
UNIT 7 CONSUMER PROTECTION

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7.0 OBJECTIVES

After studying this unit, you should be able to:

- trace the evolution of consumer movement including consumer protection laws
- state consumer rights and responsibilities
- identify basic features of Consumer Protection Act, 1986, and
- explain the concepts of Monopolistic Trade Practices, Restrictive Trade Practices and Unfair Trade Practices under the Monopolies and Restrictive Trade Practices (MRTP) Act, 1969.

7.1 INTRODUCTION

The consumer movement exercises a considerable influence on the socio-economic environment of business. The imperfections in both the product and factor markets often result in some sort of exploitation of consumers. In a country like India, a large percentage of the masses are illiterate, poorly informed and have limited purchasing power. Most of the critical goods are always in short supply. Therefore the government has a significant role in safeguarding the interests of the consumer by promoting a climate of fair competition and influencing business decisions.

Some legislative measures have already been taken by the Central Government to safeguard the interests of the Indian consumer. There is a growing concern about consumer protection in India and we have a wide range of enactments to protect the consumer. In this unit you will study the evolution of consumer movement including consumer protection laws. You will also get acquainted with the rights and responsibilities of the consumer.

7.2 EVOLUTION OF CONSUMER MOVEMENT INCLUDING CONSUMER PROTECTION LAWS

Consumer exploitation through unfair business practices is not a new phenomenon. In fact, the industrial revolution and a shift in population from rural areas to towns, and the anonymity of urban living gave plenty of scope for malpractices by business people.

In India, exploitation of consumers has assumed serious proportions. In view of the ever-increasing population and the need for goods and services on a large scale without a corresponding matching supply has created a situation of a near seller's market. The consumers have a very weak bargaining power and therefore cannot assert their rights. As a consequence, business people are tempted to follow certain practices which are unfair to consumers. Many manufacturers and traders indulge in making false claims about their foreign collaboration. The position on rendering of services to the public at large by business houses is no better. The consumers feel discouraged in pursuing their complaints in civil courts due to disproportionate cost involved in redressal and the unduly long time involved in the court litigation.

In order to protect consumers from unscrupulous and unethical practices by business people, the Indian Government, from time to time, has enacted different laws. Some of these Acts are as follows:

1. Sales of Goods Act, 1930
2. The Drugs and Cosmetics Act, 1940
3. Prevention of Food Adulteration Act, 1954
4. The Essential Commodities Act, 1955
5. The Indian Standards Institution Certification Act, 1952
6. Agricultural Products and Grading and Marketing (AGMARK) Act, 1937
7. The Standards of Weights and Measures Act, 1956
8. Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980

The above legislations are designed to offer protection to consumers in respect of price, quality, service, information, safety, etc. However, much is desired in so far as their implementation is concerned.

The object and intent of almost all these enactments are mainly punitive, though some of them are preventive in nature. These Acts provide for the prosecution and punishment of those persons who violate the provisions contained there in. The punishment is meant to operate as a deterrent against indulgence in malpractices in their dealings with consumers. None of these laws provide any direct relief to the consumer. He cannot seek any redressal against the offending trader, manufacturer or provider of service. Nor can he get compensation for loss suffered by him due to the defect in good or deficiency in service supplied to him.

The MRTP Act, 1969 gained the status of a specific consumer protection legislation with the amendments brought in it in 1984. Till 1984, there was no concept of unfair trade practice (UTP). In spite of the change in the MRTP Act, 1984, a need was felt to have a more elaborate consumer protection legislation because of certain limitations in the Act. As a consequence, the Consumer Protection Act, 1986 was born. It is described as a unique legislation of its kind ever enacted in India to offer protection to the consumers.

In addition to enactment of laws by the government, it is necessary to adopt measures to educate consumers to organise themselves for collective action. In this respect, the consumer movement has not made much progress in India. However, in United States of America, the consumer movement has developed on very sound lines. There, the consumer groups have realised their potential power and have become very active. They organise mass letter writing campaigns to the editors of newspapers, legislators and company presidents. They support consumer-oriented political candidates and attract media attention through demonstrations and picketing.

