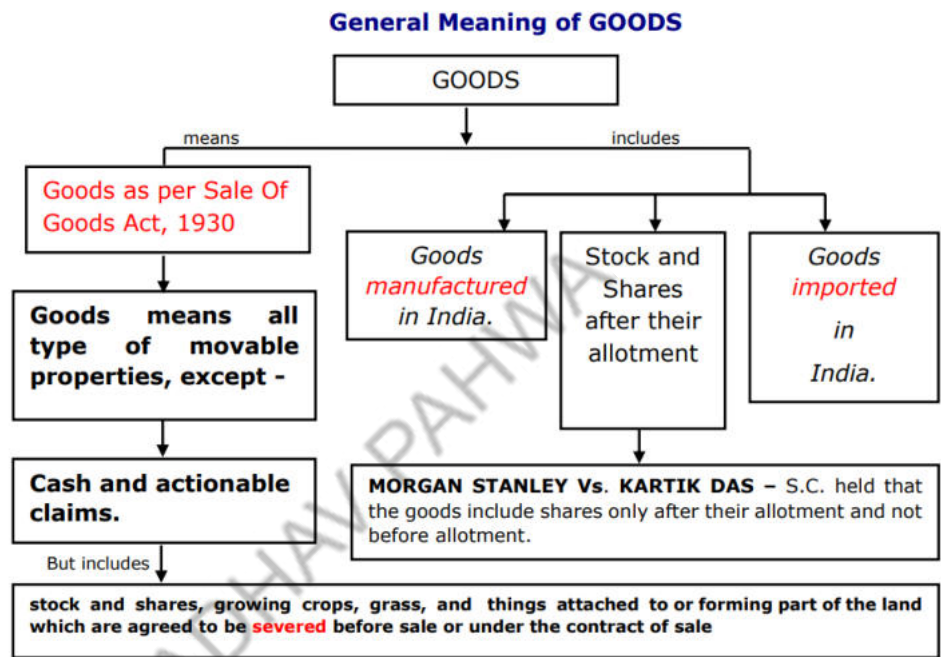
CONSUMER RIGHTS – Section 2(9)

"Consumer rights" includes,—

- (i) the right to be protected against the marketing of goods, products or services which are hazardous to life and property;
- (ii) the right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices;

- (iii) the right to be assured, wherever possible, access to a variety of goods, products or services at competitive prices;
- (iv) the right to be heard and to be assured that consumer's interests will receive due consideration at appropriate fora;
- (v) the right to seek redressal against unfair trade practice or restrictive trade practices or unscrupulous exploitation of consumers; and
- (vi) the right to consumer awareness;

GOODS



DEFECT - Section 2(10)

It means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods or product and the expression "defective" shall be construed accordingly;

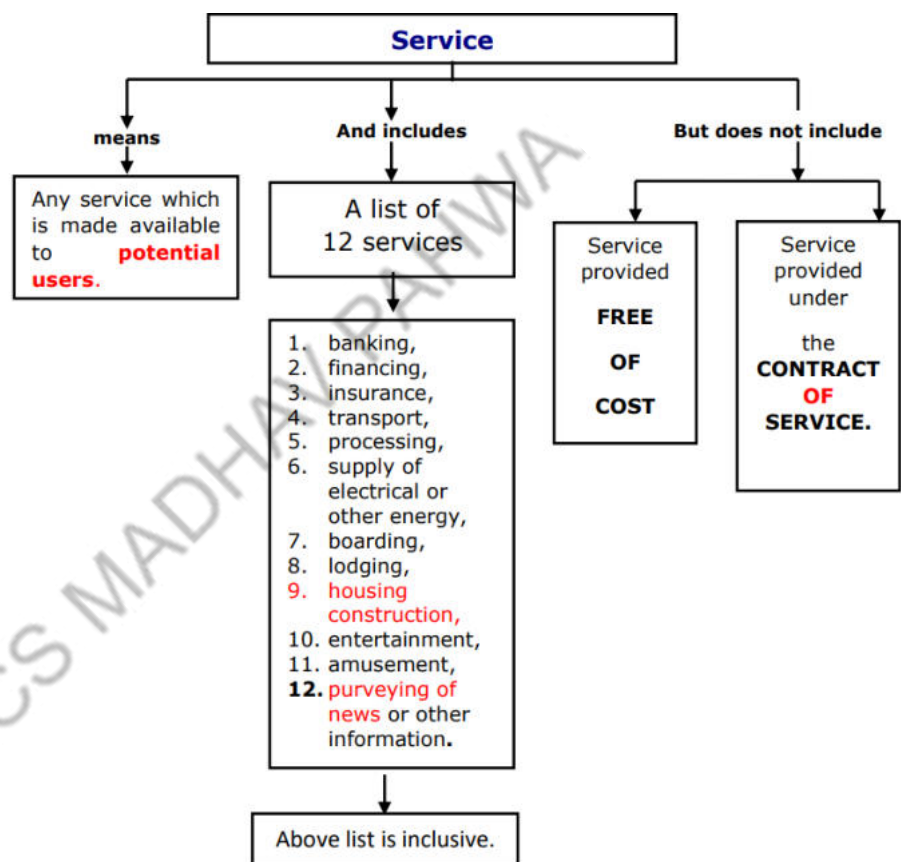
Examples of defects in goods:

1. A Pressure Cooker burst and caused injury to the user. It was held to be a manufacturing defect - *T.T. (P.) Ltd. v. Akhil Bhartiya Grahak Panchayat* [1996] NC.
2. Where laboratory test report showed that **soft drink** was not fit for human consumption, it was held defective - *Narayanan Vyankatkrishnan Iyengar v. Shakti Foods* [1994] (Mah.).
3. **Gas Cylinder** with excessive gas is defective goods - *Dayanand A Avasare v. Bharat Petroleum Corporation Ltd.* (1993) (Mah.).

4. A supplied white **marble** to B. Later on the **colour** of the marble **changed**. HELD it comes within the scope of 'defect' in goods under the Act - *Chitranjan Sahu v. N.C. Jain (1993)*.

SERVICE – Section 2(42)

It **means** service of any description which is made available to potential users **and includes, but not limited to**, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, telecom, boarding or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, **but does not include** the rendering of any **service free of charge or under a contract of personal service**;



There is a difference between 'contract **of** personal service' and 'contract **for** personal service'.

Contract of service v. Contract for service

Contract OF Service	Contract FOR Service
It is NOT a service in CPA, 1986.	It is a service in CPA, 1986.
EXAMPLES of Contract of service – 1. Employer-employee relationship 2. Principal-agent relationship 3. Landlord-tenant relationship	Contract for service includes the services provided on Principal to Principal basis . EXAMPLES - 1. Client hiring services of an advocate . 2. Patient hiring services of a doctor .

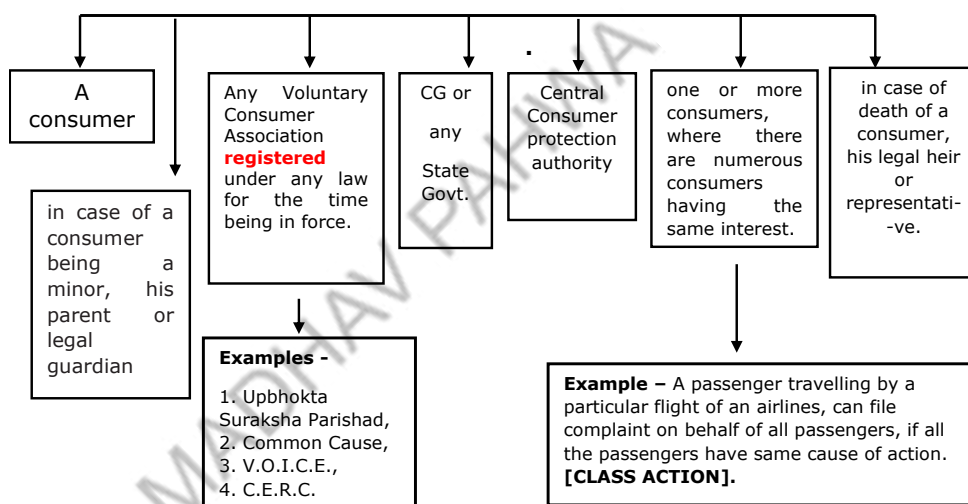
DEFICIENCY – Section 2(11)

It means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service and includes—

- (i) any act of negligence or omission or commission by such person which causes loss or injury to the consumer; and
- (ii) deliberate withholding of relevant information by such person to the consumer;

COMPLAINANT – Section 2(5)

Seven categories of Complainants



COMPLAINT – Section 2(6)

It means any **allegation in writing**, made by a complainant for **obtaining any relief** provided by or under this Act, that—

- (i) an **unfair contract** or **unfair trade practice** or a **restrictive trade practice** has been adopted by any trader or service provider;
- (ii) the **goods** bought by him or agreed to be bought by him suffer from one or more **defects**;
- (iii) the **services** hired or availed of or agreed to be hired or availed of by him suffer from any **deficiency**;
- (iv) a trader or a service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a **price in excess** of the price—

