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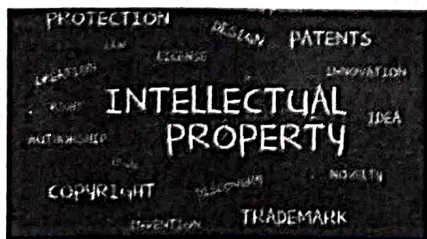
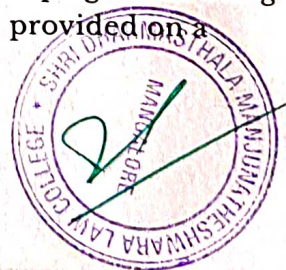
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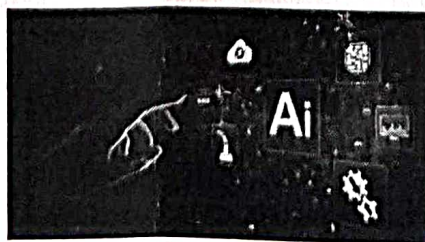
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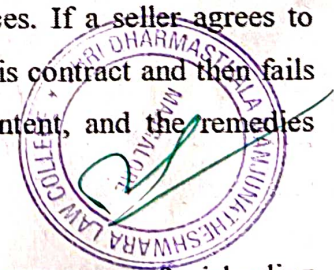
BRAIN BOOSTER ARTICLES**VOLUME 1, ISSUE 1****A CRITICAL INTERPRETATION OF THE TERMS 'RESTRICTIVE TRADE PRACTICE' AND 'UNFAIR TRADE PRACTICE'**

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Abstract

There has recently been an increase in public concern in India about consumer protection issues, especially unfair trade practices. This is founded on the idea that the vast majority of consumers increasingly feel powerless when purchasing products or services for personal use. When engaging with the business community at large, they must be completely honest. When it comes to purchasing products or getting services for their use, India's huge consumer population feels powerless when interacting with the business community at large. Consumers are often exposed to cheap, sub-standard, unhealthy, and faulty products and services. Inequitable and unequal terms of the contract are the product of misleading and unreasonable trade practices. However, this perspective, along with several other factors, led to the passage of the Monopolies and Restrictive Trade Practices Act (MRTP Act), which was followed by the MRTP (Amendment) Act, 1984, which established and prohibited unfair and unconscionable trade practices under sections 36A to 36E in Part B of Chapter V, to further the cause of consumers and consumerism in the country. Contract conditions that are inequitable and unjust are the result of deceptive and unfair business practices. In this situation, the law will have to take a pragmatic approach in the economic interest of the city. The rule of law can't be used to prove that it's impartial. There are several laws on the books in India that serve to protect the economic interests of the country's large consumer population. For a long time, the laws have recognized that a customer who is forced to enter into a contract by a dishonest, unjust, or misleading activity is entitled to legal recourse. If a seller commits to satisfy his deal for products or services. If a seller agrees to provide goods or services at a certain price, quality, or quantity under his contract and then fails to do so, he will be held liable. It is difficult to prove fraudulent intent, and the remedies available for non-fraudulent misrepresentation are restricted.

The MRTP Act aims to organise a strong movement to raise consumer awareness of misleading practices and to provide protection against them. The inadequacy of the MRTP Act, which did



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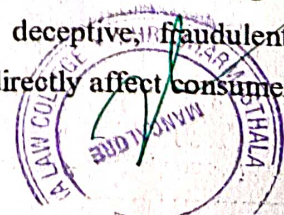
not have any curb, review, or monitor on unfair trade practises, was brought to light by the Act's operation after 1969. In its Fourth Annual Administrative Report (1974) on the functioning of the MRTP Act, the MRTP Commission stated that the concepts of Monopolistic and Restrictive Trade Practices are inadequate because certain disruptive and deceptive trade practises fall outside of their purview, and therefore the Act is unable to provide the required safeguards to the public. Therefore, its important to understand the terms like Unfair Trade Practice and Restrictive Trade Practice.