Consumer movement has spread internationally. It has become very strong in certain countries, such as Norway, Sweden, Netherlands, Australia and the United Kingdom.

During the last two decades, many international organisations have been active in the area of consumer protection. The United Nations (UN) General Assembly adopted a set of guidelines on consumer protection in 1985. These guidelines include:

- a) Physical safety of consumers
- b) Protection of economic interest of consumers
- c) Consumer's access to information needed to make informed choices
- d) Statutory measures for redressal of consumer grievances
- e) Distribution of essential goods and services
- f) Satisfactory product and performance standard
- g) Fair business practices
- h) International cooperation in the field of consumer protection

The developing countries including India too are not far behind in protecting the interests of their vast consuming population. In addition to the governmental agencies created under different legislations, there are about five hundred voluntary consumer associations functioning in India to protect the interests of consumers. Also, these associations are engaged in creating awareness among consumers and taking up their cause not only before the various law-enforcing agencies but also the business houses. Even then, the consumer movement in India, as compared to developed countries, is still in its infancy. However it is making steady progress and is destined to achieve its laudable objective in near future. In this respect, the role of consumers cannot be overemphasised. In order to make the consumer movement successful, they must be aware of the existing consumer protection laws. In fact, the laudable objectives of the legislation concerning consumer protection can only be achieved if consumers become fully conscious of their rights and are aware of availability to cheap and speedy remedies under the Act. They must understand that 'self-help is the best help'. We will study the rights and responsibilities of the consumers in section 7.3 below.

7.3 CONSUMER RIGHTS AND RESPONSIBILITIES

It is important for us to know the different rights which have been given to consumers to enable them to protect themselves. These rights are not merely social codes but most of these rights now have legal sanction behind them. In other words, there are consumer protection laws and judicial decisions, which aim at upholding the consumer rights.

7.3.1 Consumer Rights

For a long time, certain basic rights of consumers have been recognised all over the world. In India the Consumer Protection Act, 1986 has extended a statutory recognition to some of the rights of consumers. Section 6 of the Act recognises the following six rights of consumers:

- a) Right to safety
- b) Right to be informed
- c) Right to choose
- d) Right to be heard
- e) Right to seek redressal
- f) Right to consumer education

Let us explain these rights in detail.

- a) **Right to safety:** The right to safety means the right to be protected against marketing of goods and services which are hazardous to life and property. There are various risks involved in the consumption and use of products, such as electrical

appliances, drugs, pressure cookers etc. The products may cause even risk to life on the slightest lapse in their use.

- b) **Right to be informed:** The right to be informed about the quality, quantity, potency, purity, standard and price of goods and services so as to protect the consumer against unfair trade practices. He has got a right to have information in detail about the product, including its ingredients, date of manufacture, technical specifications etc. Also he must be told about the precautions to be taken in the use of the product and its proper maintenance and upkeep. He must be told about the strength, durability, serviceability and re-use value of the product. Also he has a right to know the side effects or after-effects (especially in the case of medicines), risks involved in the use of gadgets, toys for children, etc.
- c) **Right to choose:** Right to be assured, wherever possible, access to a variety of goods and services at competitive prices. The consumer should be given the right to make evaluation of the alternative products and to buy the one which he chooses. He is not to be made the victim of high-pressure and aggressive salesmanship.
- d) **The right to be heard:** A consumer is to be assured that his interest will receive due consideration at appropriate forums. This right includes the right to make protest against the defect in goods or deficiency in services provided to the consumer. The consumer can exercise this right either himself or through consumer's associations.
- e) **The right to redressal:** It means the consumer has a right to a fair settlement of his just claims. It includes the right to receive compensation for misrepresentation or shoddy goods or deficient services,
- f) **The right to consumer education:** It means the right to acquire knowledge and skills to be an informed consumer throughout his life. This education is needed for taking action to influence factors which affect consumer decisions. Also, this will help the consumer in protecting himself against fraudulent, deceitful and grossly misleading information, advertising, labelling, or such other practices. The education will inform him his legal rights and remedies under the different consumer protection laws.

