



Standing Committee Report Summary

The Consumer Protection (Amendment) Bill, 2011

- The Parliamentary Standing Committee on Food, Consumer Affairs and Public Distribution (Chairperson: Vilas Baburao Muttemwar) submitted its 26th Report on the Consumer Protection (Amendment) Bill, 2011 on December 19, 2012.
- The Bill amends the Consumer Protection Act, 1986. The Act provides for the redressal of consumer grievances through a three-tier quasi-judicial machinery at the district, state and national levels. The Bill seeks to widen and amplify the scope of some of its provisions, facilitate faster disposal of cases and rationalise the qualifications and procedure of selection of the members of the consumer dispute redressal agencies.
- The Standing Committee made recommendations to amend existing clauses in the Bill as well as adding new ones. Its recommendations include making the definition of ‘unfair contract’ more inclusive, allowing for class action complaints, and making timely disposal of cases mandatory.
- The Bill needs to be amended in a way that clarifies the role of the central and state governments with respect to the functioning of the consumer fora. This includes providing infrastructure to the fora and fixing pay scales of the members of the fora. The Committee recommended allowing the central government to share the burden of paying salaries to members of consumer fora by contributing at least 30 per cent to the salaries of the staff.
- The Act empowers the District Forums to impose punitive damages in such circumstances as they see fit. In the view of the Committee, the damages awarded under the Act do not sufficiently deter defaulting companies. The Committee suggested that the consumer fora be given powers to grant punitive damages to the defaulting company. This amount could be between five and 10 times the loss or compensation awarded to the aggrieved customer.
- The Committee noted that the Act is in addition to and not in derogation of the provisions of any other law in force for the time being. However, the Committee was informed that in the case of *G.M. Telecom vs. M. Krishnan* in 2009, the Supreme Court held that if there is a special remedy provided for a customer in an Act (in this case, the Telegraph Act) then the remedy under the Consumer Protection Act is barred. The Committee recommended that consumers be provided with the option to choose the remedy they seek to get redressal of their grievances.
- The Bill should provide for the constitution of an inter-ministerial committee, which can suo-motu file petitions in consumer courts on behalf of consumers. This would be necessary in cases where adulteration of food items such as milk, edible oils, etc. affect a large number of consumers but where only a few approach the consumer courts.
- Timely disposal of cases need to be made mandatory. The Committee suggested that the central government periodically analyse the progress reports submitted by states and union territories regarding the disposal of cases by consumer fora and adopt remedial measures.
- The Committee recommended allowing for a mandatory ‘return policy’ on all goods and services purchased, particularly through e-commerce and telemarketing. This would fix responsibility on sellers, facilitate online filing of complaints, as well as payment of fees.
- The Bill should make it mandatory for all manufacturers/shopkeepers to indicate the minimum retail price on the packing of the goods sold. Moreover, the Committee felt that all shops should use the Bar Code System, which would help the shop account for whatever is sold.
- The Committee recommended including provisions to prevent advertisers from publicising misleading advertisements, which fall under unfair trade practices. It suggested setting up a commission similar to the Federal Trade Commission in the U.S.A, which is a quasi-judicial authority that looks at unfair trade practices.
- The Bill should be amended to allow class-action complaints, which would cover many customers

affected in the same way. The amendment would allow for one or more consumers to file a complaint for redressal on behalf of the entire group of affected consumers. If this group seeks compensation, the judgment may apply to all the consumers.

- In order to minimise expenditures and delays, advocates should not be permitted to appear in a case where the claim amount does not exceed a certain limit. This provision will not apply in cases where the consumer wants an advocate or where a substantial question of law needs to be answered.
- The Committee suggested that the definition of the term ‘unfair contract’ be made inclusive. Its definition should state the general ground for which a contract will be considered unfair and provide illustrative examples. Further, the definition of

‘service’ should be amended to include the term ‘unfair contract’. The amendment would ensure that manufacturers and business entities are not unfair in providing service conditions to customers.

- The Committee recommended that the minimum age limit for State Commissions should be 35 to 40 years and 35 to 45 years for the National Commission. Minimum experience should be retained at 10 years for the former and 20 years for the latter.
- The Bill empowers the State Commissions to review any order made by it, when there are errors apparent on the face of record. However, given that consumer cases emanate from district fora, the Committee felt that this power of review should be given to them as well.

DISCLAIMER: This document is being furnished to you for your information. You may choose to reproduce or redistribute this report for non-commercial purposes in part or in full to any other person with due acknowledgement of PRS Legislative Research (“PRS”). The opinions expressed herein are entirely those of the author(s). PRS makes every effort to use reliable and comprehensive information, but PRS does not represent that the contents of the report are accurate or complete. PRS is an independent, not-for-profit group. This document has been prepared without regard to the objectives or opinions of those who may receive it.