Introduction

Competition policy is about applying rules to make sure businesses and companies compete fairly with each other. This encourages enterprise and efficiency, creates a wider choice for consumers and helps reduce prices and improve quality. In other words, competition in the market promotes efficiency, encourages innovation, leads to higher productivity, punishes the laggards, facilitates better governance, boosts choice, improves quality, reduces costs and ensures availability of goods in abundance with acceptable quality at an affordable price.

In liberalised India, competitive thrust in the economy has got directed into two spheres. At the top end, firms have merged and amalgamated to enlarge the firm size, market share and resource base. Two, firms have got into aggressive and competitive trade practices to entice the customers. These practices raise questions about truthfulness and fairness of representation of products, services, advertisement, and schemes and modalities for promotion of products and services.

In a profit motive world, the market operators create a monopoly over their respective markets by resorting to various strategies to prevent fair competitions. The restrictive trade practice and unfair trade practices are such strategies used by the market operators to prevent fair competition in the market. Any strategy used by market operators to restrict competition within a given market is termed as a **Restrictive Trade Practice**. The term **unfair trade practices** is a general definition, which encompasses, in its most common use, various deceptive, fraudulent, or otherwise injurious trade practices and mainly refers to practices that directly affect consumers.



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Due to the increase in these unhealthy activities that ultimately lead to consumer exploitation, there was a need felt to regulate market operations. Thereby the Government enacted various legislations such as the Monopolies and Restrictive Trade Practice Act 1969, the Consumer Protection Act 1986 and the Competition Act 2002 to control the anticompetitive strategies adopted in the market.

The laws governing unfair competition serve five purposes. They are:

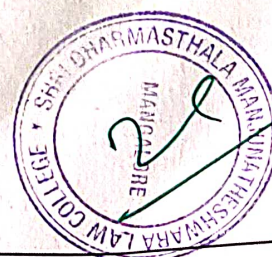
1. First, it protects the economic, intellectual, and creative investments made by businesses in distinguishing themselves and their products.
2. Second, it preserves the goodwill that businesses have established with consumers.
3. Third, it deters businesses from appropriating the goodwill of their competitors.
4. Fourth, it promotes clarity and stability by encouraging consumers to rely on a merchant's goodwill and reputation when evaluating the quality of rival products and, lastly,
5. it increases competition by providing businesses with incentives to offer better goods and services than others in the same field.

Thus, the law governing unfair competition covers both, the interest of consumers as well as the business enterprises and competing firms.

The Monopolies and Restrictive Trade Practice Act 1969

The Monopolies and Restrictive Trade Practices Act, 1969, (MRTP) was enacted to prevent monopolies and restrictive trade practices in the economy. The MRTP Act, 1969 has its genesis in the Directive Principles of State Policy embodied in the Constitution of India. Clauses (b) and (c) of Article 39 of the Constitution lay down that, the State shall direct its policy towards ensuring:

- That the ownership and control of material resources of the community are so distributed as to best serve the common good; and
- That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.



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The MRTP, 1969, aimed to prevent the concentration of economic power to the common detriment, provide for control of monopolies and prohibition of monopolistic, restrictive and unfair trade practice, and protect consumer interest i.e

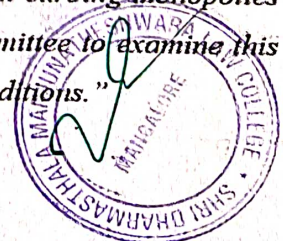
- a) To ensure that the operation of the economic system does not result in the concentration of economic power in hands of few,
- b) To provide for the control of monopolies, and
- c) To prohibit monopolistic and restrictive trade practices.

In 1984, the High-powered expert committee report of Justice Sachar recommended a separate chapter to be added to the MRTP act defining UTPS essentially in the interests of consumers and recommended regulating advertising and representation to consumers to prevent deception and create transparency. Therefore, in 1984, the MRTP Act was amended to add a chapter on Unfair Trade Practices. The MRTP Act created a body called the Director-General of Investigation and Registration (DGIR). On a complaint or its own, the DGIR could investigate a claim of restrictive or unfair trade practice. The MRTP creates a judicial body called the Monopolies and Restrictive Trade Practices Commission. The DGIR was to take cases before the benches of the Commission. The Commission, on judging a practice to be an unfair trade practice, could order the offending party to cease the practice.