7.3.2 Some Other Rights

In addition to the rights of consumers as given in Section 6 of the Consumer Protection Act, 1986, there are certain other rights also. There are:

1. **The right to a healthy environment:** This right will help in enhancing the quality of life of the citizens. This right will ensure protection against environmental pollution, over which the individual consumer may not have any control.
2. **The right to satisfaction of basic needs:** He has a right to have access to basic and essential goods and services, adequate food, clothing, shelter, health care, education and sanitation.

7.3.3 Duties and Responsibilities of Consumers

It is a fact of social life that rights and duties are two sides of the same coin. As a consumer, you have rights, but there are duties also. As consumers, we have two types of duties: i). Duties with respect to the enforcement of rights and, ii) Duties in relation to other consumers. With reference to the first type of duties, it is to be noted that they are inseparable from his rights. The duties and responsibilities related to the rights of consumers enumerated earlier are described below.

- It is the duty of every consumer to be careful while buying, about the quality of the goods. He is to ensure himself that the goods which he is buying are not dangerous and get assurance from the seller that they are free of defects, He may insist for the guarantee of safe products.
- The consumer should insist on getting all the information about the product or service before making a choice. This will help him in taking a decision whether to buy or not from a particular dealer, Also, this information will protect him from becoming a victim of high pressure selling techniques.

- The consumer should inspect a variety of goods before making a decision as to which one to buy. Of course, while taking a decision, he will compare weight, quality, price, durability etc. of goods of different manufacturers. No doubt, he can exercise this duty only in a competitive market where a variety of goods are available at competitive prices.
- The consumers should form consumers' associations. Every person **must** be aware of the consumer association in some way or the other, the consumer should not hesitate.
- Further, it is the duty of every consumer to make complaints to the appropriate authority for his genuine grievances. Many a time, his complaint **may** be of small value, but its impact on the society, as a whole, may be very significant.
- Lastly, every consumer should acquire **knowledge** about **different** rights and duties enshrined in some law or the other. An **informed** consumer should help overcome ignorance of less informed or ill-informed consumers.

In addition to the duties enumerated above, the consumers have duties to other consumers. These are known as social and ecological responsibilities. The consumers should make responsible choices about their purchases and consumption in relation to **society** and the environment. Some of the problems which are responsible for **irresponsible** consumption are waste of natural resources and **energy**, and environmental pollution. **A** purchase of a sub - standard **vehicle** emitting too much smoke affects other's right to have a healthy **environment**. Hoardings of goods which are in short supply affects others to have them at the time when they need and at reasonable prices. Therefore, the consumers should remember that the choices they make as consumers affect others, and also the environment.

Check Your Progress A

1. **Name** at least **three** laws which were enacted by the Government to protect consumers from unscrupulous and unethical practices of business people.
 - i)
 - ii)
 - iii)
2. What is the object and intent of the above enactments? Are they meant to punish the defaulters or to pay compensation to the aggrieved party?
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3. Mention at least three limitations of the above laws in that they cannot be of great help to consumers.
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4. Is there any other method, in addition to enactment of laws, to protect the interests of consumers? If so, name it.
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7.4.1 Introduction

In Section 7.1 we have enumerated a number of enactments which have a bearing either directly or indirectly on the protection of interests of the consumers. Almost all the enactments were meant to provide relief in specific situations only. None of them, for example, provided for rights of consumers, or for a separate judicial machinery to look into their complaints. The doctrine of caveat emptor (i.e., let the buyer beware) continued to be the governing rule. The helpless and harassed consumer did not really get any effective relief. The consumer remained the king only in the literature on economics. The seller/manufacturer/supplier of goods (and services) continued to be the leader. However, with the enactment of the Consumer Protection Act, 1986, the scenario has changed and the consumers have begun to get some relief for their grievances against the business people.

