

Consumer Protection Law and Policy

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Consumer Protection : Universal Emphasis

- **Rapidly increasing variety of goods and services which modern technology has made available;**
- **Growing size and complexity of production and distribution system;**
- **Sophistication in marketing and selling practices and advertising;**
- **Removal of personal relationship of buyer and seller and Consumer's increased mobility.**

State Intervention in Consumer Protection is Required on Grounds of:

- **Economic efficiency**
- **Individual rights**
- **Distributive justice**
 - ❖ **Achieving bargaining equality between consumer and producer interests**
 - ❖ **Alleviating the problems of the particularly disadvantaged ;poor, elderly, children**
- **Right to development**

Rationale for Consumer Protection

Addresses disparities in consumer-supplier relationship in terms of ;

➡ Bargaining power

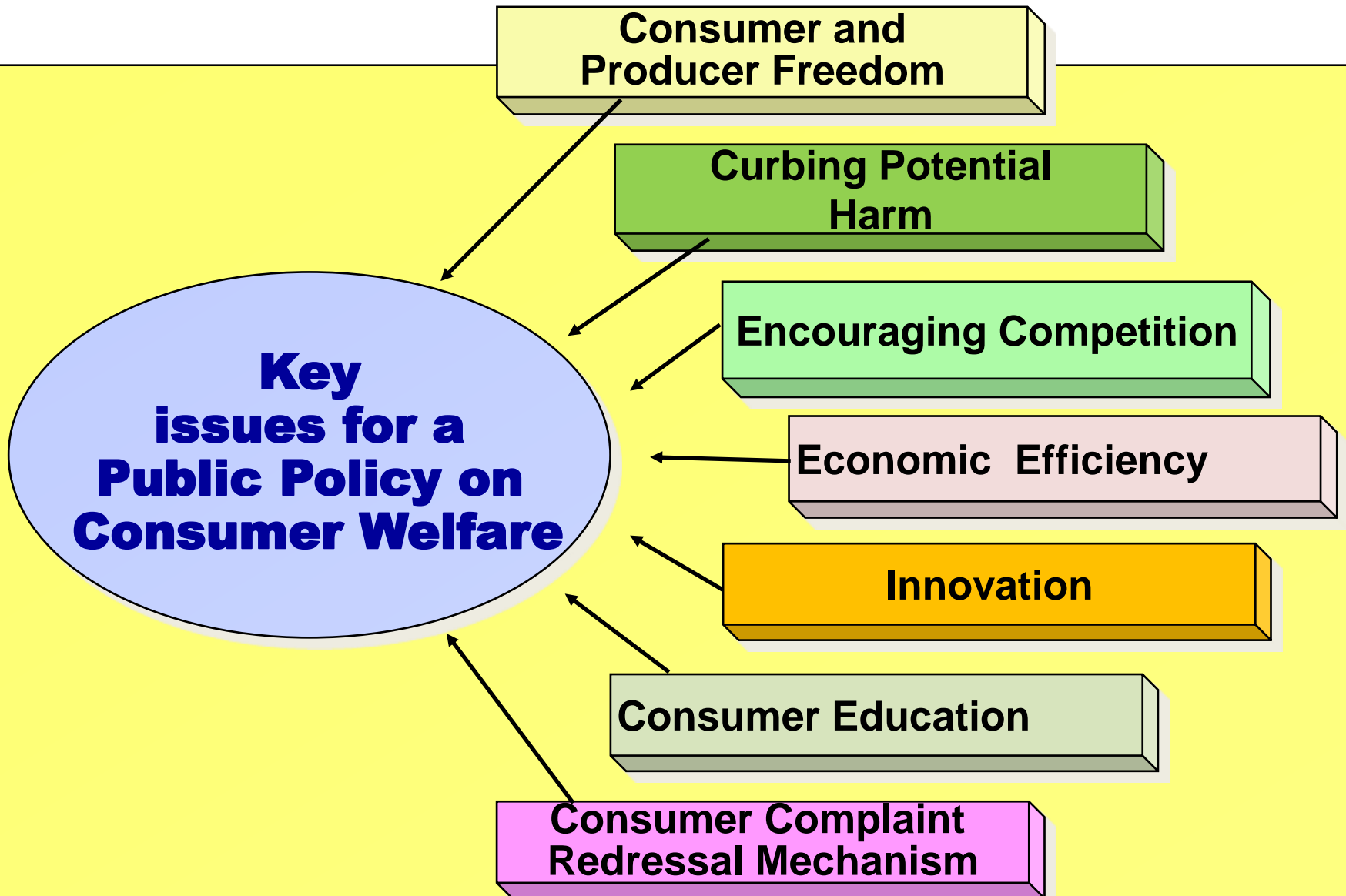
➡ Knowledge

➡ Resources

Need Public Policies to:

- **Monitor adverse practices like food adulteration, false / misleading claims in marketing and service frauds.**
- **Control restrictive / abusive business practices harming consumers.**
- **Producers & Sellers are responsible to ensure goods/services are reasonably durable and reliable.**
- **Encourage fair competition to provide consumers greatest range of choice at lowest cost.**
- **Ensure manufacturers/sellers provide adequately available reliable after-sales service and spare parts.**

Key Issues For Public Policy On Consumer Welfare



Development of Consumer Policy

April 9, 1985 – United Nations General Assembly Resolution - General Guidelines

- **Physical Safety;**
- **Protection and Promotion of the Consumers' Economic Rights;**
- **Standards for the Safety and Quality of Consumers Goods and Services;**
- **Measures enabling consumers to obtain redress;**
- **Measures relating to specific areas (food, water and pharmaceuticals) and**
- **Consumer education and information programn**



U. N Guidelines on Consumer Protection 2016

Emphasize on

- **E-commerce**
- **Data Security and Privacy**
- **Protection of Consumers in Financial Services**
- **Sustainable Consumption**

Genesis of Consumer Protection

15 March 1962: US President J. F. Kennedy introduced revolutionary notion of rights for consumers to the US Congress.

"Consumers, by definition, includes us all. They are the largest economic group in the economy, affecting and affected by almost every public and private economic decision. But they are the only important group whose views are often not heard."

JFK: Consumer Rights

- **Right to safety**
- **Right to be informed**
- **Right to choose**
- **Right to be heard**

Consumer Rights

- **1982 Consumer International's Charter of Consumer Rights included Eight rights:**
- **Right to basic needs**
 - **Food, clothing, shelter, health care, education, water and sanitation**
- **Right to safety**
- **Right to information**
- **Right to choice**

Consumer Rights (contd)

- **Right to be heard**
- **Right to redress**
- **Right to education**
- **Right to healthy environment**

- **Rights further re-enforced by adoption of UN Guidelines on Consumer Protection in 1985 and 1999**

World Consumer Rights Day

Origin- March 15, 1962, - former US President John F. Kennedy's Bill of Rights of four basic consumer rights.



Consumer Protection in India

- **Long history of Consumer protection**
- **In India Laws like the Indian Penal Code, Indian Contract Act, Sale of Goods Act, Drugs and Cosmetics Act, Agricultural Produce (Grading and Marking) Act, etc, have existed since pre-independence**
- **But none enshrined Rights of Consumers, nor provide swift remedy to their complaints**
- **More punitive in nature**
- **In 1986 Consumer Protection Act was enacted to protect the consumers**

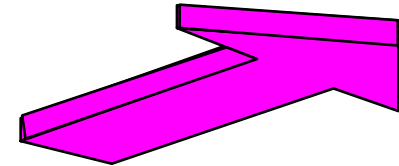
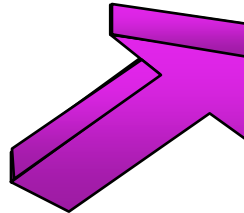
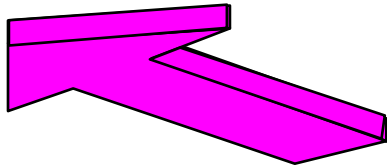
Consumer Protection Act 1986

- **Aims at Better Protection of the Consumer**
- **Six Consumer Rights specified**
- **Exclusive courts for consumer disputes in all Districts, State and National capitals.**
- **Principals of Natural Justice and Summary Procedure**
- **Speedy and Inexpensive Disposal of Complaints**
- **Consumer Protection Councils at National, State and District levels.**
- **Covers Private, Public, & Cooperative Sectors.**

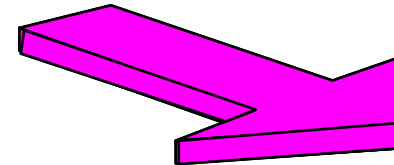
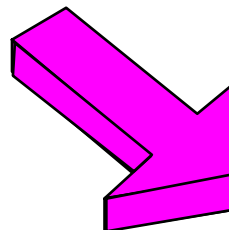
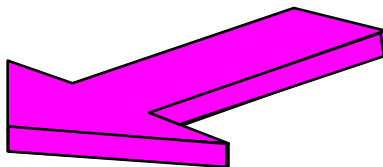
Right to Safety