Further, in 1991 the economic regulations resulted in the amendment of the Act, which resulted in more emphasis on the prohibition of restrictive trade practices, unfair trade practices and monopolistic trade practices. However, the MRTP Act lacked in addressing various strategies like Abuse of dominance, Cartel formation, collusion and price-fixing, Bid rigging, Boycotts and refusal to deal and Predatory pricing. Furthermore, the large numbers of judicial interpretations and case laws affected the very intent of the MRTP Act.

In February 1999, the Finance Minister in the budget speech observed:

"The MRTP act has become obsolete in certain areas in the light of the national economic developments relating to competition laws. We need to shift our focus from curbing monopolies to promoting competition. The government has decided to appoint a committee to examine this range of issues and propose a modern competition law suitable for our conditions."



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Therefore, the Government appointed a high-level committee to advise a modern competition law for India in line with international developments and to suggest a legislative framework. The committee included competition experts, representatives of industry and consumers, economist, chartered accountant, advocate etc. Raghavan Committee reported hence resulted in the enactment of The Competition Law in the year 2002.

The Competition Act, 2002

This Act was enacted to provide, keeping because of the economic development of the country, the establishment of a Commission with the following objectives:-

- Prevent practices from having an adverse effect on competition.
- Promote and sustain competition in markets.
- Protect the interests of consumers.
- Ensure freedom of trade carried on by other participants in markets in India

The Act of 2002 deals with

- a) Anti-Competition Agreements
- b) Abuse of Dominance
- c) Mergers, Amalgamations, Acquisitions And Takeovers
- d) Fostering Competition

This Act purely deals with all types of restrictive trade practices adopted by the market operators to prevent fair competition from the market.

The Restrictive Trade Practice

A restrictive trade practice is generally one which has the effect of preventing, distorting or restricting competition. In particular, a practice that tends to obstruct the flow of capital or resources into the stream of production is an RTP.

The MRTP Act defines the term '**Restrictive trade practice**' as a trade practice that tends to bring about the manipulation of price or its conditions of delivery or to affect the flow of supplies in the market relating to goods or service in such a manner as to impose on the consumers' unjustified costs or restrictions and shall include-



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- (a) Delay beyond the period agreed to be a trader in the supply of such goods or in providing the services which have led or are likely to lead to a 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 serviced as-condition precedent to buying, hiring or availing of other goods or services¹.

The Consumer Protection Act, 1986, defines the “restrictive trade practice” as a trade practice that tends to bring about the manipulation of price or conditions of delivery or to affect the 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 include²—

- a) Delay beyond the period agreed to by a trader in the supply of such goods or in providing the services which have led or are likely to lead to a rise in the price;
- b) Any trade practise which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as a condition precedent to buying, hiring or availing of other goods or services.

The Competition Act 2002 entirely deals with the concept of restrictive trade practices that are used by the market operators to monopolise their market. However, this Act does not define specifically the term ‘Restrictive trade Practice’. The Act focuses on the different classes of restrictive trade practices such as anti-competitive agreement, abuse of dominance and merger and acquisitions and thereby foster healthy competition in the market.

The market operators resort to various forms of restrictive trade practices. They are:

1. **Refusal to deal:** Refusal to deal is one of several anti-competitive practices which includes any agreement which restricts, by any method the person or classes of persons to whom goods are sold or from whom goods are bought³.
2. **Tie-up sales:** The Wex Legal Dictionary defines Tie-up sales as an arrangement in which the seller conditions the sale of one product (the tying product) on the buyer's agreement to purchase a separate product (the tied product) from the seller. Alternatively,

¹ Section 2(O), the MRTP Act, 1969

² Section 2 (mn), COPRA Act, 1986

³ Section 4



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it is also a tying arrangement when the seller conditions the sale of the tying product on the buyer's agreement not to purchase the tied product from any other seller⁴.