7.4.2 Salient Features of the Consumer Protection Act, 1986

The salient features of the Consumer Protection Act, 1986 are as follows:

- i) It aims to provide better and all-round protection to consumers.
- ii) In terms of geographical application, it applies to the whole of India except the state of Jammu and Kashmir.
- iii) It applies to all goods and services unless otherwise expressly notified by the Central Government.
- iv) It is indeed a very unique and highly progressive piece of social welfare legislation and is acclaimed as the magna carta of Indian consumers. The Act has made the consumer movement really going and more powerful, broad-based, effective and people-oriented. In fact, the Act has brought fresh hopes to the beleaguered Indian consumer. This is the only law which directly pertains to market place and seeks to redress complaints arising from it.
- v) It provides effective safeguards to the consumers against different types of exploitation such as defective goods, deficient services and unfair trade practices.
- vi) For enforcement of the rights of the consumer, the Act has created special consumer courts. The Act has made a provision for a three-tier consumer grievance redressal machinery with the District Forums at the base level, the State Commission at the middle level and the National Commission at the apex level. The state and national level bodies also function as appellate authorities. Also any decision of the National Commission can be challenged in the supreme court.

The cost of goods or services and compensation asked for is the criterion for filing the complaint with the above mentioned Redressal Forums. The District Forum has jurisdiction to entertain complaints where the amount involved is less than Rs. 5 lakhs. The State Commission has jurisdiction to entertain complaints if the amount claimed exceeds Rs. 5 lakhs but does not exceed Rs. 20 lakhs. The financial jurisdiction in the case of National Commission is where the claim exceeds Rs. 20 lakhs. These Redressal Forums constitute a quasi-judicial machinery to provide speedy and inexpensive relief to consumers.

The Redressal Forums are not trammelled by any technicalities or rules of complicated or elaborate procedure. They are merely to observe the basic rules of natural justice. No court fee or any other charge is to be paid in respect of any complaint or petition of appeal or revision, however high be the value of its subject matter.

- vii) The Act provides a simple, speedy, and inexpensive redressal of consumer grievances relating to defective goods or deficiency in services.
- viii) The complaint by the consumers needs only to set out the grievances in a very simple form and furnish the name and address of the opposite party against whom the complaint is made. The complaint may be in the form of a letter to the

concerned Redressal Forum and no formalities of any type would be insisted upon. Appearance before the Redressal Forum may be by the complainant himself in person or by an agent duly authorised by him. It is not obligatory for the parties to engage any advocate. Thus, it is a very simple and consumer-friendly legislation.

- ix) The definition of the expression 'service' given in the Act is very comprehensive. In fact, it will take in service of any description rendered for consideration by any person or organisation including a public sector undertaking and or government agency. However, service rendered free of charge or under any contract of personal service are excluded. Thus the following services do not fall within its ambit:
 - a) health services provided by government hospitals, b) civic amenities provided by municipal authorities.

All suppliers of goods and services, both in the private and in the public sector and the cooperative sector are covered by the Act.
- x) The hallmark of the Act is that it has set a time-frame for the disposal of cases.
- xi) The Act allows filing of 'class action' complaints on behalf of groups of consumers having common interests.
- xii) The act also covers complaints relating to unfair trade practices. Thus, a consumer can directly protest to the District Forum against food adulteration, short weighing and overcharging. For example, the consumer can pick up a food sample from a shop, get it analysed by a chemist and file a complaint on that basis. It also provides for complaints against charging in excess of the price of a product fixed by law or rule and/or displayed on the packaged commodities.
- xiii) To organise consumer resistance further and educate them the Act also provides for the formation of Consumer Protection Councils in every state. These Councils do not have any legal authority under the Act but are meant to promote the cause of consumer protection and cover the six consumer rights as given in Section 6 of the Act,

7.4.3 Definitions of Certain Expressions used in the Act

A number of words and expressions have been used in the Act. These must be clearly understood by you so that you can comprehend the provisions of the Act.

Consumer: The Act provides relief to consumers only. Therefore, you must know the meaning of a consumer. Section 2(1) (d) defines the term consumer. Consumer means any of the following persons:

- i) **A person who buys any goods for a consideration:** It also includes any other user of such goods when such use is made with the approval of the buyer. But it does not include a person who obtains such goods for resale or for any commercial purpose. However, the phrase 'commercial purpose' does not include use by a consumer of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of a self-employment.
- ii) **A person who hires or avails of any services for a consideration:** It also includes any beneficiary of such services other than the person who hires or avails of the services for consideration when such services are availed of with the approval of the first mentioned person. The consideration for the purchase of goods or hiring or availing of the services may have been paid or promised or partly paid and partly promised, or under any system of deferred payment.

