

THE CONSUMER PROTECTION ACT AND YOU

WHO IS A CONSUMER?

According to the Consumer Protection Act, 1986, one who purchases goods or services for his/her use is a consumer. The user of such goods or services with the permission of the buyer is also a consumer. Therefore, everyone of us is a consumer in one way or the other.

WHO CAN FILE A COMPLAINT?

- A consumer.
- Any registered voluntary consumer organization.
- The Central Government.
- The State government/UT Administration.
- One or more consumers on behalf of numerous consumers who are having the same interest (class action complaints).

WHEN CAN A COMPLAINT BE FILED?

Under the Act, a complaint can be made in writing in the following circumstances.

- If you have suffered loss or damage as a result of any unfair/restrictive trade practices adopted by the trader.
- If the goods purchased suffer from any defect.
- If the services hired/availed of suffer from deficiencies in any respect.
- If you have been charged a price in excess of the price displayed or fixed by or under any law in force.
- If the goods hazardous to life and safety, are being offered for sale to public in contravention of any law in force.

WHERE CAN YOU FILE?

District Forum:- If the cost of goods or services and compensation asked for is up to Rs. 20 Lakhs and where the cause of action has arisen wholly or partly or where the opposite party resides or carries on business or has a branch office.

State Commission:- More than Rs. 20 Lakhs and upto Rs. One Cror.

National Commission:- More than Rs. One Cror.

HOW CAN YOU FILE?

The complaint is to be filed within two years from the date on which cause of action has arisen.

There is no fee for filing a complaint. Even an affidavit does not need stamp papers. A complaint can be sent by post or presented in person by complainant or his authorized agent. Engaging a lawyer is not compulsory.

Usually the Forums require 4-6 copies of complaint.

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WHAT INFORMATION SHOULD A COMPLAINT CONTAIN?

A complaint should contain the following information:

Name and complete address of complainant.

Name and complete address of the opposite party or parties as the case may be.

Date of purchase/service obtained.

Amount paid for consideration.

Items of goods with quantities/nature of service.

Whether the complaint relates to unfair restrictive trade practice/defective goods/deficient service/charging excess price.

Copies of bills/vouchers/receipts and copies of correspondence made, if any.

The relief sought.

RELIEFS:

- The consumer courts can order the following reliefs:
- Removal of defects from the goods.
- Replacement of the goods.
- Refund of the price paid.
- Award of compensation for the loss or injury suffered.
- Removal of defects or deficiencies in the services.
- Discontinuance of unfair trade practices/restrictive trade practices and directing not to repeat them.
- Withdrawal of the hazardous foods from being offered for sale.
- Award for adequate costs to parties.

APPEALS AGAINST

The Decision of	Time Limit	In
District Forum	Within 30 days	State Commission
State Commission	Within 30 days	National Commission
National Commission	Within 30 days	Supreme Court.

This limitation period can be condoned on merits.

There is no fee for filing appeals in the State and National Commission.

Procedure is the same as that of complaint except that the application has to be accompanied by the copies of the orders appealed against with reasons for filing appeals.

TELECOMMUNICATION REGULATIONS

One of the important functions of the Telecom Regulatory Authority of India is to ensure orderly growth of the telecommunication services through issue of regulations. The Authority has, during the first 10 years of its existence, issued a number of regulations, some of which are solely indented to protect the interest of the consumers of telecommunication services.

MODEL SPECIMEN OF NOTICE, COMPLAINT,

NOTICE BEFORE FILING THE COMPLAINT

Name and address

.....

(of the trader, dealer, firm, company, etc.)

.....

(Complete address)

IN RE: (Mention the goods/services complained of giving details)

.....

Dear Sir,

This is to bring to your kind notice that I had purchased
from your for a consideration of Rs..... paid in cash
vide your cash memo/Receipt/Invoice No..... (or through cheque
No..... dated.....drawn on..... bank for
a sum of Rs.....

The said goods are suffering from the following defects:—

(i).....

(ii).....etc.

I have reported the above matter to you several times (give reference of earlier letters,
if any) but despite all my pleadings you have not made good the defect in the goods (or
deficiency in services) which is indeed regrettable and highly unbusiness like. On account
of your aforesaid dereliction of duty and failure and neglect to rectify the same I have
suffered losses/incurred expenses.....

(give details)

which you are liable to compensate to me.

You are hereby finally called upon to

(i) remove the said defects in the goods

and/or

(ii) replace the goods with new goods

and/or

(iii) return the price/charges paid

(iv) pay compensation for financial loss/injury/interest suffered due to your
negligence

(give details)

in the sum of Rs.....with interest @..... %
per annum within.....days of the receipt of this notice failing
which I shall be constrained to initiate against you for redressal of my aforesaid
grievances and recovery of the aforesaid amount such proceedings, both civil and
criminal as are warranted by law, besides filing a complaint under the statutory
provisions of The Consumer Protection Act, 1986 exclusively at your own risk, cost,
responsibility and consequences which please note.

Place.....

.....

Dated.....