3. **Full line forcing:** In a full line forcing arrangement, the distributors are contractually obligated to sell a supplier's product line in its entirety. Importantly, though, distributors can carry the products of competing sellers as well⁵. This characteristic distinguishes full-line forcing from other tying arrangements and effectively insulates from per se illegality, provided the arrangement does not have a substantial effect on competition.
4. **Exclusive dealings:** In competition law, **exclusive dealings** refers to an arrangement whereby a retailer or wholesaler is 'tied' to purchase from the supplier on the understanding that no other distributor will be appointed or receive supplies in a given area.
5. **Concert or collusion-cartel:** A cartel arrangement is an arrangement between competing firms to control prices or exclude the entry of a new competitor in the market. It is a formal organization of sellers or buyers that agree to fix selling prices, purchase prices, or reduce production using a variety of tactics.
6. **Price discrimination:** Price discrimination is the practice of charging different persons different prices for the same goods or services.
7. **Predatory pricing:** It is a pricing strategy where a product or service is set at a very low price, intending to drive competitors out of the market or create barriers to entry for potential new competitors.
8. **Resale price maintenance:** It is a practice whereby a manufacturer and its distributors agree that the distributors will sell the manufacturer's product at a certain price, at or above a price floor (minimum resale price maintenance) or at or below a price ceiling (maximum resale price maintenance)

The restrictive trade practice is dealt with under the Competition Act of 2002 under three categories, i.e., anti-competitive agreement, abuse of dominance and merger & acquisition. This Act has replaced its predecessor MRTP Act entirely.

⁴ *Eastman Kodak v Image Technical Services, Inc.*, 504 U.S. 541 (1992)

⁵ *Colorado Pump & Supply Co. v Febco, Inc.*, 472 F.2d 637, 640 (10th Cir. 1973)



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Abuse of Dominance: Dominance not linked to any arithmetic figure of market share.

Dominance means a position of strength

enabling an enterprise to operate independently of competitive pressure and to appreciably affect the relevant market, competition and consumers.

Abuse of dominance arises if an enterprise

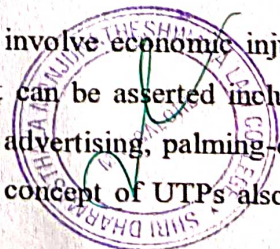
- imposes unfair /discriminatory purchase or sale prices (including predatory prices)
- Limits production, markets or technical development
- Denies market access
- Concludes contracts subject to obligations having no connection with the subject of the contracts
- Uses dominance to move into or protect other markets

Unfair trade practices (UTPs)

The term Unfair Trade Practice broadly refers to any fraudulent, deceptive or dishonest trade practise or business misrepresentation of the products or services that are being sold which is prohibited by a statute or has been recognized as actionable under the law by a judgment of the court. However, the term does not have a universal standard definition.

The treatment and definition of UTPs in a country are majorly derived from the nature of its markets. The analyses of how open or closed markets are in such a country, sale and purchase trend within that country, its domestic laws, level of restrictions imposed on the public authorities dealing with UTPs and other social and economic conditions decide the definition of UTP in such country. Because of this reason, there has been a fair amount of uncertainty across countries regarding how to deal with the concept of unfair trade practices, in theory as well as in practice.

Unfair trade practices encompass a broad array of torts, all of which involve economic injury brought on by deceptive or wrongful conduct. The legal theories that can be asserted include claims such as trade secret misappropriation, unfair competition, false advertising, palming-off, dilution and disparagement. The notion of "fairness" involved in the concept of UTPs also is



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analysed separately since it means different things to different groups of stakeholders and might vary according to contexts in a given market economy.

