

Unit - III

Grievance Redressal Mechanism under the Indian Consumer Protection Law



Who can file a complaint?
Grounds of filing a complaint;
Limitation period;
Procedure for filing and hearing of a complaint;
Disposal of cases, Relief/Remedy available;
Temporary Injunction, Enforcement of order, Appeal, frivolous and vexatious complaints;
Offences and penalties.
Leading Cases decided under Consumer Protection law by Supreme Court/National Commission:
Medical Negligence;
Banking;
Insurance;
Housing & Real Estate;
Electricity and Telecom Services;
Education;
Defective Products;
Unfair Trade Practices.

3.1 Who can file a complaint?

1. A consumer; or
2. Any voluntary consumer association registered under any law for the time being in force; or
3. The central government or any state government; or
4. The central authority; or
5. One or more consumers, where there are numerous consumers having the same interest; or
6. In case of death of a consumer, his legal heir or legal representative; or
7. In case of a consumer being a minor, his parent or legal guardian.

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3.2 Grounds of filing a Complaint

1. an unfair trade practice or a restrictive trade practice has been adopted by any trader or service provider ;
2. the goods bought by him or agreed to be bought by him suffer from one or more defects;
3. the services hired or availed of or agreed to be hired or availed of by him suffer from any deficiency;
4. A trader or the service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price in excess of the price-
 - Fixed by or under any law for the time being in force;
 - displayed on the goods or any package containing such goods;
 - displayed on the price list exhibited by him by or under any law for the time being in force;
 - agreed between the parties
5. goods which will be hazardous to life and safety when. used, are being-offered for sale to the public-
 - in contravention of any standard relating to safety of such goods as required to be complied with, by or under any law for the time being in force;
 - where the trader knows that the goods so offered are unsafe to the public;
6. the services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by a person who provides any service and who knows it to be injurious to life and safety;

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3.3 Definition of important terminologies

2(6) "Complaint"

"complaint" means any allegation in writing, made by a complainant for obtaining any relief provided by or under this Act.

2(8) "consumer dispute"

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

2(10) "defect"

"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 under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods or product and the expression. "defective" shall be construed accordingly;

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2(11) "deficiency"

"deficiency" means in service availed, 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—

- a) any act of negligence or omission or commission by such person which causes loss or injury to the consumer; and
- b) deliberate withholding of relevant information by such person to the consumer;

2(21) "goods"

"goods" means every kind of movable property and includes "food" as defined in clause (j) of sub-section (1) of section 3 of the Food Safety and Standards Act, 2006

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2(37) "product seller"

"product seller", in relation to a product, means a person who, in the course of business, imports, sells, distributes, leases, installs, prepares, packages, labels, markets, repairs, maintains, or otherwise is involved in placing such product for commercial purpose and includes—

- a) a manufacturer who is also a product seller; or
- b) a service provider,

but does not include—

- 1) a seller of immovable property, unless such person is engaged in the sale of constructed house or in the construction of homes or flats;
- 2) a provider of professional services in any transaction in which, the sale or use of a product is only incidental thereto, but furnishing of opinion, skill or services being the essence of such transaction;

a person who—

- I. acts only in a financial capacity with respect to the sale of the product;
- II. is not a manufacturer, wholesaler, distributor, retailer, direct seller or an electronic service provider;
- III. leases a product, without having a reasonable opportunity to inspect and discover defects in the product, under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor;

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2(38) "product service provider"

"product service provider", in relation to a product, means a person who provides any service in respect of such product;

2(41) "restrictive trade practice"

"restrictive trade practice" means a trade practice which tends to bring about manipulation of price or its 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—

- (i) 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;
- (ii) 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 for buying, hiring or availing of other goods or services;

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2(42) "service"

"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, telecom, boarding 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;

2(45) "trader"

"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;

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2(46) "unfair contract"

"unfair contract" means a contract between a manufacturer or trader or service provider on one hand, and a consumer on the other, having such terms which cause significant change in the rights of such consumer, including the following, namely:—

- a. requiring manifestly excessive security deposits to be given by a consumer for the performance of contractual obligations; or
- b. imposing any penalty on the consumer, for the breach of contract thereof which is wholly disproportionate to the loss occurred due to such breach to the other party to the contract; or
- c. refusing to accept early repayment of debts on payment of applicable penalty; or
- d. entitling a party to the contract to terminate such contract unilaterally, without reasonable cause; or
- e. permitting or has the effect of permitting one party to assign the contract to the detriment of the other party who is a consumer, without his consent; or
- f. imposing on the consumer any unreasonable charge, obligation or condition which puts such consumer to disadvantage;

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3.3 Definition of important terminologies

2(47) "unfair trade practice"

"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, namely:—

- i. making any statement, whether orally or in writing or by visible representation including by means of electronic record, which—
 - a) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model;
 - b) falsely represents that the services are of a particular standard, quality or grade;
 - c) falsely represents any re-built, second-hand, renovated, reconditioned or old goods as new goods;
 - d) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;
 - e) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;
 - f) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;
 - g) 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:

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2(47) "unfair trade practice" contd..

