

Unit-3 Competition Act, 2002

Summary: Objectives of Competition Act, Features of Competition Act, CAT, Offences and Penalties under the Act, Competition Commission of India.

Introduction

Society and Business are inter woven and business thrive on competition. Competition is a critical element that distinguishes dynamic economics. Competition, its relations and relevance are universal.

Competition act in the 2002 has been enacted to fulfil the country's obligations under the world trade organisation agreement. The monopolies and restrictive trade practices act 1969,(MRTP) which had been found to be adequate and in order to fulfil the gap a new act has been enacted which is known as the competition act 2002.

- According to the competition act 2002, which began with the statement as" an act to provide keeping in view of the economic development of the country, for the establishment of a commission to prevent practices having adverse effect as competition, to promote and sustain competition in markets, to protect the interest of consumers and to ensure freedom of trade carried on by other participants in markets.
- The above statement can be understood as to cut or to prevent the practices of competition which create adverse effect for growth of the market.
- According to the world bank, 1999, the competition is defined as "a situation in a market in which firms or sellers independently strike for the buyer's patronage in order to achieve a particular business objective, for example: profit, sales or market share.
- Competition laws are also known as "anti-trust laws". The laws make illegal of certain practices which hurt both businesses and consumers.
- The term "anti-trust" derived from the us laws which was originally formulated to combat business trusts.
- A business with a monopoly over certain products or services maybe in violation of anti-trust laws.

The following are a few types of activity are generally prohibited:

- 1)bid rigging: it is a form of price fixing and market allocation and involves an agreement in which one party of group of bidders will be designated to win the bid
- 2)predatory pricing: the practices of a firm selling a product at very low price with the intent of driving competitors out of the market, or create a barrier to entry into the market for potential new competitors.
- 3)price fixing: an agreement between business competitors selling the same product or services, regarding its pricing.
- 4)tying: the practise of making the sale of one good conditional on the purchase of a second distinctive goods.
- 5)vendore-lock-in: it is a situation in which the customer is so dependant, on a vendor for product and services, that he or she cannot move to another vendor without substantial switching costs real and or perceived.

Scope of the act

This act is very new and it is introduced to remove the inadequacy of monopolies and restrictive trade practices act of 1969. The MRTP was needed for an appropriate change, the following are the scopes of the Act:

1. It extends to the whole of India, except the state of Jammu and Kashmir
2. It comprises of 66 sections
3. It covers definitions and anti-competitive agreement, abuse of dominant position of India
4. It also covers selection of chairperson in members, their terms, resignation, removal and suspension.
5. It covers financial and administrative powers, duties and functions of commissions.
6. It continues with duties of director general to investigate contraventions, offenses and penalties.

Objectives of the act

1. To ensure fair competitions in India
2. To prohibit trade practices which cause adverse effect on competition in the market within India
3. To curb negative aspects of competition through the competition commission of India (cci)

DEFINITIONS:

Section act, defines 26 various terms used in the Act, a few important terms used in the act together with their definitions are given below:

- ❖ **ACQUISITIONS:** it means directly or indirectly acquiring or agreeing to acquire:
 - Shares, voting rights, or assets of any enterprise;
 - Control over management or control over assets of any enterprise
- ❖ **AGREEMENT:** it includes any arrangement or understanding or action in concert:
 - Whether or not, such arrangement, understanding or action is formal or in writing; or
 - Whether or not, such arrangement, understanding or action is intended to be enforceable by legal proceedings.
- ❖ **CARTEL:** includes an association of producers, sellers, distributors, traders, or service providers who by agreement amongst themselves, limit control or attempt to control the production.
- ❖ **CONSUMER:** it is a purchase of a good or service in retail
 - An end user and not necessarily a purchaser in the distribution chain of a good or service
- ❖ **ENTERPRISE:** it is a business or a company
- ❖ **PRACTICE:** A method, procedure, process, or rule used in a particular field or profession which are regarded as standard.
- ❖ **PRICE:** A value that will purchase a finite quantity, weight, or other measure of a good or service.
- ❖ **RELEVANT MARKET:** It is a market in which a particular product or service is sold. It is the intersection of a relevant product and a relevant geographic market.
- ❖ **RELEVANT GEOGRAPHIC MARKET:** It is a geographical territory in which competition conditions in a relevant market of a product are sufficiently the same for all participants in such market and therefore this territory can be separated from other territories.
- ❖ **RELEVANT PRODUCT MARKET:** It is a market in which a particular product or service is sold. It is the intersection of a relevant product market and a geographic market.
- ❖ **SERVICE:** It is an effort performed to satisfy a need or to fulfil a demand.
- ❖ **SHARES:** One of the equal parts into which a company's capital is divided, entitling the holder to a proportion of the profits.
- ❖ **STATUTORY AUTHORITY:** It means any authority
 - **TRADE:** The action of buying and selling goods and services.
 - **TURNOVER:** It includes value of sale of goods or services.