An Unfair trade practice means a trade practice, which, to promote any sale, use or supply of any goods or services, adopts unfair method, or unfair or deceptive practice. An unfair trade practice has the following effects on the consumers and the economy;

1. Impact on Price and Quality of Goods and Services
2. Impact on Micro, Small and Medium Enterprises
3. Impact on Consumer Confidence

In India, till 2002, the MRTP Act, which was enacted to prevent monopolies and restrictive trade practices in India, was the foremost legislation to deal with unfair trade practices in the country. Before 1984, the MRTP Act contained no provisions for the protection of consumers against false or misleading advertisements or other similar unfair trade practices. The Sachar Committee recommended that a separate chapter should be added to the MRTP Act defining various unfair trade practices so that the consumer, the manufacturer, the supplier, the trader and other persons in the market can conveniently identify the practices.

The 1984 amendment also created a new authority in form of an independent body known as the Director-General of Investigation and Registration (DGIR) which was supposed to work closely with MRTP Commission and based on a complaint, or *suo motu*, DGIR was entitled to investigate into a claim of a restrictive or an unfair trade practice as listed out in Section 36A of the MRTP Act and bring the matter before the MRTP Commission (MRTPC) established under the MRTP Act to assess the need for MRTP to initiate an enquiry.

The MRTP, on determining a practice to be unfair, was entitled to order the offending party to cease the practice under Section 36D of the MRTP Act, if the practice was found to be 'prejudicial to the public interest or the interest of any consumer or consumers generally'. Apart from MRTP taking *suo motu* action, the other people who can approach MRTP with a complaint under the MRTP Act included the individual consumer, trade associations and registered association of consumers.



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According to the replacement of the Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act) by the Competition Act, 2002 (the Competition Act), clarity emerged that UTPs would continue to be dealt with under the Consumer Protection Act, 1986 (COPRA). Section 36-A defines unfair trade practices and covers the five types of practices that are regarded as unfair trade practices in certain situations. These practices are:

- Misleading advertisements and false representations
- Bargain sale
- Offering gifts or prizes and conducting promotional contests
- Supplying goods not adapting to product safety standards
- Hoarding or destruction of goods, or refusal to sell the goods
- fraudulent use of another's trademark, firm name, or product labelling or packaging; and
- unauthorised receipt, use or dissemination of confidential scientific, technical, production and business or trade information.

The remedies available under this act are Temporary Injunction and Compensation. The Act provides a three-tier redressal mechanism in addition to other resources that are available.

Many instances of unfair trade practices are witnessed in the country almost every day. A case for violation of Drugs & Cosmetics Act, 1940 was imposed on the manufacturing unit of the Thrissur-based manufacturer of 'AyurKizhi' (an external heat therapy kit), Institute of Indian Therapy (Ayur Care) for manufacturing and selling the product, AyurKizhi, as a branded item without a licence. According to the Kerala Ayurveda Drugs Control Department, it had given separate license for 'AyurKizhi Oil' and 'AyurKizhi Powder', but no licence had been given exclusively for the single product 'AyurKizhi Kit'. Since the company had been giving wide publicity to their products involving cricket players, hence a case of violation of the Drugs and Magical Remedies (Objectionable Advertisement) Act was also registered⁶.

Similarly, in the case of Pooja Roy v. Krishnango Bhattacharya⁷, M/s Kasko India, a wholesale license drug dealer was charged for engaging in altering the original labels of the manufacturer and pasting freshly printed labels extending the expiry date and selling spurious drugs.

⁶ "Kerala drugs Dept raids 'AyurKizhi' Unit: Case Registered for Violation of D&C Act", April 14, 2011, source: <http://ayurbhishak.wordpress.com/2011/04/14/%E2%99%A3-kerala-drugs-dept-raids-ayur-kizhi-unit-case-gistered-for-violation-of-dc-act/>, accessed on October 10, 2012

⁷ Calcutta High Court, 2008



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Apart from COPRA, some of the important laws and regulations to deal with such UTPs in the various sectors are as follows:

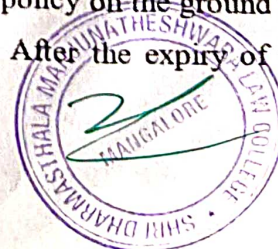
- **The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954:** It prohibits advertisements for products and services claiming to cure certain medical conditions. The law prohibits advertisements promising magical cure for any ailment or disease and the rules specify the diseases and ailments that cannot be advertised. However, the enforcement of the law by the state authorities seems to be poor, as a result of which one finds several advertisements in the print media. Additionally, the Act also does not cover advertisements that appear in various media about health gadgets of unproven efficiency, like tummy trimmers and gadgets to increase height. This Act also does not provide for issuing corrective advertisements.