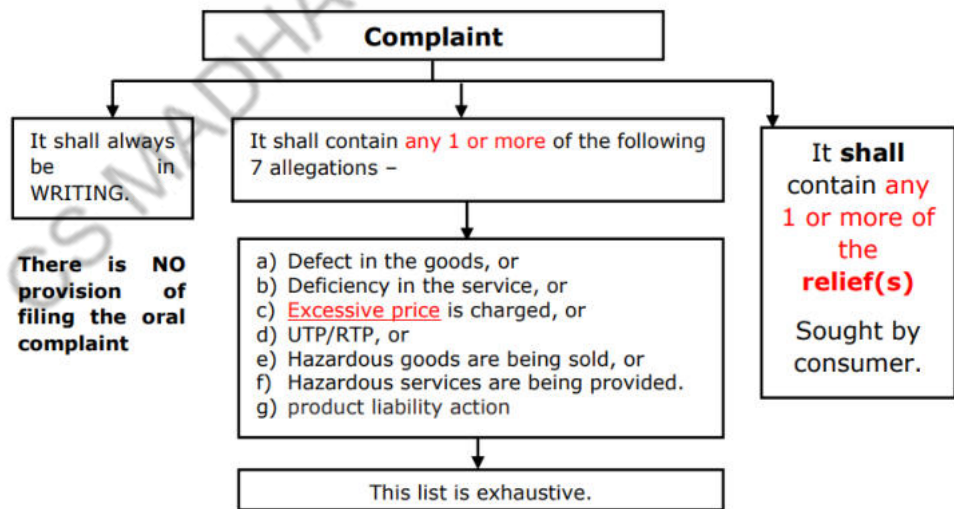
- (a) fixed by or under any law for the time being in force; or
- (b) displayed on the goods or any package containing such goods; or
- (c) displayed on the price list exhibited by him by or under any law for the time being in force; or
- (d) agreed between the parties;

(v) the goods, which are hazardous to life and safety when used, are being offered for sale to the public—

- (a) in contravention of standards relating to safety of such goods as required to be complied with, by or under any law for the time being in force;
- (b) where the trader knows that the goods so offered are unsafe to the public;

(vi) the services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by a person who provides any service and who knows it to be injurious to life and safety;

(vii) a claim for product liability action lies against the product manufacturer, product seller or product service provider, as the case may be;



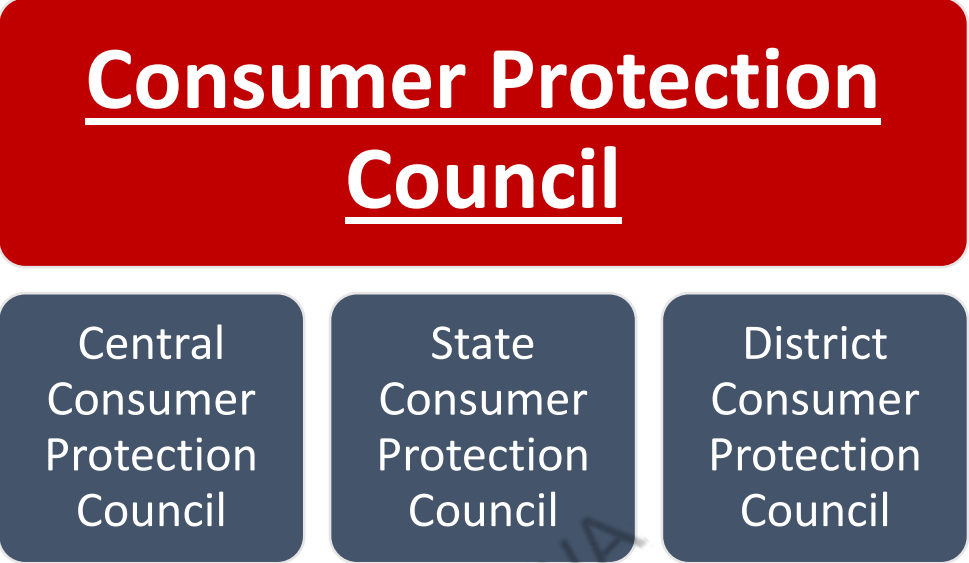
How to Make the Complaint?

- Every complaint filed before **District** Commission/ **State** Commission/ **National** Commission.
- Accompanied by a **fee as specified**, in the form of crossed Demand Draft drawn on a nationalized bank or through a crossed Indian Postal Order drawn in favour of the Registrar of the State Commission and payable at the respective place where the State Commission or the National Commission is situated.

	<ul style="list-style-type: none"> ▪ Name, description and address of the complainant. ▪ Name, description and address of the opposite party or parties. ▪ Facts relating the complaint and when and where it arose. ▪ Documents, if any in support of allegations. <p style="background-color: #f4a460; padding: 2px;">UNFAIR TRADE PRACTICE – Section 2(47)</p> <p>It means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, namely:—</p> <p>(i) making any statement, whether orally or in writing or by visible representation including by means of electronic record, which—</p> <ul style="list-style-type: none"> (a) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model; (b) falsely represents that the services are of a particular standard, quality or grade; (c) falsely represents any re-built, second-hand, renovated, reconditioned or old goods as new goods; (d) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have; (e) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have; (f) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services; (g) gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereof: Provided that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence; (h) makes to the public a representation in a form that purports to be— <ul style="list-style-type: none"> (A) a warranty or guarantee of a product or of any goods or services; or (B) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result, if such purported warranty or guarantee or promise is materially misleading or if
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	<p>there is no reasonable prospect that such warranty, guarantee or promise will be carried out;</p> <p>(i) materially misleads the public concerning the price at which a product or like products or goods or services, have been or are, ordinarily sold or provided, and, for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made;</p> <p>(j) gives false or misleading facts disparaging the goods, services or trade of another person.</p> <p>Explanation.—For the purposes of this sub-clause, a statement that is,—</p> <p>(A) expressed on an article offered or displayed for sale, or on its wrapper or container; or</p> <p>(B) expressed on anything attached to, inserted in, or accompanying, an article offered or displayed for sale, or on anything on which the article is mounted for display or sale; or</p> <p>(C) contained in or on anything that is sold, sent, delivered, transmitted or in any other manner whatsoever made available to a member of the public, shall be deemed to be a statement made to the public by, and only by, the person who had caused the statement to be so expressed, made or contained;</p> <p>(ii) permitting the publication of any advertisement, whether in any newspaper or otherwise, including by way of electronic record, for the sale or supply at a bargain price of goods or services that are not intended to be offered for sale or supply at the bargain price, or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement.</p> <p>Explanation.—For the purpose of this sub-clause, "bargain price" means,—</p> <p>(A) a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise; or</p> <p>(B) a price that a person who reads, hears or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold;</p>
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	<p>(iii) permitting—</p> <p>(a) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged, in the transaction as a whole;</p> <p>(b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest, except such contest, lottery, game of chance or skill as may be prescribed;</p> <p>(c) withholding from the participants of any scheme offering gifts, prizes or other items free of charge on its closure, the information about final results of the scheme.</p> <p>Explanation.—For the purpose of this sub-clause, the participants of a scheme shall be deemed to have been informed of the final results of the scheme where such results are within a reasonable time published, prominently in the same newspaper in which the scheme was originally advertised;</p> <p>(iv) permitting the sale or supply of goods intended to be used, or are of a kind likely to be used by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by the competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods;</p> <p>(v) permitting the hoarding or destruction of goods, or refusal to sell the goods or to make them available for sale or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services;</p> <p>(vi) manufacturing of spurious goods or offering such goods for sale or adopting deceptive practices in the provision of services;</p> <p>(vii) not issuing bill or cash memo or receipt for the goods sold or services rendered in such manner as may be prescribed;</p> <p>(viii) refusing, after selling goods or rendering services, to take back or withdraw defective goods or to withdraw or discontinue deficient services and to refund the consideration thereof, if paid, within the period stipulated in the bill or cash memo or receipt or in the absence of such stipulation, within a period of thirty days;</p> <p>(ix) disclosing to other person any personal information given in confidence by the consumer unless such disclosure is made in</p>
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	accordance with the provisions of any law for the time being in force.
<u>Consumer Protection Council</u>	<div style="text-align: center;">  <p>The diagram shows a hierarchy of consumer protection councils. At the top is the Consumer Protection Council (highlighted in a red box). Below it are three boxes representing the Central Consumer Protection Council, State Consumer Protection Council, and District Consumer Protection Council.</p> </div>
<u>Central Consumer Protection Council</u>	<ul style="list-style-type: none"> • The Central Government has the power to establish the Central Consumer Protection Council to be known as the Central Council. • The Central Council shall be an advisory council • <u>Minister-in-charge of the Department of Consumer Affairs</u> in the Central Government shall be Chairperson of central council. • Central council will have such number of other official or non-official members representing such interests as may be prescribed. <p><u>Meeting of Central Council</u></p> <ul style="list-style-type: none"> • The Central Council shall meet as and when necessary, but <u>at least one meeting of the Council shall be held every year</u>. • The Central Council shall meet at such <u>time and place as the Chairperson may think fit</u>. <p><u>Objective of Central Council –</u></p> <ul style="list-style-type: none"> • The objects of the Central Council shall be to render advice on promotion and protection of the consumers’ rights under the Act
<u>State Consumer Protection Council</u>	<ul style="list-style-type: none"> ▪ Every State Government empowers to establish a State Consumer Protection Council for such State to be known as the State Council. ▪ The State Council shall be an advisory council ▪ <u>Minister-in-charge of Consumer Affairs</u> in the State Government shall be Chairperson of state council. ▪ State council will have such number of other official or non-official members representing such interests as may be prescribed.