Industrial policy

1. Industrial policy has to address and reform licensing requirements, restrictions on capacities, or on foreign technology tie-ups, guidelines on location of industries, reservations for small scale industry, etc. these adversely affect free competition in the market.

Trade policy

The trade policy has important implications for development of competition in the markets.

Measure for liberalisation of trade promote greater competition

Example: reducing tariffs, removal of quotas/physical controls, investment controls, conditions relating to local content etc.

Some Features of Competition Law are:

1. Most often the direct beneficiaries of enforcement action under the Trade Practices Act are businesses rather than consumers.
2. A considerable administrative and legal apparatus is needed to apply competition law. It can take years to build up.
3. In some areas, there is a fine line between competitive and anticompetitive behaviour. An example is when a monopolist reduces prices in response to entry by a new competitor.
4. In other areas, there may be a trade-off between competition and efficiency. An example is some mergers may allow the achievement of scale economies at the expense of competition.
5. The treatment of monopoly has some special features. Monopoly itself is not unlawful. It may result from a firm being more efficient than any other competitor or potential competitor and thereby eliminating them.
6. In this law, there is normally no prohibition on the prices which a monopoly charges even if they are considered excessive.
7. The law applies to all or nearly all forms of business. However, the millions of small businesses are generally unaffected by the law or are exempt when there is some possibility that a technicality might catch them.
8. The competition law regulates anticompetitive behaviour by businesses. It does not apply to, nor override the many actions of governments that limit competition

Need for competition law in India

In India, economy is being exposed to deregulation and privatization. History bears witness that unless these forces are kept under least, participants can misuse the freedom to frustrate competition. In India, the law presently addressing issues is the Monopolies and restrictive trade practices act 1969(MRTP Act). The act deals with control, regulation and prohibition of unfair, restrictive and monopolistic trade practices as defined in the act.

- The aim of the act is to ensure that the concentration of economic power does harm the public interest and to provide effective steps for its control.
- The act seeks to achieve this purpose through machinery created under the act consisting the MRTP commission, director and other staff.

The main concern for India at this juncture is foreign MNC's who enter the market with an existing framework of international inter-connection and strategic alliance on issues of market shares, pricing policies etc.

Indian companies, in comparison, are by and large very small. Mergers and acquisitions have not kept pace with the need to counter the threat of competition from foreign MNC's. Thus, Indian companies do not have the advantages of size.

The MRTP Act explains the UTP and RTP which are replaced under the competition laws. They are briefed as below:

- Unfair Trade Practice (UTP) – Section 2(1) r – defines “unfair trade practice” as follows:
This means a trade practice which, for the purposes of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or deceptive practice including any of the following practices, namely –
 - The practice of making any statement, whether orally or in writing or by visible representation which:
 1. Falsely represents that the goods are of a standard, quality, quantity, grade, composition, style or model
 2. Falsely represents that the services are of a particular standard, quality or grade
 3. Falsely represents any re-built, second-hand, renovated, reconditioned, or old goods as new goods
 4. Represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have
 5. Makes a false or misleading representation concerning the need for or the usefulness of any goods or services
 6. 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;

DUTIES, POWERS AND FUNCTIONS OF COMMISSION

Duties of commission: Subject to the provisions of this act, it shall be the duty of the commission to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade carried on by other participants, in markets in India.