Right to Be Informed

Right to Choose



Consumer Rights Under CP Act, 1986

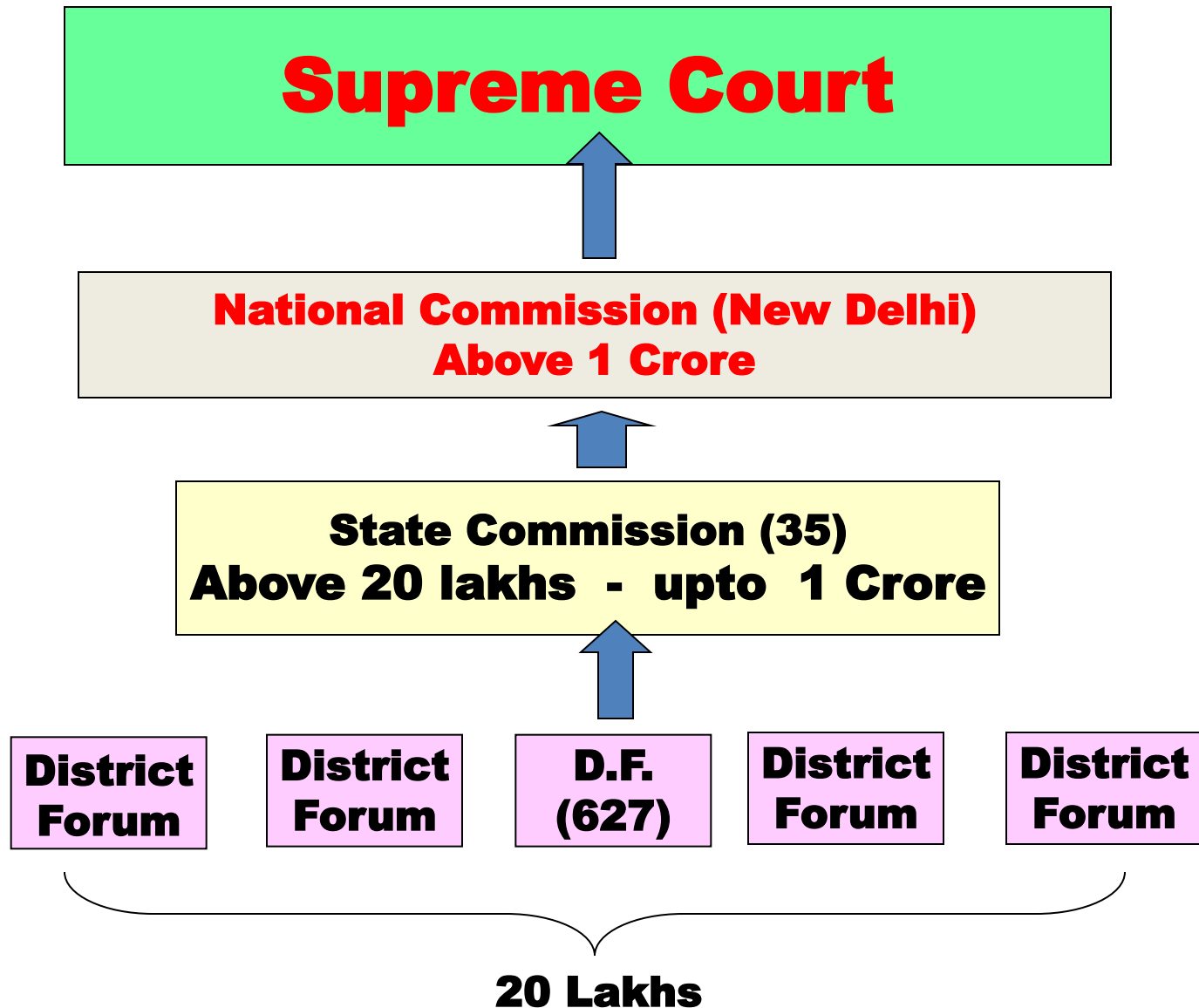


Right to Be Heard

Right to Seek Redressal

Right to Consumer Education

Structure for Redressal Mechanism



CP Act Unable to Protect Consumers

- **Delay in disposal of complaints**
- **No more inexpensive**
- **Too many technical procedures**
- **Functions like a civil court**
- **Lack of inadequate infrastructure**
- **Lack of qualified manpower**
- **Hijacked by advocates**

Need for a New Act

- **The Consumer Protection Act , 1986 was not able to provide a comprehensive protection to the consumers due to a variety of reasons**
- **Globalisation and ICT has changed the business environment and therefore consumers were vulnerable to various new challenges**
- **E commerce has emerged as a major market platform**
- **The lack of a regulator was felt as suo motu action could not be taken**
- **The consumer has also changed in these three decades**
- **Promote quality, standards and innovation**