- h) makes to the public a representation in a form that purports to be—
- A. a warranty or guarantee of a product or of any goods or services; or
 - B. a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result,
 - C. if such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such warranty, guarantee or promise will be carried out;
- (i) gives false or misleading facts disparaging the goods, services or trade of another person.

Explanation. — For the purposes of this sub-clause, a statement that is, —

- A. expressed on an article offered or displayed for sale, or on its wrapper or container; or
- B. expressed on anything attached to, inserted in, or accompanying, an article offered or displayed for sale, or on anything on which the article is mounted for display or sale; or
- C. contained in or on anything that is sold, sent, delivered, transmitted or in any other manner whatsoever made available to a member of the public, shall be deemed to be a statement made to the public by, and only by, the person who had caused the statement to be so expressed, made or contained;

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2(47) "unfair trade practice" contd..

ii) permitting the publication of any advertisement, whether in any newspaper or otherwise, including by way of electronic record, for the sale or supply at a bargain price of goods or services that are not intended to be offered for sale or supply at the bargain price, or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement.

Explanation.— For the purpose of this sub-clause, "bargain price" means,—

- A. a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise; or
- B. a price that a person who reads, hears or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold;

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2(47) "unfair trade practice" contd..

iii) permitting—

- a) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged, in the transaction as a whole;
- b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest, except such contest, lottery, game of chance or skill as may be prescribed;
- c) withholding from the participants of any scheme offering gifts, prizes or other items free of charge on its closure, the information about final results of the scheme.

Explanation.—For the purpose of this sub-clause, the participants of a scheme shall be deemed to have been informed of the final results of the scheme where such results are within a reasonable time published, prominently in the same newspaper in which the scheme was originally advertised;

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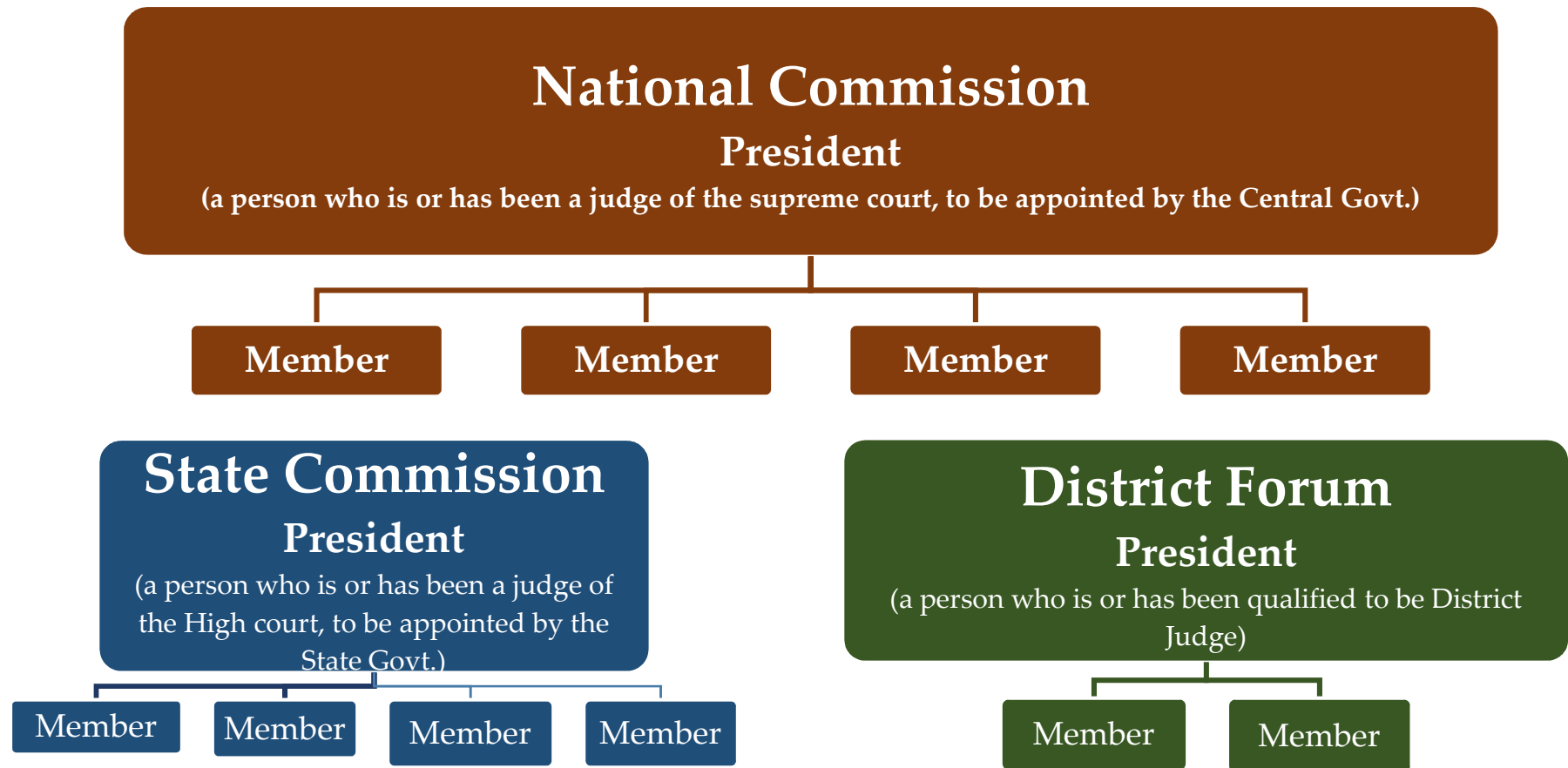
- iv. permitting the sale or supply of goods intended to be used, or are of a kind likely to be used by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by the competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods;
- v. permitting the hoarding or destruction of goods, or refusal to sell the goods or to make them available for sale or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services;
- vi. manufacturing of spurious goods or offering such goods for sale or adopting deceptive practices in the provision of services;
- vii. not issuing bill or cash memo or receipt for the goods sold or services rendered in such manner as may be prescribed;
- viii. refusing, after selling goods or rendering services, to take back or withdraw defective goods or to withdraw or discontinue deficient services and to refund the consideration thereof, if paid, within the period stipulated in the bill or cash memo or receipt or in the absence of such stipulation, within a period of thirty days/specified on the product;
- ix. disclosing to other person any personal information given in confidence by the consumer unless such disclosure is made in accordance with the provisions of any law for the time being in force.