PENALTIES

Like other act, the competition act, 2002, has provisions for imposing penalties. The provisions include: CONTRAVENTION OF ORDERS OF COMMISSION-

1. Without prejudice to the provisions of this act, if any person contravenes without any reasonable ground, any order of the commission, or any condition or restriction subject to which any approval, sanction, direction or exemption in relation to any matter has been accorded, given, made or granted under this act or fails to pay the penalty imposed under this act, he shall be liable to be detained in civil prison for a term which may extend to one year, unless in the meantime the commission directs his release and he shall also be liable to a penalty not exceeding Rs.10 lakhs.
2. The commission may, while making an order under this act, issue such directions to any person or authority, not inconsistent with this act, as it thinks necessary or desirable for the proper implementation or execution of the order, and any person who commits breach of, or fails to comply with, any obligation imposed on him under such direction, may be ordered by the commission to be detained in civil prison for a term not exceeding one year unless in the meantime the commission directs his release and he shall also be liable to a penalty not exceeding rs.10,00,000.

There are 3 penalties:

- a) Penalty for failure to comply with directions of commission and director-general – rs. 10,000 for each day during which such failure continues (s.43)
- b) Penalty for making false statement or omission to furnish material information – a penalty which shall not be less than rs.50,00,000o but which may extend to rupees one crore, as may be determined by the commission (s.44)
- c) Penalty for offences in relation to furnishing of information – a penalty which may extend to rs.10,00,000(s-45)

STATE AIDS

- 1) Several state aids create unequal operating conditions for businesses.
- 2) Examples: subsidies, tax rebates, preferential loans, capital injection
- 3) Experience suggests that such policy measures rarely have successful results and destroy incentives for firms to become efficient
- 4) Temporary specific state-aid for well stated public purpose can be justified

ECONOMIC REGULATIONS

- New legislation and regulations to promote competition and to bring about restricting of major industrial sectors is essential. Legislation to aim at separating natural monopoly elements from potentially competitive activities, and the regulatory functions from commercial functions, and also create several competing entities through restructuring of essential competition activities and to create a competitive environment
- Example: electricity sector, ports, telecommunication sector.

PRIVATISATION AND DISINVESTMENT

- 1) Thus, privatization of state owned enterprises is important element of competition policy
- 2) However, in privatisation/disinvestment process, care is to be taken that state monopoly is not replaced by private monopoly.
- 3) Empirical research has found that state-owned enterprises generally tend to be less efficient than private owned firms, for reasons such as manager compensation, low incentives, lack of direct accountability, hard budget constraints for managers,etc.
- 4) State owned enterprises are generally insulated from market forces and receive protection/benefits such as government imposed barriers to entry, price regulation and subsidies.

Procedure for inquiry under section 26

The procedure for inquiry under section 26 of the act is as follows:

- On receipt of the report of the director general, the secretary shall place the said report before the commission within seven days for further orders and in accordance with the direction of the commission, forward copies of non-confidential version thereof to the

central government or the state government, or statutory authority or the parties concerned, as the case may be.

- If the report of the director-general finds no contravention of the provisions of the act, the secretary shall within seven days convey the directions of the commission for inviting objections or suggestions to be filed within 7 days from the central government or the state government or from the parties concerned as the case maybe on such report of the director-general.
- If the commission orders, closure of the matter on consideration of the objections or subjections if any referred to in sub-relations (2) and agrees with the findings of the director-general. The secretary shall convey the orders of the commission to the central gov or the state gov or parties concerned as the case maybe on such report
- If the commission on consideration of the objections and consideration referred to in the sub regulation (2), directs further investigations in the matter by the director-general or further enquiries in the matter to make by an officer of the commission so authorized by it. The secretary shall convey within 7 days, the directions of the commission to the director-general or the officer so authorized as the case maybe
- On receipt of the report of the director-general on further investigation or report of the authorized officer on further enquiries as the case maybe the secretary shall within the approval of the chairperson fix the meeting of the commission within 7 days for consideration thereof
- If the report of the director-general mentioned under sub-regulation(1) finds contravention of any of the provisions of the act, the secretary shall obtain the orders of the commission for inviting objections or suggestions from the central gov or the state gov or the parties concerned as the case maybe.