(Signature)

THE COMPLAINT

BEFORE THE HON'BLE DISTRICT CONSUMER DISPUTES
REDRESSAL FORUM AT.....

OR

BEFORE THE HON'BLE STATE CONSUMER DISPUTES
REDRESSAL COMMISSION AT.....

OR

BEFORE THE HON'BLE NATIONAL CONSUMER DISPUTES REDRESSAL
COMMISSION AT NEW DELHI

IN RE: COMPLAINT NO.....OF 20..... IN THE MATTER OF:
(FULL NAME) (DESCRIPTION) (COMPLETE ADDRESS)

.....Complainant

VERSUS

(FULL NAME) (DESCRIPTION) (COMPLETE ADDRESS)

.....Opposite Party/Parties

COMPLAINT UNDER SECTION 12/SECTION 17 SECTION 21 OF
THE CONSUMER PROTECTION ACT, 1986.

RESPECTFULLY SHOWETH:

(1) INTRODUCTION

(In this opening paragraph the complainant should give his introduction as well as that of the opposite party/parties.)

(2) TRANSACTION

(In this paragraph complainant should describe the transaction complained of, *i.e.*, particulars and details of goods/services availed; items of goods/kind and nature of service; date of purchase of goods/availing of service; amount paid as price/consideration, full or in part towards the goods/service; Photocopies of the bill/cash memo/voucher or receipt should be attached and properly marked as Annexure - A,B,C and so forth or 1,2,3 and so forth.)

(3) DEFECT/DEFICIENCY

(In this paragraph complainant should explain the grievance, *i.e.*, whether the loss or damage has been caused by some unfair trade practice or restrictive trade practice adopted by any trader or there is some defect in the goods or there has been deficiency in service or the trader has charged excessive price for the goods. One should elucidate the nature of unfair trade practice adopted by the trader, *i.e.*, relating to the quality of goods/services; sponsorship; warranty or guarantee for such period promised. The nature and extent of defects in goods should be explained and so should the deficiency in service. In case of excessive price one should specify the details of actual price fixed by or under any law for the time being in force or as set out on goods and their packing *vis-a-vis* the price charged by the trader. Complaint can also be filed against offer for sale of goods hazardous to life and safety when used. You should narrate your grievance and rest assured it is being read/heard by compassionate and pragmatic judges. Photocopies of relevant documents must be attached.)

(4) RECTIFICATION

(In this paragraph complainant should highlight what attempts were made by him to set things right, *i.e.*, personal visits or negotiations; communication in writing if any; whether any legal notice was got served and/or whether he has approached any other agency for redressal like M.R.T.P. Commission, Civil or Criminal Court of competent

Model Specimen

jurisdiction; the stage of its proceedings, its outcome, if any, alongwith copies (certified preferably) of such proceedings. The nature of response got from the trader when irregularities were brought to his notice, should also be disclosed here).

(5) OTHER PROVISIONS

(In this paragraph reference may be made to any other law or rules or regulations of particular procedure which is applicable to the case and/or which has been violated by the trader and consumer's rights under the same. There are incidental statutory obligations, which traders must fulfil and in case of their failure to do so the case in *prima facie* made out and Forum would take cognizance).

(6) EVIDENCE

(In this paragraph complainant should give details of documents and/or witnesses he will rely upon to substantiate his case. The documents attached as Annexures as stated above may be incorporated in a proper list and a list of witnesses (if any) may be filed similarly). The annexures should be attested as "True Copy".

(7) JURISDICTION

(In this paragraph complainant should liquidate the claim in the complaint *i.e.* upto 20 lacs; 20 lacs to 1 crore; or above and set out the pecuniary jurisdiction of the Forum/State Commission/National Commission, as the case may be. The territorial Jurisdiction should be highlighted to obviate any formal objection).

(8) LIMITATION

That the present complaint is being filed within the period prescribed under section 24A of the Act.

(9) RELIEF CLAIMED

(In this paragraph complainant should describe the nature of relief he wants to claim, *i.e.*, for removal of defects in goods or deficiency in service; replacement with new goods; return of the price or charges, etc., paid and/or compensation on account of financial loss or injury or detriment to his interest occasioned by negligence of the opposite party and elucidate how you have calculated the amount of compensation claimed).

(10) PRAYER CLAUSE

It is, therefore, most respectfully prayed that this Hon'ble Forum/Commission may kindly be pleased to

(Details of reliefs which complainant wants the Court to grant)

Place.....

Dated.....

Complainant

Through.....

(Advocate or Consumer Association, Etc.)

Verification:

I.....,the complainant above named. Do hereby solemnly verify that the contents of my above complaint are true and correct to my knowledge, no part of it is false and nothing material has been concealed therein.

Verified thisday of..... 20.....at.....

Complainant

Note.—Although it is not compulsory, complainant may file an affidavit in support of the complaint which adds to the truth and veracity of allegations and gives credibility to the cause. It need not be on a Stamp paper but one should get it attested from an Oath Commissioner appointed by a High Court. The format is just as simple.