Consumer dispute: According to Section 2(1) (c), 'Consumer dispute' means a dispute where person against whom a complaint has been made, denies or disputes the allegations contained in the complaint.

Defect: According to Section 2 (1) (c) , 'defect' 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 uader in any manner whatsoever in relation to any goods.

Deficiency: Corresponding to 'defect' in case of goods, the expression 'deficiency' is used in case of services. According to Section 2 (1) (g) deficiency means any fault,

imperfection, quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or otherwise in relation to any service.

District Forum: District Forum means a Consumer Disputes Redressal Forum established under Section 9 (a) by the State Government in each district of the state. The State Government may, if it deems fit, establish more than one District Forum in a district.

Goods: The term 'goods' under this Act has the same meaning as under the Sales of Goods Act, 1930. Accordingly, 'goods' means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

Manufacturer: Section 2 (1) (j) of the Act defines the term 'manufacturer' to mean any of the following persons:

- i) A person who makes or manufactures any good or part thereof.
- ii) A person who does not make or manufacture any goods but assembles parts thereof made or manufactured by others and claims the end product to be goods manufactured by himself, But where a manufacturer dispatches any goods or part thereof to any branch office maintained by him, such branch office shall not be deemed to be manufacturer even though the parts so dispatched to it are assembled at such branch office and are sold or distributed from such branch office.
- iii) A person who puts or causes to be put his own mark on any goods made or manufactured by any other manufacturer and claims such goods to be goods made or manufactured by himself.

National Commission: The expression 'National Commission' means the National Consumer Disputes Redressal Commission established under Section 9 (c) by the Central Government.

Person: The term 'person' includes:

- i) a firm, whether registered or not;
- ii) a Hindu Undivided Family
- iii) every other association of persons whether registered under Societies Registration Act or not.

Restrictive Trade Practice: It means any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as a condition precedent for buying, hiring or availing of other goods or services.

Service: Section 2 (1) (0) provides that 'service' means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, 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.

State Commission: It means a Consumer Disputes Redressal Commission established in a state under Section 9 (b), by the State Government.

Trader: A 'trader' in relation to any goods means a person who sells or distributes any goods for sale and includes the manufacturer thereof. Where such goods are sold or distributed in package form, the expression 'trader' shall include the packer of those goods.

Unfair Trade Practice: Somewhat similar to the definition of unfair trade practice under the MRTP Act, 1969, we have one under the Consumer Protection Act, 1986. It is defined to mean 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:

- 1) The practice of making any statement, whether orally or in writing or by visible representation which:
 - i) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style, or model;

- ii) falsely represents that the services are of a particular standard, quality or grade;
 - iii) falsely represents any re-built, second hand, renovated, reconditioned or old goods as new goods;
 - iv) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;
 - v) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;
 - vi) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;
 - vii) gives to the public any warranty or guarantee of the **performance**, efficiency or length of life of a product or of any goods that is not **based** on an adequate or proper test thereof. However, 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;
 - viii) makes to the public a representation in a form that purports to be
 - a) a warranty or **guarantee** of a product or of any goods, or services;
 - 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;
 - c) if such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such **warranty, guarantee** or promise will be carried out;
 - ix) 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;
 - x) gives false or **misleading** facts disparaging the goods, services or trade of another person.
- 2) Permits the publication of any advertisement, whether in any newspaper or otherwise, 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 period that is, and in quantities that are **reasonable**, have **regard** to the nature of the market and size of business, and the nature of advertisement.
 - 3) Permits (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; (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;
 - 4) Permits 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 competent authority relating to performance, composition, contents, design, construction, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person **using** the goods.
 - 5) **Permits** the hoarding or destruction of goods, or refuses 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.

7.4.4 No Relief to Consumers in the case of Unfair and Restrictive Trade Practices

In the case of these two practices, all that the district forum may order is to discontinue them, or not to report them.

7.4.5 Persons who can File a Complaint under the Act

The following categories of persons may file a complaint under the Act: (i) a consumer, (ii) any voluntary consumer association, registered under the Companies Act, 1956 or under any other law for the time being in force, (iii) the central government, (iv) any state government, (v) one or more consumers, where there are numerous consumers having the same interest.