MRTPs vis-à-vis competition act

Under the competition act:

- a) No provision for unfair trade practices
- b) Only consumer courts will have jurisdiction
- c) Pending cases will be continued by MRTPC for 2 years
- d) After 2 years:
 - i) All cases (except disparagement cases) will be transferred to national commission under CPA
 - ii) All disparagement cases will be transferred to competition commission

Status if the competition commission

- It is a body corporate
- It has regulatory and quasi-judicial powers; functions through benches.
- Each bench shall consist of at least two members and one of such members must be a judicial member

SUO MOTO INQUIRY

1. Commission has Suo moto power to enquire whether an anti-competitive agreement or abuse of dominant position causes or is likely to cause an appreciable adverse effect on competition
2. This power must be exercised within one year from the date combination has taken effect

Anti-competitive agreements

These are agreements which cause or are likely to cause an appreciable adverse effect on competition within India:

- ❖ **Horizontal agreements:** these are between and among competitors who are at the same stage of production, supply, distribution, etc.
 - These are presumed to be illegal
 - Examples: cartels, bid rigging, collusive bidding, sharing of markets, etc.
- ❖ **Vertical agreements:** these are between parties at different stages of production, supply, distribution, etc.
 - These are not presumed illegal; are subject to rule of reason.
 - Examples: tie-in arrangements, exclusive supply/distribution agreements, refusal to deal.

Adverse effect on competition

- Creation of barriers to entry
- Driving existing competitors out of market
- Benefits to consumers
- Benefit to scientific and technical knowhow

Agreements presumed to have adverse effect

- Directly or indirectly determines purchase or sales price
- Limits or controls production, supply, technical know how
- Shares the market or sources of production results
- Results in bid rigging or collusive bidding

Protection of intellectual property rights

- The prohibition on horizontal and vertical agreements do not restrict the right of any person to impose reasonable restrictions to protect any of his rights under the copyright act, the patents act, the trade and merchandise marks act, designs act.

Abuse of dominance

- Dominant position is defined as a position of strength which enables the enterprise:
 1. To operate independently of competitive forces in the market, or
 2. To affect its competitors or consumers in its favour.
 3. No mathematical or statistical formula is adopted to measure dominance

Abuse of dominant position

It includes practises like:

1. Unfair or discriminatory conditions or prices,
2. Limiting or restricting production or technical/scientific development,
3. Denial of market access, and
4. Predatory pricing.

Power of the competition commission

After inquiry into abuse of dominant position, the competition commission can order:

- ❖ Discontinuance of abuse of dominant position

- ❖ Impose a penalty up to 10% of the average turnover of the enterprise

Combinations regulation

Combinations, in terms of the meaning given to them in the act, include mergers, amalgamation acquisitions.

To establish whether the higher concentration in the market resulting from the merger will increase the possibility of collusive or unilaterally harmful behaviour, it must first be established as to what the relevant market is

- ❖ Horizontal mergers
- ❖ Vertical mergers
- ❖ Conglomerate mergers
- ❖ Pre-notification

Relevant product market

- physical characteristics or end-use of goods
- price of goods or service
- consumer preferences
- exclusion of in-house production
- existence of specialized producers
- classification of industrial products

Factors to be considered while determining dominance

- dominant position linked to a host of factors
- market share of enterprise
- size and resources of enterprise
- size and importance of competitors
- commercial advantage of enterprise over competitors

Relevant geographic market

This market can be defined as the area in which products are available at approximately the same price given transport costs and any increase in demand can be met from neighbouring areas profitably

Mergers and acquisitions

Commission is expected to regulate “combinations”, that is large mergers, acquisitions, etc. likely to have appreciable adverse effect on competition.

Powers of commission

- a) cease and desist order
- b) impose penalty up to 10% of turnover
- c) In case of cartel, penalty can be 10% of turnover or 3 times of profit illegally gained from cartel activity, whichever is higher.

- d) Recommend to government the division of dominant enterprise
- e) Various penalties ranging from Rs.1lac up to Rs.1 crore is also provided for failure to comply with direction/order of commission

Consumer Protection Act, 1986

Defination of consumer protection act 1986 :

Consumer Protection Act, 1986 is an Act of the Parliament of India enacted in **1986** to **protect** the interests of **consumers** in India. It makes provision for the establishment of **consumer** councils and other authorities for the settlement of **consumers'** disputes and for matters connected therewith.