Consumer Protection Act, 2019

- **The Consumer Protection Act, 2019 (New Act) received the assent of the President of India and was published in the official gazette on 9 August 2019.**
- **The New Act came into force on partially on July 20 and rest of the provisions on July 24, 2020**
- **For operationalising the Act, the Govt has also notified Rules on E-Commerce, mediation, appointment of President and Members of State & Distt Commission, general rules and NCDRC regulations**

Highlights

- **Aim of CP Act is to widen the ambit of the Act**
- **Equip the machinery to meet the new emerging challenges**
- **Efficiency in grievance redressal**
- **Broader definition of consumer- includes both offline and online transactions**
- **Inclusion of E- Commerce**
- **Flexibility: Place of filing the complaint**
- **Increase in Pecuniary Jurisdiction**
- **Establishment of Central Consumer Protection Authority (CCPA)**
- **Mediation as mean to resolve consumer grievance**
- **Product Liability- provisions for strict liability of manufacturer**

Simplified Procedure

- **District forum is renamed as District Commission**
- **A complaint can be filed where the complainant resides or personally works for gain.**
- **Electronic filing**
- **Deemed Admissibility**
- **OP needs to deposit 50% of the amount ordered by District Commission before filing appeal before State Commission, earlier the ceiling was of maximum of Rs. 25,000/-, which has been removed.**
- **Limitation period for filing of appeal to State Commission is increased from 30 days to 45 days**

- **Second appeal** to NCDRC only if there is a substantial question of law involved in the matter
- **Power of review** has been conferred to District Commission, State Commission and NCDRC U/s 40, 50 and 60 of the Act respectively
- **Administrative control** of State Commission over District Commission and that of NCDRC over State Commission.
- Rules regarding appointment, conditions of service etc. of the Members have been notified

CONSUMER PROTECTION ACT 1986

PROVISIONS

CONSUMER PROTECTION ACT 2019

No separate regulator

Regulator

Central Consumer Protection Authority (CCPA) to be formed

Complaint could be filed in a consumer court where the seller's (defendant) office is located

Consumer court

Complaint can be filed in a consumer court where the complainant resides or works

No provision. Consumer could approach a civil court but not consumer court

Product liability

Consumer can seek compensation for harm caused by a product or service

District: up to ₹20 lakh
State: ₹20 lakh to ₹1 cr
National: above ₹1 cr

Pecuniary jurisdiction

District: up to ₹1 cr
State: ₹1 cr to ₹10 cr
National: Above ₹10 cr

No provision

E-commerce

All rules of direct selling extended to e-commerce

No legal provision

Mediation cells

Court can refer settlement through mediation

BCCL

Consumer Disputes Redressal Commission

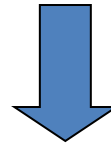
CPA 1986 (Earlier)	CPA 2019(New)
District Forum: Up to 20 Lakh	District Commission: Upto 1 cr
State Commission: 20 Lakh – 1 cr	State Commission: 1 cr – 10 cr
National Commission: Above 1 cr	National Commission: above 10 cr

WHO CAN COMPLAIN

- 1. A Consumer**
- 2. Any registered voluntary consumer association**
- 3. The Central or the State Government**
- 4. The Central CCPA**
- 5. One or more consumers (having same interest)**
- 6. In case of death of a consumer, his legal heir or representative**
- 7. In case of a consumer being minor, his parent or legal guardian**

Consumer Protection Councils

Central Consumer Protection Council
Central Minister Consumer Affairs, Chairman



State Consumer Protection Council
Minister in charge of Consumer Affairs
Chairman



District Consumer Protection Council
Collector , Chairman

Objective

An Act to provide for protection of the interests of consumers and for the said purpose, to establish authorities for timely and effective administration and settlement of consumers' disputes and for matters connected therewith or incidental thereto.

Broader Definition of Consumer

- **“Consumer” -Explanation—**
- **includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing;**

- **“Unfair contract”** has been defined
Compliant can be made before SCDRC or NCDRC
- **Definition of UTP broadened**
 - **not issuing bill or cash memo or receipt for the goods sold or services rendered**
 - **Refusing to take back defective goods or refund the consideration within a period of thirty days;**
 - **disclosing to other person any personal information given in confidence**

Inclusion of E- Commerce

- **E-commerce has now been expressly defined as buying or selling of goods or services including digital products over digital or electronic network.**
- **The government on July 23, 2020 has notified the Rules to regulate e-commerce**
- **Every e-commerce entity to provide information relating to return, refund, exchange, warranty and guarantee,**
- **Delivery and shipment, modes of payment, grievance redressal mechanism, payment methods, security of payment methods, charge-back options, etc.**
- **Including country of origin which are necessary for enabling the consumer to make an informed decision at the pre-purchase stage on its platform.**