	<ul style="list-style-type: none"> ▪ State council shall also have such number of other official or non-official members, not exceeding ten, as may be nominated by the Central Government. <p><u>Meeting of State Council –</u></p> <ul style="list-style-type: none"> ▪ The State Council shall meet as and when necessary but <u>not less than two meetings</u> shall be held every year. ▪ The State Council shall meet at such time and place as the Chairperson may think fit <p><u>Objective of Central Council –</u></p> <ul style="list-style-type: none"> ▪ The objects of every State Council shall be to render advice on promotion and protection of consumer rights under the Act within the State.
<p><u>District Consumer Protection Council</u></p>	<ul style="list-style-type: none"> ♦ The State Government empowers to establish for every District a District Consumer Protection Council to be known as the District Council. ♦ The District Council shall be an advisory council ♦ <u>Collector of the district</u> shall be Chairperson of the District Council. ♦ District council shall have such number of other official and non-official members representing such interests as may be prescribed. <p><u>Meeting of State Council –</u></p> <ul style="list-style-type: none"> ♦ The District Council shall meet as and when necessary but <u>not less than two meetings</u> shall be held every year. ♦ The District Council shall meet at such time and place within the district as the Chairperson may think fit <p><u>Objective of Central Council –</u></p> <ul style="list-style-type: none"> ♦ The objects of every District Council shall be to render advice on promotion and protection of consumer rights under the Act within the district
<p><u>Central Consumer Protection Authority</u></p>	<p><u>Establishment – Section 10</u> The Central Government shall, by notification, establish with effect from such date as it may specify in that notification, a Central Consumer Protection Authority to be known as the Central Authority.</p> <p><u>Role of Central Authority</u></p> <ul style="list-style-type: none"> ▪ To regulate matters relating to – <ol style="list-style-type: none"> a) violation of rights of consumers, b) unfair trade practices and c) false or misleading advertisements

	<p>which are <u>prejudicial to the interests of public and consumers</u>; and</p> <ul style="list-style-type: none"> ▪ to <u>promote, protect and enforce</u> the rights of consumers as a class. <p><u>Composition</u> The Central Authority shall consist of a Chief Commissioner and such number of other Commissioners as may be prescribed, to be appointed by the Central Government to exercise the powers and discharge the functions under this Act.</p> <p><u>Headquarters and Other offices</u> The headquarters of the Central Authority shall be at such place in the National Capital Region of Delhi, and it shall have regional and other offices in any other place in India as the Central Government may decide.</p> <p><u>Qualifications, method of recruitment, etc., of Chief Commissioner and Commissioners – Section 11</u></p> <p>The Central Government may, by notification, make rules to provide for the qualifications for appointment, method of recruitment, procedure for appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of the service of the <u>Chief Commissioner and Commissioners</u> of the Central Authority.</p> <p><u>Vacancy, etc., not to invalidate proceedings of Central Authority – Section 12</u></p> <p>No act or proceeding of the Central Authority shall be invalid only because of:</p> <ul style="list-style-type: none"> ♦ any vacancy in, or any defect in the constitution of, the Central Authority; or ♦ any defect in the appointment of a person acting as the Chief Commissioner or as a Commissioner; or ♦ any irregularity in the procedure of the Central Authority not affecting the merits of the case. <p><u>Appointment of officers, experts, professionals and other employees of Central Authority – Section 13</u></p> <ol style="list-style-type: none"> 1. The Central Government shall provide the Central Authority such number of officers and other employees as it considers necessary for the efficient performance of its functions under this Act. 2. The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Central Authority appointed under this Act shall be such as may be prescribed.
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3. The Central Authority may engage, in accordance with the procedure specified by regulations, such number of experts and professionals of integrity and ability, who have special knowledge and experience in the areas of consumer rights and welfare, consumer policy, law, medicine, food safety, health, engineering, product safety, commerce, economics, public affairs or administration, as it deems necessary to assist it in the discharge of its functions under this Act.

Procedure of Central Authority – Section 14

1. The Central Authority shall regulate the procedure for transaction of its business and allocation of its business amongst the Chief Commissioner and Commissioners as may be specified by regulations.
2. The Chief Commissioner shall have the powers of general superintendence, direction and control in respect of all administrative matters of the Central Authority:

Provided that the Chief Commissioner may delegate such of his powers relating to administrative matters of the Central Authority, as he may think fit, to any Commissioner (including Commissioner of a regional office) or any other officer of the Central Authority.

Investigation Wing of Central Authority – Section 15

About Investigation wing

- ♦ The Central Authority shall have an **Investigation Wing**
- ♦ Investigation wing shall be headed by a **Director General**
- ♦ The purpose of investigation wing is to conduct inquiry or investigation under this Act as may be directed by the Central Authority

Appointment by CG

- The Central Government may appoint a Director General and such number of Additional Director General, Director, Joint Director, Deputy Director and Assistant Director, from amongst persons who have experience in investigation and possess such qualifications, in such manner, as may be prescribed.
- Every Additional Director General, Director, Joint Director, Deputy Director and Assistant Director shall exercise his powers, and discharge his functions, subject to the general control, supervision and direction of the Director General.
- The Director General may delegate all or any of his powers to the Additional Director General or Director, Joint Director or Deputy Director or Assistant Director, while conducting inquiries or investigations under this Act.

Powers and functions of Central Authority - Section 18

Central Authority has the power to:

- ✚ protect, promote and enforce the rights of consumers as a class,

	<ul style="list-style-type: none"> ✚ prevent violation of consumers rights under this Act; ✚ prevent unfair trade practices ✚ ensure that no person engages himself in unfair trade practices; ✚ ensure that no false or misleading advertisement is made of any goods or services which contravenes the provisions of this Act or the rules or regulations ✚ ensure that no person takes part in the publication of any advertisement which is false or misleading. <p>For the above purpose Central Authority has the following powers:</p> <ul style="list-style-type: none"> • inquiry or investigation to be made into violations of consumer rights or unfair trade practices, either suo motu or on a complaint received or on the directions from the Central Government; • file complaints before the District Commission, the State Commission or the National Commission, as the case may be, under this Act; • intervene in any proceedings before the District Commission or State Commission or National Commission, in respect of any allegation of violation of consumer rights or unfair trade practices; • undertake and promote research in the field of consumer rights; • spread and promote awareness on consumer rights; • encourage NGOs and other institutions working in the field of consumer rights to co-operate and work with consumer protection agencies; • issue safety notices to alert consumers against dangerous or hazardous or unsafe goods or services; • advise the Ministries and Departments of the Central and State Governments on consumer welfare measures; • recommend adoption of best international practices on consumer rights to ensure effective enforcement of consumer rights; • issue necessary guidelines to prevent unfair trade practices and protect consumers' interest. <p><u>Power of Central Authority to refer matter for investigation or to other Regulator – Section 19</u></p> <ol style="list-style-type: none"> 1. The Central Authority may, after receiving any information or complaint or directions from the Central Government or of its own motion, conduct or cause to be CONDUCTED A PRELIMINARY INQUIRY as to whether there exists a PRIMA FACIE CASE of violation of consumer rights or any unfair trade practice or any false or misleading advertisement, by any person, which is prejudicial to the public interest or to the interests of consumers and if it is satisfied that there exists a prima facie case, it shall cause investigation to be made by the Director- General or by the District Collector. 2. Where, after preliminary inquiry, the Central Authority is of the opinion that the matter is to be dealt with <u>by a Regulator</u>
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established under any other law for the time being in force, it may refer such matter to the concerned Regulator along with its report.

3. For the purposes of investigation under sub-section (1), the Central Authority, the Director General or the District Collector may call upon a person referred to in sub-section (1) and also direct him to produce any document or record in his possession.

Power of Central Authority to recall goods – Section 20

Where the Central Authority is satisfied on the basis of investigation that there is **sufficient evidence** to show violation of consumer rights or unfair trade practice by a person, it may pass such order as may be necessary, including—

- a) recalling of goods or withdrawal of services which are dangerous, hazardous or unsafe;
- b) reimbursement of the prices of goods or services so recalled to purchasers of such goods or services; and
- c) discontinuation of practices which are unfair and prejudicial to consumers' interest:

Provided that the **Central Authority shall give the person an opportunity of being heard** before passing an order under this section.

Power of Central Authority to issue directions and penalties against false or misleading advertisements – Section 21

1. If the Central Authority is satisfied after investigation that any advertisement is false or misleading and is prejudicial to the interest of any consumer or is in contravention of consumer rights, it may order to **discontinue** such advertisement or to modify the same.
2. If the Central Authority is of the opinion that it is necessary to impose a penalty in respect of such false or misleading advertisement, by a manufacturer or an endorser, it may, by order, impose on manufacturer or endorser a penalty which **may extend to 10 lakh rupees**.
3. The Central Authority may, for every subsequent contravention by a manufacturer or endorser, impose a penalty, which may **extend to 50 lakh rupees**.
4. Where the Central Authority deems it necessary, it may, by order, prohibit the endorser of a false or misleading advertisement from making endorsement of any product or service for a period which may **extend to 1 year**.
5. Central Authority may, for every subsequent contravention, prohibit such endorser from making endorsement in respect of any product or service for a period which may **extend to 3 years**.

6. Where the Central Authority is satisfied after investigation that any person is found to publish, or is a party to the publication of, a misleading advertisement, it may impose on such person a penalty which may **extend to 10 lakh rupees**.

Note –

- No endorser shall be liable to a penalty, if he has exercised due diligence to verify the validity of the claims made in the advertisement regarding the product or service being endorsed by him.
- No person shall be liable to such penalty if he proves that he had published or arranged for the publication of such advertisement in the ordinary course of his business: Provided that no such defence shall be available to such person if he had previous knowledge of the order passed by the Central Authority for withdrawal or modification of such advertisement.

While determining the penalty, Central Authority will consider following factors

- the population and the area impacted or affected by such offence;
- the frequency and duration of such offence;
- the vulnerability of the class of persons likely to be adversely affected by such offence; and
- the gross revenue from the sales effected by virtue of such offence.