*)Rights of Consumer as per “Consumer Protection Act 1986”

- Right to consumer education
- Right to be protected against promotion of goods and services which are risky to life and property
- Right to be ensured, access to range of goods and services at feasible prices wherever possible .
- Right to be informed and be ensured that consumers’ benefit will be given due consideration at appropriate level
- Right to choose goods & services wherever possible & at competitive price .

*) Definitions

- Appropriate laboratory : Defined under [Sec.2(1)(a)]

means a laboratory or organisation recognised by the Central Government;

recognised by a State Government, subject to such guidelines as may be prescribed by the Central Government in this behalf; or

any such laboratory or organisation established by or under any law for the time being in

force, which is maintained, financed or aided by the Central Government or a State Government for carrying out analysis or test of any goods with a view to determining whether such goods suffer from any defect.

- Branch office : Defined under section 2 (i)(aa)

any establishment described as a branch by the opposite party; or

any establishment carrying on either the same or substantially the same activity as that carried on by the head office of the establishment

- Who can file a complaint ?

Complaint can be filed by complainant .

"complainant" is defined in section 2(1)(b)

A consumer; or

any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force; or

the Central Government or any State Government,

one or more consumers, where there are numerous consumers having the same interest;

in case of death of a consumer, his legal heir or representative; who or which makes a complaint;

- Complaint :

means any allegation in writing made by a complainant that --

an unfair trade practice or a restrictive trade practice has been adopted by any trader **or service provider**;

the goods bought by him or agreed to be bought by him; suffer from one or more defects;

the services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect.

- Consumer : [Sec.2(1)(d)]

means any person who—

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; or

hires or avails of any services 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 services 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 of with the approval of the first mentioned person *but does not include a person who avails of such services for any commercial purposes;*

- Consumer dispute : [Sec.2(1)(e)]

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

Thus, it is clear that if the person against whom complaint is made agrees to the complaint, there is no 'consumer dispute'.

- Defect : [Sec.2(1)(f)]

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 under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods;

- Deficiency:[Sec.2(1)(g)]

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;

● "District Forum" means a Consumer Disputes Redressal Forum established under clause (a) of section 9;

● "manufacturer" [*Sale of Goods Act, 1930 (3 of 1930);*]

means a person who—

(i) makes or manufactures any goods or part thereof; or

(ii) does not make or manufacture any goods but assembles parts thereof made or manufactured by others; or

(iii) puts or causes to be put his own mark on any goods made or manufactured by any other manufacturer;

"National Commission" means the National Consumer Disputes Redressal Commission established under clause (c) of section 9;

"notification" means a notification published in the Official Gazette;

"person" includes,—

(i) a firm whether registered or not;

(ii) a Hindu undivided family;

(iii) a co-operative society;

(iv) every other association of persons whether registered under the Societies Registration Act, 1860 (21 of 1860) or not;

Restrictive trade practice" means a trade practice which tends to bring about manipulation of price or conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions and shall include—

(a) delay beyond the period agreed to by a trader in supply of such goods or in providing the services which has led or is likely to lead to rise in the price;

(b) any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent to buying, hiring or availing of other goods or services;

Service 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, board 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;

spurious goods and services” mean such goods and services which are claimed to be genuine but they are actually not so;

"State Commission" means a Consumer Disputes Redressal Commission established in a State under clause (b) of section 9;

"Trader" in relation to any goods means a person who sells or distributes any goods for sale and includes the manufacturer thereof, and where such goods are sold or distributed in package form, includes the packer thereof;

“unfair trade practice" 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

Definitions: -

“**Complaint**” means any allegation in writing made by a complaint that : - as a result of any unfair trade practice adopted by any trader, the complainant has suffered loss or damage; the goods mentioned in the complaint suffer from one or more defects; the services mentioned in the complaint suffer from deficiency in any respect; a trader has charged for the goods mentioned in the complaint a price in excess of the price fixed by or under any law for the time being in force or displayed on the goods or any package containing such goods, with a view to obtaining any relief provided by or under this Act;

“**Consumer**” means any person who,- buy 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; or hires any services 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 services other than the person who hires 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 of with the approval of the first mentioned person;

“Consumer Dispute” means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint;

“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 as is claimed by the trader in any manner whatsoever in relation to any goods;

“Deficiency” 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;

“District Forum” means a Consumer Disputes Redressal Forum established under Cl. (a) of Sec. 9; of the Act.