Check Your Progress B

1. Give at least three main features of the Consumer Protection Act, 1986.

- i)
- ii)
- iii)

2. Give the financial jurisdiction for consumer complaints in the following cases:

- i) District Forum
- ii) State Commission
- iii) National Commission

7.5 MONOPOLISTIC AND RESTRICTIVE TRADE PRACTICES (MRTP) ACT, 1969

The MRTP Act, 1969 was brought on the statute with a view to ensure that the operation of the economic system does not result in the concentration of economic power to the common detriment, and that there are no monopolies, and to prohibit monopolistic, restrictive and unfair trade practices, which are prejudicial to public interest. The Act was amended in 1991. In this unit, we shall focus our attention on monopolistic, restrictive and unfair trade practices,

7.5.1 Monopolistic Trade Practices (MTP)

It is common knowledge that monopolistic position leads to certain practices which are against the interest of the consumers. The Act defines it as a practice which has, or is likely to have the effect of

- i) maintaining price at an unreasonable level by limiting, reducing or otherwise controlling the production, supply or distribution of goods of any description or the supply of any services or in any other manner;
- ii) unreasonably preventing or lessening competition in the production, supply or distribution of any goods or in the supply of any services;
- iii) limiting technical development or capital investment to the common detriment or allowing the quality of any goods produced, supplied or distributed, or any service rendered in India to deteriorate;
- iv) increasing unreasonably (a) the cost of production of any goods, or (b) charges for the provision, or maintenance of any services;
- v) increasing unreasonably (a) the price at which goods are, or may be, sold or resold, or the charges at which the services are, or may be, provided, or (b) the profits which are or may be derived by the production, supply or distribution (including the sale or purchase) of any goods or by the provision of any services;
- vi) preventing or lessening competition in the production, supply or distribution of

any goods or in the provision or maintenance of any services by the adoption of unfair method or unfair or deceptive practices.

The power to pass remedial orders as regards MTP vests in the Central Government. But it can pass orders only on the basis of a report submitted by the MRTP Commission after investigation into the alleged monopolistic trade practices.

7.5.2 Restrictive Trade Practices (RTP)

Another objective of the MRTP Act is to prohibit restrictive trade practices. The Act defines a RTP to mean a trade practice which has or may have the effect of preventing, distorting or restricting competition in any manner; and in particular:-

- i) Which tends to obstruct the flow of capital or resources into the stream of production, or
- ii) Which tends (a) to bring about manipulation of prices or conditions of delivery, or (b) to affect the free flow of supplies in the market relating to goods or services in such manner as to impose on the consumers' unjustified costs or restrictions,

The Act regulates RTP in three ways:

- a) registration of agreements concerning restrictive trade practices.
- b) restraining persons from indulging in restrictive trade practice by the MRTP Commission after holding an inquiry.
- c) prohibiting re-sale prices.

Section 33 provides that every agreement falling within one or more of the categories mentioned there in shall be deemed to be an agreement relating to restrictive trade practice and will be subject to registration with the MRTP Commission.

Section 37 empowers the MRTP Commission to inquire into any restrictive trade practice whether the agreement, if any, relating to the practice has been registered under Section 35 or not.

Section 38 provides a number of gateways under which if the MRTP Commission is satisfied, the restrictive trade practice might be permissible.

The Act has made separate provisions for another restrictive trade practice, known as re-sale price maintenance. Re-sale price maintenance, in relation to sale of goods of any description, means any price notified to the dealer or otherwise published by or on behalf of the supplier of the goods in question as the price or minimum price which is to be charged on, or is recommended as appropriate for a sale of that description or any price prescribed or purporting to be prescribed for that purpose by any contract or agreement between the wholesaler or retailer and any such supplier.

7.5.3 Unfair Trade Practices (UTP)

Section 36A provides that an' unfair trade practice means a practice which for the purpose of promoting the sale, use or supply of any goods or for the provision of any services, adopts any unfair method or unfair or deceptive practice including the practices mentioned below. The following are the unfair trade practices:

- i) Misleading advertisement and false representation.
- ii) Bargain sale, hail and switch selling.
- iii) Offering gifts or prizes with the intention of not providing them and conducting promotional contests.
- iv) Non-compliance of product safety standards.
- v) Hoarding or destruction of goods.