CHAPTER III

Central Consumer Protection Authority

- **Established w. e. f July 24, 2020**
- **to regulate matters relating to:**
 - **violation of rights of consumers,**
 - **unfair trade practices and**
 - **false or misleading advertisements which are prejudicial to the interests of public and consumers**
- **to promote, protect and enforce the rights of consumers as a class.**
- **consist of a Chief Commissioner and such number of other Commissioners as may be prescribed**

Powers & Functions of CCPA

The Central Authority shall—

- ❖ protect, promote and enforce the rights of consumers **as a class****
- ❖ prevent unfair trade practices**
- ❖ ensure that no false or misleading advertisement is made**

Functions of Authority

- **inquire or cause an inquiry or investigation**
- **file complaints before the Consumer Commissions**
- **intervene in any proceedings before the Consumer Commissions in respect of any allegation of violation of consumer rights or UTPs;**
- **review the matters relating to, and the factors inhibiting enjoyment of consumer rights**
- **recommend adoption of international covenants and best international practices on consumer rights**
- **undertake and promote research in the field of consumer rights;**
- **spread and promote awareness on consumer rights;**

Investigation Wing

- **The Central Authority shall have an Investigation Wing headed by a Director General**
- **The District Collector may, on a complaint or on a reference made to him by the Central Authority or the Commissioner of a regional office, inquire into or investigate complaints within his jurisdiction and submit his report**

Suo Motu Power

- **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**

Complaints to Authorities

- **A complaint relating to violation of consumer rights or unfair trade practices or false or misleading advertisements which are prejudicial to the interests of consumers as a class, may be forwarded either in writing or in electronic mode, to any one of the authorities, namely,**
 - **the District Collector or**
 - **the Commissioner of regional office or**
 - **the Central Authority. (Section 17)**

Power Of Central Authority

- ❖ **Recalling of goods** or withdrawal of services which are dangerous, hazardous or unsafe;
- ❖ **Reimbursement of the prices** of goods or services so recalled to purchasers of such goods or services; and
- ❖ **Discontinuation of practices** which are unfair and prejudicial to consumers' interest
- ❖ **Impose penalties** on Manufacturers/ Endorsers/ Publishers of Misleading Advertisements
- ❖ **An appeal to the National Commission within a period of thirty days**

Mediation

- **Reference to mediation- District Commission at the first hearing or at any later stage, if it appears to the District Commission that there exists elements of a settlement**
- **no appeal shall lie from any order passed under by the District Commission pursuant to a settlement by mediation.**

- **The State Government shall establish, a consumer mediation cell** to be attached to each of the DCs and SCs of that State.
- **Every consumer mediation cell shall maintain—**
 - (a) a list of empaneled 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**

Product Liability

- **“Product liability”** means the responsibility of a product manufacturer or product seller, of any product or service, to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services relating thereto;
- **“Product liability action”** means a complaint filed by a person before a District Commission or State Commission or National Commission, as the case may be, for claiming compensation for the harm caused to him;

"harm", in relation to a product liability, includes—

- i. damage to any property, other than the product itself;**
- ii. personal injury, illness or death;**
- iii. mental agony or emotional distress attendant to personal injury or illness or damage to property; or**
- iv. 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),**

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;

Liability of Manufacturer

- **A product manufacturer shall be liable in a product liability action, if—**
 - (a) the product contains a manufacturing defect; or**
 - (b) the product is defective in design; or**
 - (c) there is a deviation from manufacturing specifications; or**
 - (d) the product does not conform to the express warranty; or**
 - (e) the product fails to contain adequate instructions of correct usage to prevent any harm or any warning regarding improper or incorrect usage.**
- **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. (Section 84)**

Liability of Manufacturer

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 - (b) the product is **defective in design**; or
 - (c) there is a **deviation from manufacturing specifications**; or
 - (d) the product **does not conform to the express warranty**; or
 - (e) the product **fails to contain adequate instructions** of correct usage to prevent any harm or any warning regarding improper or incorrect usage.
- **Certain exemptions have also been given**

THANK YOU

Exceptions to Product Liability Action

- **Product liability action cannot be brought against the product seller if, at the time of harm, the product was misused, altered, or modified.**
- **In any product liability action based on the failure to provide adequate warnings or instructions, the product manufacturer shall not be liable, if—**
 - (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.**

(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

(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.

- 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.**