“National Commission” means the National Consumer Disputes Redressal Commission established under Cl. (c) of Sec. 9;

“Person” includes, a firm whether registered or not; a Hindu undivided family; a co-operative society; every other association of persons whether registered under the Societies Registration Act, 1860 (21 of 1860), or not; **“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, board or lodging or both, entertainment, amusement or the purveying or 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” means a Consumer Disputes Redressal Commission established in a State under Cl. (b) of Sec. 9; of the Act.

‘Unfair Trade Practice’ means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the purpose of promoting the sale, use or supply of any goods or for the provision of any services, adopts one or more of the following practices and thereby causes loss or injury to the consumers of such goods or services, whether by eliminating or restricting or competition or otherwise, namely,- The practice of making any statement, whether orally or in writing or by visible representation which,- falsely represents that the goods are of a particular standard, quality grade, composition, style or model; falsely represents, that the goods are of a particular standard, quality or grade; falsely represents any rebuilt, second-hand, renovated, reconditioned or old goods as new goods; represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have; represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have; makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services; 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 any adequate or proper test thereof: Provided that where a defense is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defense shall lie on the person raising such defense; makes to the public a representation in a form that purports to be a warranty or guarantee of a product or of any goods or services, or promise to replace, maintain or repair an article or any part thereof or to repeal or continue service until it has achieved a specified result, if such purported warranty or guarantee or promise is materially misleading or if there is not reasonable prospect that such warranty, guarantee or promise will be carried out; 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 supplies 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; give false or misleading facts disparaging the goods, services or trade of another person.

Consumer Disputes Redressal Agencies :

Establishment of Consumer Disputes Redressal Agencies: - These shall be established for the purposes of this Act, the following agencies namely: - a Consumer Disputes Redressal Forum to be known as the “District Forum” established by the State Government with the prior approval of the Central Government in each district of the State by notification; a Consumer Disputes Redressal Commission to be known as the “State Commission” established by the State Government with the prior approval of the Central Government in the State by notification; and a National Consumer Disputes Redressal Commission established by the Central Government by notification. Jurisdiction of the District Forum :Subject to the other provisions of this Act, the district forum shall have jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed is less than rupees one lakh. Complaint shall be instituted in a district forum within the local 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, actually and voluntarily resides or carries on business, or personally works for gain, or any of the opposite parties, where there are more than one, at time of the institution of the complaint, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the permission of the district forum is given, on the opposite parties who do not reside, or carry on business, or personally works for gain, as the case may be, acquiesce in such institution; or the cause of action, wholly or in part, arises. 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. For purposes of this section, the district forum shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely –

the summoning and enforcing attendance of any defendant or witness and examining the witness on oath; the discovery and production of any document or other material object producible as evidence; the reception of evidence on affidavits; the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source; issuing of any commission for the examination of any witness; and any other matter which may be prescribed; Every proceeding before the district forum shall be deemed

to be a judicial proceeding within the meaning of Secs. 193 and 228 of the Indian Penal Code (45 of 1860), and the district forum shall be deemed to be civil court for the purposes of Sec. 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Appeal: –

Any person aggrieved by an order made by the district forum may prefer an appeal against such order to the state commission within a period of thirty days from the date of the order, in such form and manner as may be prescribed: Provided that the state commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

COMPLAINT UNDER CONSUMER PROTECTION ACT : (Important)

Aggrieved party can lodge his complaint with respective Redressal Forum with following documents and information: -

Application / Complaint with full name & address of the complainant, in regional language of the State. However it should be preferably in English for convenience.

Full name & address of the opponent.

Information about when and where cause of the complaint arose.

Detailed particulars and nature of complaint.

Prayer of reliefs sought including monetary claims, compensations; and its total value.

Certified true copies of all relevant documents on which complaint is based and to be attached as Exhibits, with serial number.