- **Drugs and Cosmetics Act, 1940:** The Act regulates the import, manufacture, distribution and sale of drugs and cosmetics in the country. There are very strict penalties for the manufacture and sale of adulterated or spurious drugs or drugs not of standard quality which are likely or cause death or grievances hurt to the user.

- **Whistleblower Policy:** Union Health Minister, Ghulam Nabi Azad announced in July 2009 India's ambitious Whistleblower Policy to handsomely reward those who help seize spurious, adulterated and misbranded drugs, cosmetics and medical devices.

- **Food Safety and Standards Act, 2006 (FSSA).** The Act which consolidates and repeals various acts and orders that have hitherto handled food-related issues in various Ministries and Departments seeks to consolidate the laws relating to food and to curb food adulteration by prescribing higher penalties for violation of food laws. FSSA came into effect on August 4, 2011.

- **Insurance Act, 1938 and relevant rules and regulations:** As per section 45 of the Insurance Act, two years from the date of the policy, an insurer can repudiate the policy on the ground that any material fact in the proposal or document is inaccurate or false. After the expiry of two



years, an insurer can repudiate the policy on fulfilling all three conditions mentioned in section 45.

- **Insurance Regulatory and Development Authority Act, 1999 (IRDA Act) and relevant rules and regulations:** The IRDA Act has established the IRDA as a statutory regulator to regulate and promote the insurance industry in India and to protect the interests of holders of insurance policies.

- **The IRDA (Insurance Advertisements and Disclosure) Regulations, 2000:** The Regulations impose regulation on advertisements, lay down strict guidelines not only on the content of the advertisements issued by insurers and their intermediaries but also on their compliance.

- **The SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 2003** enables SEBI to investigate cases of market manipulation and fraudulent and unfair trade practices. As per the Regulations indulging in an act that creates the false or misleading appearance of trading in the securities market constitutes an unfair trade practice. The regulations specifically prohibit fraudulent dealings, market manipulation, misleading statements to induce the sale or purchase of securities, unfair trade practices relating to securities.

- **Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010**, waiting to be passed in Parliament in the Winter Session. The Bill aims to provide an institutional mechanism for preventing, prohibiting and punishing unfair practices in technical and medical educational institutions and universities. As has been mentioned above, upon replacement of the MRTP Act by the Competition Act, 2002, the provisions relating to unfair trade practices were transferred from the MRTP Act to COPRA and not in the Competition Act. Although the provisions were merely copied, yet, in the course of being copied from the MRTP Act into the structure of the COPRA; the provisions acquired a new meaning.



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Within COPRA, a 'consumer' only means any person who buys any goods or hires/avails of any service for a consideration which has been paid or promised or partly paid and partly promised and includes any user of such goods other than the person who obtains such goods or avails of such services for resale or any commercial purpose⁸.

It is important to note that, 'commercial purpose' has been interpreted to protect the interest of small consumers who buy goods for self-employment to earn their livelihood, like a rickshaw puller buying rickshaw for self-employment, or a farmer purchasing fertilizer for his crops, or a taxi driver buying a car to run it as a taxi, etc. who fall within the definition of consumer⁹.

However, such interpretation excludes from the purview of COPRA, the big business houses carrying on business with the profit motive. COPRA fails to acknowledge that sale and purchase transactions do not only include purchasing of goods or availing services by a person for self but sometimes the goods or services are purchased by a person for reselling or other commercial purposes, such as to run another business and such purchasers also should have a remedy against UTPs under COPRA.