Search and Seizure – Section 22

1. For the purpose of conducting an **investigation after preliminary inquiry** under sub-section (1) of section 19, the **Director-General or any other officer authorised by him in this behalf, or the District Collector**, as the case may be, may, if he has any reason to believe that any person has violated any consumer rights or committed unfair trade practice or causes any false or misleading advertisement to be made, **shall—**
 - (a) **enter at any reasonable time into any such premises and search** for any document or record or article or any other form of evidence and seize such document, record, article or such evidence;
 - (b) make **a note or an inventory** of such record or article; or
 - (c) require any person to produce any record, register or other document or article.
2. The provisions of the **Code of Criminal Procedure, 1973**, relating to search and seizure shall apply, as far as may be, for search and seizure under this Act.
3. Every document, record or article seized under clause (a) of sub-section (1) or produced under clause (c) of that sub-section shall

	<p>be returned to the person, from whom they were seized or who produced the same, within a period of 20 days of the date of such seizure or production.</p> <p>4. Where any article seized under sub-section (1) are subject to speedy or natural decay, the <u>Director-General or such other officer</u> may dispose of the article in such manner as may be prescribed.</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><u>Vexatious Search</u></p> <p><i>The Director General or any other officer, exercising powers under section 22, who knows that there are no reasonable grounds for so doing, and yet-</i></p> <ul style="list-style-type: none"> a) Searches, or causes to be searched any premises; or b) Seizes any record, register or other document or article, <p>SHALL, for every such offence, be punished with <i>imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.</i></p> </div> <p><u>Appeal - Section 24</u></p> <p>A person aggrieved by any order passed by the Central Authority under sections 20 and 21 may file an appeal to the National Commission within a period of thirty days from the date of receipt of such order.</p>
<p><u>Consumer Disputes Redressal Commission</u></p>	<div style="text-align: center; background-color: #34495e; color: white; padding: 20px; border-radius: 10px;"> <h1 style="margin: 0;">Consumer Disputes Redressal Commission</h1> </div> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="background-color: #e74c3c; color: white; padding: 10px; border-radius: 10px; text-align: center;"> <p>DISTRICT Consumer Disputes Redressal Commission</p> </div> <div style="background-color: #e74c3c; color: white; padding: 10px; border-radius: 10px; text-align: center;"> <p>STATE Consumer Disputes Redressal Commission</p> </div> <div style="background-color: #e74c3c; color: white; padding: 10px; border-radius: 10px; text-align: center;"> <p>NATIONAL Consumer Disputes Redressal Commission</p> </div> </div>
<p><u>District Consumer Disputes Redressal Commission</u></p>	<p><u>Establishment of DISTRICT Consumer Disputes Redressal Commission - Section 28</u></p> <p>1. The State Government shall, by notification, establish a <u>District Consumer Disputes Redressal Commission</u>, to be known as the District Commission, in each district of the State:</p> <p>Provided that the State Government may, if it deems fit, establish more than one District Commission in a district.</p>

2. Each District Commission **shall consist** of—

- a) a President; **and**
- b) not less than two and not more than such number of members as may be prescribed, in consultation with the Central Government.

Qualifications of President and members of District Commission – Section 29

The Central Government may, by notification, make rules to provide for the

- qualifications,
- method of recruitment,
- procedure for appointment,
- term of office,
- resignation and
- removal

of the President and members of the District Commission.

Jurisdiction of District Commission - Section 34

1. Subject to the other provisions of this Act, the District Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration **does not exceed fifty lakhs rupees.**

Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit.

2. A complaint shall be instituted in a District Commission within the local limits of whose jurisdiction—

(a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint,

- ordinarily resides or
- carries on business or
- has a branch office or
- personally works for gain; **or**

(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint,

- actually and voluntarily resides,
- or carries on business or
- has a branch office, or
- personally works for gain,

provided that in such case the permission of the District Commission is given; **or**

	<p>(c) the cause of action, wholly or in part, arises; or</p> <p>(d) the complainant resides or personally works for gain.</p> <p>3. The District Commission shall ordinarily function in the district headquarters and may perform its functions at such other place in the district, as the State Government may, in consultation with the State Commission, notify in the Official Gazette from time to time.</p> <p><u>Manner in which complaint shall be made - Section 35</u></p> <p>1. A complaint, in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided, may be filed with a District Commission by —</p> <ul style="list-style-type: none"> ❖ CONSUMER <ul style="list-style-type: none"> i. to whom such goods are sold or delivered or agreed to be sold or delivered or such service is provided or agreed to be provided; or ii. who alleges unfair trade practice in respect of such goods or service; ❖ RECOGNISED CONSUMER ASSOCIATION, <u>whether the consumer to whom</u> such goods are sold or delivered or agreed to be sold or delivered or such service is provided or agreed to be provided, or who alleges unfair trade practice in respect of such goods or service, is a member of such association or not; ❖ ONE OR MORE CONSUMERS, where there are numerous consumers having the same interest, with the permission of the District Commission, on behalf of, or for the benefit of, all consumers so interested; or ❖ CENTRAL GOVERNMENT, the Central Authority or the State Government, as the case may be: <p>Provided that the complaint under this sub-section may be filed electronically in such manner as may be prescribed.</p> <p>Explanation - For the purposes of this sub-section, "recognised consumer association" means any voluntary consumer association registered under any law for the time being in force.</p> <p>2. Every complaint filed under sub-section (1) shall be accompanied with such fee and payable in such manner, including electronic form, as may be prescribed.</p>
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Proceedings before District Commission - Section 36

Who shall conduct Proceedings

- Every proceeding before the District Commission shall be conducted by the President of that Commission and at least one member, sitting together.
- Provided that where a member, for any reason, is unable to conduct a proceeding till it is completed, the President and the other member shall continue the proceeding from the stage at which it was last heard by the previous member.

Power of District Commission

- On receipt of a complaint made **u/s 35**, the District Commission may, by order, admit the complaint for being proceeded with or reject the same.
- Provided that a complaint shall not be rejected unless an opportunity of being heard has been given to the complainant.

Period within which complaint shall be accepted

- Complaint shall be admitted within 21 days from the date on which the complaint was filed.
- Where the District Commission does not decide the issue of admissibility of the complaint within 21 days, it shall be **deemed to have been admitted**.

Reference to mediation – Section 37

1. **At the first hearing of the complaint after its admission, or at any later stage, if it appears to the District Commission that there exist ELEMENTS OF A SETTLEMENT which may be acceptable to the parties, except in such cases as may be prescribed, it may direct the parties to give in writing, within 5 days, consent to have their dispute settled by mediation in accordance with the provisions of Chapter V.**
2. **Where the parties agree for settlement by mediation and give their consent in writing, the District Commission shall, within next 5 days of receipt of such consent, refer the matter for mediation, and in such case, the provisions of Chapter V, relating to mediation, shall apply.**

Procedure on admission of complaint - Section 38

1. The District Commission shall, **on admission of a complaint, or** in respect of cases referred for mediation on failure of settlement by mediation, proceed with such complaint.
2. Where the complaint relates to **ANY GOODS**, the District Commission shall,—
 - (a) **refer a copy** of the admitted complaint, **within 21 days from the date of its admission to the opposite party** mentioned in the complaint **directing him to give his version of the**

	<p>case within a period of 30 days or such extended period not exceeding 15 days as may be granted by it;</p> <p>(b) if the opposite party on receipt of a complaint referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Commission, proceed to settle the consumer dispute in the manner specified in clauses (c) to (g);</p> <p>(c) if the complaint alleges a defect in the goods which cannot be determined without PROPER ANALYSIS OR TEST of the goods, obtain a sample of the goods from the complainant, seal it and authenticate it in the manner as may be prescribed and refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory to make an analysis or test, whichever may be necessary, with a view to finding out whether such goods suffer from any defect alleged in the complaint or from any other defect and to report its findings thereon to the District Commission within a period of 45 days of the receipt of the reference or within such extended period as may be granted by it;</p> <p>(d) before any sample of the goods is referred to any appropriate laboratory under clause (c), require the complainant to deposit to the credit of the Commission such fees as may be specified, for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question;</p> <p>(e) remit the amount deposited to its credit under clause (d) to the appropriate laboratory to enable it to carry out the analysis or test mentioned in clause (c) and on receipt of the report from the appropriate laboratory, it shall forward a copy of the report along with such remarks as it may feel appropriate to the opposite party;</p> <p>(f) if any of the parties disputes the correctness of the findings of the appropriate laboratory, or disputes the correctness of the methods of analysis or test adopted by the appropriate laboratory, require the opposite party or the complainant to submit in writing his objections with regard to the report made by the appropriate laboratory;</p> <p>(g) give a reasonable opportunity to the complainant as well as the opposite party of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the objection made in relation thereto under clause (f) and issue an appropriate order under section 39.</p> <p>3. The District Commission shall, if the complaint admitted by it under sub-section (2) of section 36 relates to goods in respect of which the procedure specified in sub-section (2) cannot be followed, or if the complaint relates to any SERVICES—</p> <p>(a) refer a copy of such complaint to the opposite party directing him to give his version of the case within a period of 30</p>
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	<p>days or such extended period not exceeding 15 days as may be granted by the District Commission;</p> <p>(b) if the opposite party, on receipt of a copy of the complaint, referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Commission, it shall proceed to settle the consumer dispute—</p> <p>(i) on the basis of evidence brought to its notice by the complainant and the opposite party, if the opposite party denies or disputes the allegations contained in the complaint, or</p> <p>(ii) ex-parte on the basis of evidence brought to its notice by the complainant, where the opposite party omits or fails to take any action to represent his case within the time given by the Commission;</p> <p>(c) decide the complaint on merits if the complainant fails to appear on the date of hearing.</p> <p>4. For the purposes of sub-sections (2) and (3), the District Commission may, by order, require an electronic service provider to provide such information, documents or records, as may be specified in that order.</p> <p>5. No proceedings complying with the procedure laid down in sub-sections (1) and (2) shall be called in question in any court on the ground that the principles of natural justice have not been complied with.</p> <p>6. Every complaint shall be heard by the District Commission on the basis of affidavit and documentary evidence placed on record:</p> <p>Provided that where an application is made for hearing or for examination of parties in person or through video conferencing, the District Commission may, on sufficient cause being shown, and after recording its reasons in writing, allow the same.</p> <p>7. Every complaint shall be disposed of as expeditiously as possible and endeavour shall be made to decide the complaint within a period of three months from the date of receipt of notice by opposite party where the complaint does not require analysis or testing of commodities, and within five months if it requires analysis or testing of commodities:</p> <p>Provided that no adjournment shall ordinarily be granted by the District Commission unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Commission:</p>
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Provided further that the District Commission shall make such orders as to the costs occasioned by the adjournment as may be specified by regulations:

Provided also that in the event of a complaint being disposed of after the period so specified, the District Commission shall record in writing, the reasons for the same at the time of disposing of the said complaint.