Check Your Progress C

1. What is the objective of the MRTP Act, 1969?

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2. What are the ways in which the MRTP Act regulates RTP?

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3. List out few Unfair Trade Practices (UTP) mentioned under the MRTP Act.

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4. Distinguish between "monopolistic" and "restrictive" trade practices..

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7.6 LET US SUM UP

The consumer movement exercises a considerable influence on the socio-economic environment of business. A strong consumer movement is the sign of a healthy household sector in an economy.

In a country like India, a large percentage of the masses are illiterate, less informed and have limited purchasing power, and most of the critical goods are always in short supply. Therefore the government has a significant role in safeguarding the interests of the consumer by promoting a climate of fair competition.

The Central Government has already taken certain legislative measures to safeguard the interests of the consumer. There is a wide range of enactments which operate to protect the consumer. Some of these Acts are: the Sales of Goods Act, 1930; the Drugs and Cosmetics Act, 1940; Prevention of Food Adulteration Act, 1954; the Essential Commodities Act, 1955, the Indian Standards Institution Certification Act, 1952; the Standards of Weights and Measures Act, 1956,

Many of the above mentioned laws have, however, not proved to be effective due to their faulty implementation. These enactments fall short of providing adequate safeguards to the consumer interest as they cover specific products or malpractices. The protection available to the consumer under these legislation is not adequate. Thus the consumer is subjected to a number of unfair practices indulged in by the suppliers of goods and services.

Legislation, like the MRTP Act, has not really protected the vast majority of consumers. It is government's commitment, alongwith consumers' awareness, which can promote a strong and healthy consumer movement in our country.

7.7 KEY WORDS

Consumer dispute: A dispute where person against whom a complaint has been made, denies or disputes the allegations contained in the complaint.

Defect: 'Defect' 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 uader in any manner whatsoever in relation to any goods.

Deficiency: Corresponding to 'defect' in case of goods, the expression 'deficiency' is used in case of services. According to Section 2 (1) (g) deficiency means any fault, imperfection, quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or otherwise in relation to any service.

District Forum: Consumer Disputes Redressal Forum established under Section 9 (a) by the State Government in each district of the state. The State Government may, if it deems fit, establish more than one District Forum in a district.

Goods: The term 'goods' means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

Restrictive Trade Practice: It means any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as a condition precedent for buying, hiring or availing of other goods or services.

Service: Section 2 (1) (0) provides that 'service' means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, 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.

State Commission: It means a Consumer Disputes Redressal Commission established in a state under Section 9 (b), by the State Government,

Trader: A 'trader' in relation to any goods means a person who sells or distributes any goods for sale and includes the manufacturer thereof. Where such goods are sold or distributed in package form, the expression 'trader' shall include the packer of those goods.

7.8 TERMINAL QUESTIONS

1. How the grievances of the consumers are sought to be protected under the Consumer Protection Act, 1986?
2. Define the following terms as per the Consumer Protection Act, 1986:
 - a) Consumer
 - h) Consumer dispute
 - c). Defect
 - d) Service
 - e) Trader
 - f) Restrictive trade practice
3. Who can file a complaint under the Consumer Protection Act? What sort of complaint may be lodged under the Act?
4. Examine the basic rights of a consumer under the Consumer Protection Act, 1986.
5. State the objectives of the MRTP Act, 1969. What do you understand by the term 'monopolistic trade practice' as used under the above Act?
6. Discuss how an aggrieved party can seek compensation for the loss suffered on account of restrictive trade practices carried out by an unscrupulous manufacturer.

Note: These questions will help you to understand the Unit better. Try to write answers for them, but do not send your answers to the University. These are for your practice only.

SOME USEFUL BOOKS

Francis Cherunilam, *Business Environment*, Himalaya Publishing House, Mumbai.

George Steiner, *Business and Society*, Macmillan, New York.

Indira Gandhi National Open University, Course Materials — MS-3 : *Economic and Social Environment*.

Tandon, B.B. & Tandon, K.K., *Indian Economy*, Tata McGraw Hill, New Delhi.