The Supreme Court observed that a purchase of goods could be said to be for a commercial purpose only if two conditions were satisfied, namely: (a) the goods must have been purchased for being used in some profit-making activity on a large scale; and (b) there should be close and direct nexus between the purchase of goods and the profit-making activity. It was held that Laxmi Engineering Works was purchasing a machine with a commercial purpose and therefore did not fall within the definition of consumer¹⁰. Therefore, the companies engaging in a sale-purchase agreement with a commercial purpose or with a purpose to resale the purchased good do not have any direct remedy under COPRA.

As a result, under COPRA, although a particular user of goods or services who is injured due to such UTPs can approach the consumer forum directly or through a consumer association or

⁸ Section 2 (d) of COPRA

⁹ *Synco Textiles Pvt Ltd v. Greaves Cotton & Co. Ltd* (1991) CPJ 499

¹⁰ *Laxmi Engineering Works v. P S G Industrial Institute*, 1995 SCC (3) 583



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central government/state governments, any company which purchases goods/services for resale or other commercial purposes cannot qualify as 'consumers' and cannot take up a case of an Unfair Trade Practice before a consumer forum.

The Consumer Protection (Amendment) Bill, 2011

The Consumer Protection (Amendment) Bill, 2011 was introduced in the Lok Sabha on December 16, 2011, by Mr. K.V. Thomas. It has been referred to the Standing Committee on Food, Consumer Affairs and Public Distribution.

The Bill defines unfair contract to include a contract that has one or more of the following clauses (a) excessive security deposit; (b) imposition of disproportionate penalty; (c) refusal to accept early repayment of debt and; (d) termination of the contract without reasonable cause.

Under the Bill, unfair trade practice includes (i) a failure to take back the goods or withdraw the services within 30 days after the receipt of the goods by the consumer; and (ii) disclosure of confidential personal information.

Observations

The restrictive trade practice and unfair practice (though regulated utilizing various laws) are still prevalent in society. One of the biggest challenges in dealing with these still lies within the general public. The common man is still not completely aware of his rights.

A consumer is vested with the right to information when he purchases a good or avails a service and big corporations, but a lack of awareness amongst the consumers about this right deprives him/her of enjoying this right and gives the power to the producers and the sellers to exploit the consumers. This unawareness does not even let the consumer realise that they are being cheated on by the sellers and bear the brunt of this exploitation.

UTPs remain an issue of low significance when compared to the high profile of other antitrust/competition issues, unfortunately. Part of the reason is that the value of UTP cases is smaller as compared to antitrust cases, and UTPs involve mostly the domestic consumers, SMEs – in essence, the small men. This, in consequence, leads to a situation where policy-making and law enforcement activities related to UTPs is not on the priority list of governments and to a



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general lack of field/published research on substantive issues of UTPs, to name a few problems. All in all, these problems lead back to the situation where public awareness/understanding about the issues at stake is low, consumers are cheated, small businesses are treated unfairly, which means overall welfare of the society is lessened, while economic gains concentrate on a few elites. More research and information dissemination in this area, hence, is the need of the hour to create effective legal institutions to deal with UTPs and also create awareness among relevant stakeholders.

The lack of proper implementation of the laws also is an important reason behind the recurrence of these practices. There should be a strict implementation of the laws. Additionally, Government penalties for providing misleading information or perpetuating consumer fraud, although may be high, but are imposed tardily or not imposed at all. India also lacks a law against warring corporations indulging in unfair trade practices and a justice delivery system to have some 'rules of the game' to compete among themselves. This has made the companies indulging in UTPs more resistant to taking corrective measures and most of the time, if a consumer approaches the companies, such complaints are ignored outright.

Conclusion

Hence, it is seen that with the advent of globalisation, liberalisation and privations and subsequent growth, RTPs and UTPs are becoming more and more rampant across the world in different sectors of the economy. In addition to COPRA, various sectoral laws have been enacted to deal with such unfair practices specifically under each sector.

Despite a network of laws, regulations and guidelines being in existence to tackle the RTPs and UTPs under COPRA and sectoral laws, these still exist and continue to adversely affect the innocent consumer as well as the competition in the market and thus the entire economy.



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