8. Where during the pendency of any proceeding before the District Commission, if it appears necessary, it may pass such interim order as is just and proper in the facts and circumstances of the case.
9. For the purposes of this section, the District Commission shall have the same powers as are vested in a **civil court** under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—
 - a) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;
 - b) requiring the discovery and production of any document or other material object as evidence;
 - c) receiving of evidence on affidavits;
 - d) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
 - e) issuing of commissions for the examination of any witness, or document; And
 - f) any other matter which may be prescribed by the Central Government.

Findings of District Commission – Section 39

1. Where the **District Commission** is satisfied that:
 - the goods complained against **suffer from any of the defects** specified in the complaint; or
 - that any of the **allegations contained in the complaint about the services or any unfair trade practices is correct**; or
 - claims for **compensation under product liability are proved**

Then it shall issue an order to the opposite party directing him to do one or more of the following

- a. **to remove the defect** pointed out by the appropriate laboratory from the goods in question;
- b. to **replace the goods** with new goods of similar description which shall be free from any defect;
- c. to **return** to the complainant the price or the charges paid by the complainant along with such interest on such price or charges as may be decided;
- d. to **remove the defects in goods or deficiencies in the services** in question;

	<p>e. to discontinue the unfair trade practice or restrictive trade practice and not to repeat them;</p> <p>f. not to offer the hazardous or unsafe goods for sale;</p> <p>g. to withdraw the hazardous goods from being offered for sale;</p> <p>h. to cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;</p> <p>i. to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party</p> <p>j. to pay such amount as may be awarded by it as compensation in a product liability action</p> <p>k. to pay such sum as may be determined by it, if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently. it may be noted that the minimum amount of sum so payable <i>shall not be less than 25% of the value of such defective goods sold or service provided</i>, as the case may be, to such consumers;</p> <p>l. to issue corrective advertisement to neutralize the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;</p> <p>m. to provide for adequate costs to parties; and</p> <p>n. to cease and desist from issuing any misleading advertisement.</p> <p>2. Any amount obtained under sub-section (1) shall be <u>credited to such fund and utilised in such manner as may be prescribed.</u></p> <p>3. In any proceeding conducted by the President and a member and if they differ on any point or points, they shall state the point or points on which they differ and refer the same to another member for hearing on such point or points and the opinion of the majority shall be the order of the District Commission:</p> <p>Provided that the other member shall give his opinion on such point or points referred to him within a period of one month from the date of such reference.</p> <p>4. Every order made by the District Commission under sub-section (1) shall be signed by the President and the member who conducted the proceeding.</p> <p>Provided that where the order is made as per majority opinion under sub-section (3), such order shall also be signed by the other member.</p>
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	<p><u>Review by District Commission in certain cases - Section 40</u></p> <p>The District Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order.</p> <p><u>Appeal against order of District Commission - Section 41</u></p> <p>Any person aggrieved by an order made by the District Commission may prefer an appeal against such order to the State Commission on the grounds of facts or law within a period of 45 days from the date of the order, in such form and manner, as may be prescribed:</p> <p>Provided that the State Commission may entertain an appeal after the expiry of the said period of 45 days, if it is satisfied that there was sufficient cause for not filing it within that period.</p> <p>Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District Commission, shall be entertained by the State Commission <u>unless the appellant has deposited 50% of that amount</u> in the manner as may be prescribed:</p> <p>Provided also that no appeal shall lie from any order passed under section 81(1) by the District Commission pursuant to a settlement by mediation u/s 80.</p>
<p><u>State Consumer Disputes Redressal Commission</u></p>	<p><u>Establishment - Section 42</u></p> <ul style="list-style-type: none"> ➤ The State Government shall, by notification, establish a State Consumer Disputes Redressal Commission, to be known as the State Commission, in the State. ➤ The State Commission shall ordinarily function at the State capital and perform its functions at such other places as the State Government may in consultation with the State Commission notify in the Official Gazette. ➤ Each State Commission shall consist of— <ul style="list-style-type: none"> ◆ a President; and ◆ not less than four or not more than such number of members as may be prescribed in consultation with the Central Government. <p><u>Qualifications, etc., of President and members of State Commission - Section 43</u></p> <p>The Central Government may, by notification, make rules to provide for the</p> <ul style="list-style-type: none"> ◆ qualification ◆ appointment,

- ◆ method of recruitment,
- ◆ procedure of appointment,
- ◆ term of office,
- ◆ resignation and
- ◆ removal

of the President and members of the State Commission.

Jurisdiction of State Commission – Section 47

Subject to the other provisions of this Act, the State Commission shall have jurisdiction—

- a) to entertain—
- (i) complaints where the value of the goods or services paid as consideration, **exceeds rupees fifty lakhs, but does not exceed rupees two crore:**
Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit;
 - (ii) complaints against unfair contracts, where the value of goods or services paid as consideration does not exceed ten crore rupees;
 - (iii) appeals against the orders of any District Commission within the State; **AND**
- b) to **call for the records** and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Commission within the State, where it appears to the State Commission that such District Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity.

Manner in which Complaint shall be filed – Section 48

A complaint shall be instituted in a **State Commission** within the limits of whose jurisdiction:

- ◆ the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, ordinarily resides or carries on business or has a branch office or personally works for gain; or
- ◆ any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on business or has a branch office or personally works for gain, provided in such case, the permission of the State Commission is given; **or**
- ◆ the cause of action, wholly or in part, arises; **or**
- ◆ the complainant resides or personally works for gain.

Procedure applicable to State Commission – Section 49

1. The provisions relating to complaints under sections 35, 36, 37, 38 and 39 shall, with such modifications as may be necessary, be applicable to the disposal of complaints by the State Commission.
2. Without prejudice to the provisions of sub-section (1), the State Commission may also declare any terms of contract, which is unfair to any consumer, to be null and void.

Review by State Commission in certain cases - Section 50

The **State Commission shall have the power to review** any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties **within thirty days** of such order.

Appeal to National Commission – Section 51

1. **Any person aggrieved by an order made by the State Commission** in exercise of its powers conferred by sub-clause (i) or (ii) of clause (a) of sub-section (1) of section 47 **may prefer an appeal** against such order to the **National Commission** within a period of **thirty days** from the date of the order in such form and manner as may be prescribed.

Note:

- National Commission **shall not** entertain the appeal after the expiry of the said period of thirty days **unless** it is satisfied that there was sufficient cause for not filing it within that period.
 - No appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited **50%** of that amount in the manner as may be prescribed.
2. Save as otherwise expressly provided under this Act or by any other law for the time being in force, an **appeal** shall lie to the National Commission **from any order passed in appeal by any State Commission**, if the National Commission is satisfied that the case involves a substantial **QUESTION OF LAW**.
 3. An **appeal** may lie to the National Commission under this section from an order passed **ex-parte** by the State Commission.

	<p><u>Hearing of appeal by State Commission or National Commission – Section 52</u></p> <ul style="list-style-type: none"> ➤ An appeal filed before the State Commission or the National Commission <u>shall be heard and disposed within a period of 90 days from the date of its admission.</u> ➤ Adjournment shall not ordinarily be granted by the State Commission or the National Commission <u>unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing</u> by such Commission. ➤ In the event of an appeal being disposed of after the period so specified, the State Commission or the National Commission, shall record in writing the reasons for the same at the time of disposing of the said appeal.
<p><u>National Consumer Disputes Redressal Commission</u></p>	<p><u>Establishment – Section 53</u></p> <ol style="list-style-type: none"> 1. The Central Government shall, by notification, establish a National Consumer Disputes Redressal Commission, to be known as the National Commission. 2. The National Commission shall ordinarily function at the National Capital Region and perform its functions at such other places as the Central Government may in consultation with the National Commission notify in the Official Gazette. <p>Provided that the Central Government may, by notification, establish regional Benches of the National Commission, at such places, as it deems fit.</p> <p><u>Composition – Section 54</u></p> <p>The National Commission shall consist of</p> <ol style="list-style-type: none"> (a) a President; and (b) not less than four and not more than such number of members as may be prescribed. <p><u>Qualifications, etc., of President and members of National Commission – Section 55</u></p> <p>The Central Government may, by notification, make rules to provide for</p> <ul style="list-style-type: none"> • qualifications, • appointment, • term of office, • salaries and allowances, • resignation, • removal and • other terms and conditions of service <p>of the President and members of the National Commission.</p>

Term of Office

- The President and members of the National Commission shall hold office for such term as specified in the rules made by the Central Government but **not exceeding five years** from the date on which he enters upon his office and shall be eligible for re-appointment.
- NO President or members shall hold office as such after he has attained such age as specified in the rules made by the Central Government which **shall not exceed-**
 - (a) in the case of the President, the age of **seventy years**;
 - (b) in the case of any other member, the age of **sixty-seven years**.

Jurisdiction of National Commission – Section 58

1. Subject to the other provisions of this Act, the National Commission shall have jurisdiction:
 - a) to **entertain**—
 - (i) complaints where the value of the goods or services paid as consideration **exceeds rupees two crores**.
Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit;
 - (ii) complaints against unfair contracts, where the value of goods or services paid as consideration **exceeds ten crore rupees**;
 - (iii) appeals against the orders of any State Commission;
 - (iv) appeals against the orders of the Central Authority; **AND**
 - b) to **call for the records** and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.
2. The jurisdiction, powers and authority of the National Commission **may be exercised by Benches thereof** and a Bench may be constituted by the President with one or more members as he may deem fit.

Provided that the senior-most member of the Bench shall preside over the Bench.

Procedure applicable to National Commission – Section 59

1. The provisions relating to complaints under sections 35, 36, 37, 38 and 39 shall, with such modifications as may be considered necessary, be applicable to the disposal of complaints by the National Commission.

	<p>2. Without prejudice to sub-section (1), the National Commission may also declare any terms of contract, which is unfair to any consumer to be null and void.</p> <p><u>Review by National Commission in certain cases – Section 60</u></p> <p>The National Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order.</p> <p><u>Power to set aside ex parte orders – Section 61</u></p> <p>Where an order is passed by the National Commission ex parte, the aggrieved party may make an application to the <u>Commission for setting aside such order</u>.</p> <p><u>Appeal against order of National Commission – Section 67</u></p> <ul style="list-style-type: none"> ♦ Any person, aggrieved by an order made by the National Commission in exercise of its powers conferred by sub-clause (i) or (ii) of clause (a) of sub-section (1) of section 58, may prefer an appeal against such order to the Supreme Court within a period of 30 days from the date of the order. ♦ The Supreme Court may entertain an appeal after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for not filing it within that period. ♦ Provided further that no appeal by a person who is required to pay any amount in terms of an order of the National Commission shall be entertained by the Supreme Court unless that person has deposited 50 % of that amount in the manner as may be prescribed.
<p><u>Service of notice, etc. – Section 65</u></p>	<p>1. All notices, required by this Act to be served, shall be served by delivering or transmitting a copy thereof by registered post acknowledgment due addressed to opposite party against whom complaint is made or to the complainant by speed post or by such courier service, approved by the District Commission, the State Commission or the National Commission, as the case may be, or by any other mode of transmission of documents including electronic means.</p> <p>2. Without prejudice to the provisions contained in sub-section (1), the notice required by this Act may be served on an electronic service provider at the address provided by it on the electronic platform from where it provides its services as such and for this purpose, the electronic service provider shall designate a nodal officer to accept and process such notices.</p>

	<p>3. When an acknowledgment or any other receipt purporting to be signed by the opposite party or his agent or, as the case may be, by the complainant is received by the District Commission, the State Commission or the National Commission, as the case may be, or postal article containing the notice is received back by such District Commission, State Commission or the National Commission, with an endorsement purporting to have been made by a postal employee or by any person authorised by the courier service to the effect that the opposite party or his agent or complainant had refused to take delivery of the postal article containing the notice or had refused to accept the notice by any other means specified in sub-section (1) when tendered or transmitted to him, the District Commission or the State Commission or the National Commission, as the case may be, shall declare that the notice has been duly served on the opposite party or to the complainant, as the case may be:</p> <p>4. All notices required to be served on an opposite party or to complainant, as the case may be, shall be deemed to be sufficiently served, if addressed in the case of the opposite party, to the place where business or profession is carried on, and in case of the complainant, the place where such person actually and voluntarily resides.</p>
<p><u>Experts to assist National Commission or State Commission.</u></p>	<p>Where the National Commission or the State Commission, as the case may be, on an application by a complainant or otherwise, <u>is of the opinion that it involves the larger interest of consumers</u>, it may direct any individual or organisation or expert to assist the National Commission or the State Commission, as the case may be.</p>
<p><u>Finality of Orders</u> Section 68</p>	<p>Every order of a District Commission or the State Commission or the National Commission, as the case may be, shall, if no appeal has been preferred against such order under the provisions of this Act, be FINAL.</p>
<p><u>Limitation Period</u> Section 69</p>	<p>1. The District Commission, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen.</p> <p>2. Notwithstanding anything contained in sub-section (1), a complaint may be entertained after the period specified in sub-section (1), if the complainant satisfies the District Commission, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period.</p>

	<p>Provided that no such complaint shall be entertained unless the District Commission or the State Commission or the National Commission, as the case may be, records its reasons for condoning such delay.</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p style="text-align: center;">What is the Time Limit for Filing the Complaint?</p> <ul style="list-style-type: none"> • The complaint shall be filed within two years from the date on which the cause of action has arisen. • This would mean two years from the day the deficiency in service or defect in goods has arisen/ detected. • This is also known as the limitation period for filing the complaint. </div>
<p><u>Enforcement of orders of District Commission, State Commission and National Commission</u></p> <p>Section 71</p>	<p>Every order made by a District Commission, State Commission or the National Commission shall be enforced by it in the same manner as if it were a decree made by a Court in a suit before it and the provisions of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 shall, as far as may be, applicable, subject to the modification that every reference therein to the decree shall be construed as reference to the order made under this Act.</p>
<p><u>Penalty for non-compliance of order</u></p> <p>Section 72</p>	<p>Whoever fails to comply with any order made by the District Commission or the State Commission or the National Commission, as the case may be, shall be punishable with imprisonment for a term which shall not be less than 1 month, but which may extend to 3 years, or with fine, which shall not be less than 25000 rupees, but which may extend to 100000 rupees, or with both.</p>
<p><u>Appeal against order passed under section 72.</u></p> <p>Section 73</p>	<p>1. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, where an order is passed under sub-section (1) of section 72, an appeal shall lie, both on facts and on law from—</p> <ol style="list-style-type: none"> a) the order made by the District Commission to the State Commission; b) the order made by the State Commission to the National Commission; and c) the order made by the National Commission to the Supreme Court.

	<p>2. Except as provided in sub-section (1), no appeal shall lie before any court, from any order of a District Commission or a State Commission or the National Commission, as the case may be.</p> <p>3. Every appeal under this section shall be preferred within a period of thirty days from the date of order of a District Commission or a State Commission or the National Commission, as the case may be:</p> <p>Provided that the State Commission or the National Commission or the Supreme Court, as the case may be, may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period of thirty days.</p>
<p><u>MEDIATION</u></p>	<p><u>Establishment of consumer mediation cell – Section 74</u></p> <ol style="list-style-type: none"> 1. The State Government shall establish, by notification, a consumer mediation cell to be attached to each of the District Commissions and the State Commissions of that State. 2. The Central Government shall establish, by notification, a consumer mediation cell to be attached to the National Commission and each of the regional Benches. 3. A consumer mediation cell shall consist of such persons as may be prescribed. 4. Every consumer mediation cell shall maintain— <ol style="list-style-type: none"> a) a list of empanelled mediators; b) a list of cases handled by the cell; c) record of proceeding; and d) any other information as may be specified by regulations. 5. Every consumer mediation cell shall submit a quarterly report to the District Commission, State Commission or the National Commission to which it is attached, in the manner specified by regulations. <p><u>Duty of mediator to disclose certain facts – Section 77</u></p> <p>It shall be the duty of the mediator to disclose:</p> <ol style="list-style-type: none"> a) any personal, professional or financial interest in the outcome of the consumer dispute; b) the circumstances which may give rise to a justifiable doubt as to his independence or impartiality; and c) such other facts as may be specified by regulations. <p><u>Replacement of mediator in certain cases – Section 78</u></p> <p>Where the District Commission or the State Commission or the National Commission, as the case may be, is satisfied, on the information furnished by the mediator or on the information</p>

received from any other person including parties to the complaint and after hearing the mediator, it **shall replace such mediator by another mediator.**

Procedure for mediation – Section 79

1. The mediation shall be held in the consumer **mediation cell** attached to the District Commission, the State Commission or the National Commission, as the case may be.
2. Where a consumer dispute is referred for mediation by the District Commission or the State Commission or the National Commission, as the case may be, the mediator nominated by such Commission shall have regard to the rights and obligations of the parties, the usages of trade, if any, the circumstances giving rise to the consumer dispute and such other relevant factors, as he may deem necessary and shall be guided by the principles of natural justice while carrying out mediation.

Settlement through mediation – Section 80

1. Pursuant to mediation, if an agreement is reached between the parties with respect to all of the issues involved in the consumer dispute or with respect to only some of the issues, the **terms of such agreement shall be reduced to writing accordingly, and signed by the parties to such dispute or their authorised representatives.**
2. The **mediator shall prepare a settlement report** of the settlement and forward the **signed agreement** along with such report to the concerned Commission.
3. Where no agreement is reached between the parties within the specified time or the mediator is of the opinion that settlement is not possible, he shall prepare his report accordingly and submit the same to the concerned Commission.

Recording settlement and passing of order – Section 81

1. The District Commission or the State Commission or the National Commission, as the case may be, shall, within **seven days of the receipt of the settlement report**, pass suitable order recording such settlement of consumer dispute and dispose of the matter accordingly.
2. Where the consumer dispute is settled **only in part**, the District Commission or the State Commission or the National Commission, as the case may be, shall record settlement of the issues which have been so settled and continue to hear other issues involved in such consumer dispute.

	<p>3. Where the consumer dispute could not be settled by mediation, the District Commission or the State Commission or the National Commission, as the case may be, shall continue to hear all the issues involved in such consumer dispute.</p>
<p><u>PRODUCT LIABILITY</u> [Section 82-87]</p>	<p><u>Application of Chapter – Section 82</u></p> <p>This Chapter shall apply to every claim for compensation under a product liability action by a complainant for any harm caused by a defective product manufactured by product manufacturer or serviced by a product service provider or sold by a product seller.</p> <div style="border: 1px solid black; padding: 10px; background-color: #fff9c4;"> <p>Harm in relation to a product liability, includes –</p> <ol style="list-style-type: none"> a) damage to any property, other than the product itself; b) personal injury, illness or death; c) mental agony or emotional distress attendant to personal injury or illness or damage to property; or d) any loss of consortium or services or other loss resulting from a harm referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii); <p>but shall not include any harm caused to a product itself or any damage to the property on account of breach of warranty conditions or any commercial or economic loss, including any direct, incidental or consequential loss relating thereto. [Section 2(22)]</p> </div> <p><u>Product liability action – Section 83</u></p> <p>A product liability action may be brought by a complainant against</p> <ul style="list-style-type: none"> ♦ a product manufacturer or ♦ a product service provider or ♦ a product seller, <p>as the case may be, for any harm caused to him on account of a defective product.</p> <p><u>Liability of product manufacturer – Section 84</u></p> <p>1. A <u>product manufacturer shall be liable</u> in a product liability action, if—</p> <ol style="list-style-type: none"> a) the product contains a <i>manufacturing defect</i>; or b) the product is <i>defective in design</i>; or c) there is a <i>deviation from manufacturing specifications</i>; or d) the product <i>does not conform to the express warranty</i>; or e) the product <i>fails to contain adequate instructions of correct usage</i> to prevent any harm or any warning regarding improper or incorrect usage.

2. A product manufacturer **shall be liable** in a product liability action even if he proves that he was not negligent or fraudulent in making the express warranty of a product.

Liability of product service provider – Section 85

A product service provider shall be liable in a product liability action, if—

- (a) the service provided by him was *faulty or imperfect or deficient or inadequate in quality, nature or manner of performance* which is required to be provided by or under any law for the time being in force, or pursuant to any contract or otherwise; or
- (b) there was *an act of omission or commission or negligence or conscious withholding any information* which caused harm; or
- (c) the service provider *did not issue adequate instructions or warnings* to prevent any harm; or
- (d) the service *did not conform to express warranty or the terms and conditions* of the contract.

Liability of product sellers – Section 86

A product seller who is **not** a product manufacturer shall be liable in a product liability action, if—

- a) he has exercised substantial control over the designing, testing, manufacturing, packaging or labelling of a product that caused harm; or
- b) he has altered or modified the product and such alteration or modification was the substantial factor in causing the harm; or
- c) he has made an express warranty of a product independent of any express warranty made by a manufacturer and such product failed to conform to the express warranty made by the product seller which caused the harm; or
- d) the product has been sold by him and the identity of product manufacturer of such product is not known, or if known, the service of notice or process or warrant cannot be effected on him or he is not subject to the law which is in force in India or the order, if any, passed or to be passed cannot be enforced against him; or
- e) he failed to exercise reasonable care in assembling, inspecting or maintaining such product or he did not pass on the warnings or instructions of the product manufacturer regarding the dangers involved or proper usage of the product while selling such product and such failure was the proximate cause of the harm.

	<p><u>Exceptions to product liability action – Section 87</u></p> <ol style="list-style-type: none"> 1. A product liability action cannot be brought against the product seller if, at the time of harm, the product was misused, altered, or modified. 2. In any product liability action based on the failure to provide adequate warnings or instructions, the product manufacturer shall not be liable, if— <ol style="list-style-type: none"> a) the product was purchased by an employer for use at the workplace and the product manufacturer had provided warnings or instructions to such employer; b) the product was sold as a component or material to be used in another product and necessary warnings or instructions were given by the product manufacturer to the purchaser of such component or material, but the harm was caused to the complainant by use of the end product in which such component or material was used; c) the product was one which was legally meant to be used or dispensed only by or under the supervision of an expert or a class of experts and the product manufacturer had employed reasonable means to give the warnings or instructions for usage of such product to such expert or class of experts; or d) the complainant, while using such product, was under the influence of alcohol or any prescription drug which had not been prescribed by a medical practitioner. 3. A product manufacturer shall not be liable for failure to instruct or warn about a danger which is obvious or commonly known to the user or consumer of such product or which, such user or consumer, ought to have known, taking into account the characteristics of such product.
<p><u>Penalty for non-compliance of direction of Central Authority</u></p>	<p>Whoever, fails to comply with any direction of the Central Authority under sections 20 and 21, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to twenty lakh rupees, or with both. [Section 88]</p>
<p><u>Punishment for false or misleading advertisement.</u></p>	<p>Any manufacturer or service provider who causes a false or misleading advertisement to be made which is prejudicial to the interest of consumers shall be punished with imprisonment for a term which may extend to two years and with fine which may extend to ten lakh rupees; and for every subsequent offence, be punished with imprisonment for a term which may extend to five years and with fine which may extend to fifty lakh rupees. [Section 89]</p>

<p><u>Cognizance of offence by court</u></p>	<p>Cognizance shall be taken by a competent court of any offence under sections 88 and 89 ONLY on a complaint filed by the Central Authority or any officer authorised by it in this behalf. [Section 92]</p>
<p><u>Compounding of offences</u> [Section 96]</p>	<ol style="list-style-type: none"> 1. Any offence punishable under sections 88 and 89, may, either before or after the institution of the prosecution, be compounded, <u>on payment of such amount as may be prescribed</u>: Provided that no compounding of such offence shall be made without the leave of the court before which a complaint has been filed under <u>section 92</u>: 2. The Central Authority or any officer as may be specially authorised by him in this behalf, may compound offences under sub-section (1). 3. Nothing in sub-section (1) shall apply to person who commits the same or similar offence, within a period of three years from the date on which the first offence, committed by him, was compounded. 4. Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded. 5. The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the Central Authority or an officer of the Central Authority empowered in this behalf shall be deemed to amount to an acquittal within the meaning of the Code of Criminal Procedure, 1973.
<p><u>E-COMMERCE</u></p>	<p><i>E-Commerce means buying or selling of goods or services including digital products over digital or electronic network.</i></p> <p>In exercise of the powers conferred by section 101(1)(zg) of the Consumer Protection Act, 2019 Central Government notified the <u>Consumer Protection (E-Commerce) Rules, 2020.</u></p> <p>Scope and Applicability of the Consumer Protection (E-Commerce) Rules, 2020-</p> <ul style="list-style-type: none"> ♦ all goods and services bought or sold over digital or electronic network including digital products; ♦ all models of e-commerce, including marketplace and inventory models of e-commerce; ♦ all e-commerce retail, including multi-channel single brand retailers and single brand retailers in single or multiple formats; and ♦ all forms of unfair trade practices across all models of e-

	<p>commerce.</p> <p>NOTE: Consumer Protection (E-Commerce) Rules, 2020 shall not apply to any activity of a natural person carried out in a personal capacity <u>not being part of any professional or commercial activity</u> undertaken on a regular or systematic basis.</p> <p>E-Commerce Entities</p> <p>“E-Commerce Entity” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce, but does not include a seller offering his goods or services for sale on a marketplace e-commerce entity.</p> <p>An e-commerce entity shall be a-</p> <ul style="list-style-type: none"> ➤ company incorporated under the Companies Act, 1956 or the Companies Act, 2013 or ➤ a foreign company covered under clause (42) of section 2 of the Companies Act, 2013 or ➤ an office, branch or agency outside India owned or controlled by a person resident in India as provided in sub-clause (iii) of clause (v) of section 2 of the Foreign Exchange Management Act, 1999. <p>Duties of e-commerce entities</p> <ol style="list-style-type: none"> 1. To appoint a nodal person of contact or an alternate senior designated functionary who is resident in India, to ensure compliance with the provisions of the Act or the rules made thereunder. 2. Every e-commerce entity shall provide the following information in a clear and accessible manner on its platform, displayed prominently to its users, namely:- <ul style="list-style-type: none"> • legal name of the e-commerce entity; • principal geographic address of its headquarters and all branches; • name and details of its website; and • contact details like e-mail address, fax, landline and mobile numbers of customer care as well as of grievance officer. 3. No e-commerce entity shall adopt any unfair trade practice, whether in the course of business on its platform or otherwise. 4. Establish a satisfactory grievance redressal mechanism and appoint a grievance officer for the same who shall recognize receipt of any complaint within 48 hours and redress the same within one month. Contact data for such a grievance officer is to be shown on the platform. 5. Where an e-commerce entity offers imported goods or services for sale, it shall mention the name and details of any importer from whom it has purchased such goods or services, or who may be a seller on its platform.
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6. Every e-commerce entity shall endeavour on a best effort basis to become a partner in the convergence process of the National Consumer Helpline of the Central Government.
7. No e-commerce entity shall impose cancellation charges on consumers cancelling after confirming purchase unless similar charges are also borne by the e-commerce entity, if they cancel the purchase order unilaterally for any reason.
8. Every e-commerce entity shall effect all payments towards accepted refund requests of the consumers as prescribed by the Reserve Bank of India or any other competent authority under any law for the time being in force, within a reasonable period of time, or as prescribed under applicable laws.
9. No e-commerce entity shall-
 - manipulate the price of the goods or services offered on its platform in such a manner as to gain unreasonable profit by imposing on consumers any unjustified price.
 - discriminate between consumers of the same class or make any arbitrary classification of consumers affecting their rights under the Act.

Marketplace E-Commerce Entities

Marketplace E-Commerce Entity means an e-commerce entity which provides an information technology platform on a digital or electronic network to facilitate transactions between buyers and sellers.

Liabilities of Marketplace E-Commerce Entities

1. Every marketplace e-commerce entity shall require sellers through an undertaking to ensure that descriptions, images, and other content pertaining to goods or services on their platform is accurate and corresponds directly with the appearance, nature, quality, purpose and other general features of such good or service.
2. Every marketplace e-commerce entity shall provide the following information in a clear and accessible manner, displayed prominently to its users at the appropriate place on its platform:
 - details about the sellers offering goods and services, including the name of their business, whether registered or not, their geographic address, customer care number, any rating or other aggregated feedback about such seller, and any other information necessary for enabling consumers to make informed decisions at the pre-purchase stage;
 - Ticket number for every grievance lodged for tracking the status;
 - Data relating to refund, return, exchange, warranty and guarantee delivery and shipment, methods of payment, and

	<p>complain redressal system;</p> <ul style="list-style-type: none"> ➤ information on available payment methods, the security of those payment methods, any fees or charges payable by users, the procedure to cancel regular payments under those methods, and the contact information of the relevant payment service provider; <p>3. Every marketplace e-commerce entity shall include in its terms and conditions generally governing its relationship with sellers on its platform, a description of any differentiated treatment which it gives or might give between goods or services or sellers of the same category.</p> <p>4. Every marketplace e-commerce entity shall take reasonable efforts to maintain a record of relevant information allowing for the identification of all sellers who have repeatedly offered goods or services that have previously been removed or access to which has previously been disabled under the Copyright Act, 1957 (14 of 1957), the Trade Marks Act, 1999 (47 of 1999) or the Information Technology Act, 2000 (21 of 2000).</p> <p>Inventory E-Commerce Entities</p> <p>Inventory E-Commerce Entity means an e-commerce entity which owns the inventory of goods or services and sells such goods or services directly to the consumers and shall include single brand retailers and multi-channel single brand retailers.</p> <p>Duties and Liabilities of Inventory E-Commerce Entities</p> <p>Every inventory e-commerce entity shall provide the following information in a clear and accessible manner, displayed prominently to its users:</p> <ul style="list-style-type: none"> a) accurate information related to return, refund, exchange, warranty and guarantee, delivery and shipment, cost of return shipping, mode of payments, grievance redressal mechanism, and any other similar information which may be required by consumers to make informed decisions; b) all mandatory notices and information required by applicable laws; c) information on available payment methods, the security of those payment methods, the procedure to cancel regular payments under those methods, any fees or charges payable by users, charge back options, if any, and the contact information of the relevant payment service provider; d) all contractual information required to be disclosed by law; e) total price in single figure of any good or service along with the breakup price for the good or service, showing all the compulsory and voluntary charges, such as delivery charges, postage and handling charges, conveyance charges and the applicable tax; and f) a ticket number for each complaint lodged, through which the
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	<p>consumer can track the status of their complaint.</p> <p>An inventory e-commerce entity is also required:</p> <ol style="list-style-type: none"> a) not to falsely represent as a consumer and post reviews about goods and services or misrepresent quality, b) ensure that the advertisements for marketing of goods or services are consistent with the actual characteristics, access and usage, c) not refuse to take back goods, or withdraw or discontinue services purchased or agreed to be purchased or refuse to refund consideration, if paid, if such goods or services are defective, deficient or spurious, etc.
<p><u>DIRECT SELLING</u></p>	<p>Direct Selling means marketing, distribution and sale of goods or provision of services through a network of sellers, other than through a permanent retail location.</p> <p>Direct Selling Entity means the principal entity which sells or offers to sell goods or services through direct sellers, but does not include an entity which is engaged in a Pyramid Scheme or money circulation scheme.</p> <p>Direct Seller means a person authorized by a direct selling entity through a legally enforceable written contract to undertake direct selling business on principal-to-principal basis.</p> <p>In exercise of the powers conferred by Section 101(2)(zg) read with Section 94 of the Consumer Protection Act, 2019, the Central Government notified the Consumer Protection (Direct Selling) Rules, 2021.</p> <p><u>Applicability of the Rules:</u></p> <p>It will apply to:</p> <ul style="list-style-type: none"> ◆ All goods and services bought or sold through direct selling. ◆ All models of direct selling, ◆ all direct selling entities offering goods and services to consumers in India. ◆ All forms of unfair trade practises across all models of direct selling. ◆ To direct selling entities which are not established in India, but offers goods or services to consumers in India. <p><u>Mandatory Maintenance of Records</u></p> <p>Every direct selling entity shall maintain at its registered office, either manually or electronically, all such documents as are required under any law for the time being in force, including the following documents or records, as may be applicable, namely:</p> <ul style="list-style-type: none"> ● Certificate of Incorporation; ● Memorandum of Association and Articles of Association; ● Permanent Account Number and Tax Deduction and Collection

	<p>Account Number;</p> <ul style="list-style-type: none"> • Goods and Services Tax registration; • Income Tax Returns; • Balance Sheet, Audit Report and such other relevant reports; • Register of direct sellers; • Certificate of Importer-Exporter code (in case of imported goods); • License issued under the Food Safety and Standards Authority of India Act, 2006 (34 of 2006) for the purposes of manufacture or sale of food items; • License and Registration Certificate issued under the Drugs and Cosmetics Act, 1940 (23 of 1940) for the purposes of manufacture or sale of drugs, including Ayurvedic, Siddha and Unani drugs and Homoeopathic Medicines; • Certificate of Registration of Trademark <p><u>Obligations of Direct Selling Entity</u></p> <p>Direct Selling Entity shall</p> <ol style="list-style-type: none"> a) Be either in the form of Company or Limited Liability Partnership (LLP) or Registered Partnership Firm and have minimum one physical location as its registered office within India. b) Make self-declaration that it has complied with the provisions of these rules and is not involved in any Pyramid Scheme or money circulation scheme. c) Maintain proper and updated website with all relevant details of that entity, including the all documents or records along with self-declaration, contact information which is current and updated, details of its nodal officer, grievance redressal officer, its management, products, product information, price and grievance redressal mechanism for consumers. d) Own, hold or be the licensee of a trademark and obtain all applicable trade registrations and licenses, including Permanent Account Number (PAN) and Goods and Services Tax Registration (GSTIN). e) Get all information provided by it on its website duly certified by a Company Secretary. f) Have a prior written contract with its direct sellers in order to authorize them to sell or offer to sell its goods or services, and the terms of such agreement shall be just, fair and equitable. g) Ensure that all its direct sellers have verified identities and physical addresses and issue identity cards and documents only to such direct sellers. h) Be liable for the grievances arising out of the sale of goods or services by its direct sellers. i) Provide the information on its website in a clear and accessible manner. j) Comply with the declarations to be made under the Legal Metrology Act, 2009. k) Store sensitive personal data within the jurisdiction of India and accordance with applicable law. l) Ensure that the grievance redressal officer acknowledges the
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	<p>receipt of any consumer complaint within forty-eight working hours of receipt of such complaint and redresses the complaint normally within a period of one month from the date of receipt of the complaint.</p> <ul style="list-style-type: none"> m) Appoint a nodal officer who shall be responsible for ensuring compliance with the provisions of the Act and the rules made thereunder. n) Maintain a record of all its direct sellers, including their identity proof, address proof, e-mail and such other contact information. o) Ensure that the advertisements for marketing of goods or services are consistent with the actual characteristics, access and usage conditions of such goods or services. p) Not directly or indirectly, falsely represent itself as a consumer and post reviews about its goods or services or misrepresent the quality or features of any of its goods or services. q) Maintain a record of all direct sellers who have been delisted by the direct selling entity and such list shall be publicly shared on its website. r) Become a partner in the convergence process of the National Consumer Helpline of the Central Government. <p>Obligations of Direct Seller</p> <ol style="list-style-type: none"> 1. Every direct seller shall- <ul style="list-style-type: none"> a) have a prior written contract with the direct selling entity for undertaking sale of, or offer to sell, any goods or services of such entity; b) at the initiation of any sale representation, truthfully and clearly identify himself, disclose the identity of the direct selling entity, the address of place of business, the nature of goods or services sold; c) make an offer to the prospect providing accurate and complete information, demonstration of goods and services, prices, credit terms, terms of payment, return, exchange, refund policy, return policy, terms of guarantee and after-sale service; d) provide an order form to the consumer at or prior to the time of the initial sale, which shall identify the direct selling entity and the direct seller; e) obtain goods and service tax registration, Permanent Account Number registration, all applicable trade registrations and licenses and comply with the requirements of applicable laws, rules and regulations for sale of a product; f) ensure that actual product delivered to the buyer matches with the description of the product given; g) take appropriate steps to ensure the protection of all sensitive personal information provided by the consumer in accordance with the applicable laws for the time being in force and ensure adequate safeguards to prevent access to, or misuse of, data by unauthorized persons.
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2. A direct seller **shall not**-

- a) visit a consumer's premises without identity card and prior appointment or approval;
- b) provide any literature to a prospect, which has not been approved by the direct selling entity;
- c) in pursuance of a sale, make any claim that is not consistent with claims authorized by the direct selling entity.

NOTE: It may be noted that the direct sellers as well as the direct selling entities using e-commerce platforms for sale shall comply with the requirements of the Consumer Protection (e- Commerce) Rules, 2020

Prohibition of Pyramid Scheme and Money Circulation Scheme

The direct selling entity or direct seller **shall not** promote a Pyramid Scheme or participate in a money circulation scheme, under the guise of doing direct selling business.

Herein **money circulation scheme** as defined under the Prize Chits and Money Circulation Schemes(Banning) Act, 1978 is a scheme that assures an easy and quick way of earning money from another so as to invest the amount in a money circulation scheme.

Whereas a **pyramid scheme** is generally a structure in which an organizer initiates with one person representing the tip of the pyramid. One person recruits another who works under him and is required to invest some amount which is paid to the first recruiter. Since the person who was recruited by the initial recruiter has to make returns on his investment he then, in turn, recruits more investors who wish to invest a fixed sum of money and this goes on giving rise to a chain of pyramids.

It is thus a multi-layer network of subscribers who in order to receive benefits enroll more and more subscribers.

This practice is **illegal in India**, as in 2015 Reserve Bank of India even issued a statement warning investors to be cautious of these schemes that try to gain customers with promises of high returns.

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