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3.4 Consumer Dispute Redressal Commissions

3.4.1 Composition of Redressal Agencies



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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

- S. 28. (1) The State Government shall, by notification, establish a District Consumer Disputes Redressal Commission, to be known as the District Commission, in each district of the State:
- Provided that the State Government may, if it deems fit, establish more than one District Commission in a district

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Composition of Dist. Commission

(2) Each District Commission shall consist of—

(a) a President; and

(b) not less than two and not more than such number of members as may be prescribed, in consultation with the Central Government.

- S. 29. The Central Government may, by notification make rules to provide for the qualifications, method of recruitment, procedure for appointment, term of office, resignation and removal of the President and members of the District Commission.
- S. 30. The State Government may, by notification, make rules to provide for salaries and allowances and other terms and conditions of service of the President, and members of the District Commission.

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Jurisdiction of Dist. Commission.

- S. 34. (1) Subject to the other provisions of this Act, the District Commission shall have jurisdiction to entertain complaints where the **value of the goods or services paid as consideration does not exceed one crore rupees**: Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit.

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Jurisdiction of Dist. Commission.

- (2) A complaint shall be instituted in a District Commission within the local limits of whose jurisdiction, —
 - (a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, ordinarily resides or carries on business or has a branch office or personally works for gain; or
 - (b) any 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 has a branch office, or personally works for gain, provided that in such case the permission of the District Commission is given; or
 - (c) the cause of action, wholly or in part, arises; or
 - (d) the complainant resides or personally works for gain.

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Procedure for filing a complaint

S. 35. (1) A complaint, in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided, may be filed with a District Commission by—

(a) the consumer, —

- to whom such goods are sold or delivered or agreed to be sold or delivered or such service is provided or agreed to be provided; or
- who alleges unfair trade practice in respect of such goods or service;

(b) any **recognised consumer association**, whether the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service is provided or agreed to be provided, or who alleges unfair trade practice in respect of such goods or service, is a member of such association or not;

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3.4.2 District Commission

Procedure for filing a complaint

- (c) **one or more consumers**, where there are numerous consumers having the same interest, with the permission of the District Commission, on behalf of, or for the benefit of, all consumers so interested; or
- (d) the **Central Government**, the Central Authority or the **State Government**, as the case may be.
- Provided that the complaint under this sub-section **may be filed electronically** in such manner as may be prescribed.
- (2) Every complaint filed under sub-section (1) shall be accompanied with **such fee** and payable in such manner, including electronic form, as may be prescribed.

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Hearing of a complaint

- S.36. (1) Every proceeding before the District Commission shall be conducted by the President of that Commission and at least one member thereof, sitting together:
- Provided that where a member, for any reason, is unable to conduct a proceeding till it is completed, the President and the other member shall continue the proceeding from the stage at which it was last heard by the previous member.
- (2) On receipt of a complaint made under section 35, the District Commission may, by order, admit the complaint for being proceeded with or reject the same:

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3.4.2 District Commission

Proceeding before Dist. Comm.

- Provided that a complaint shall not be rejected under this section unless an opportunity of being heard has been given to the complainant:
- Provided further that the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint was filed.
- (3) Where the District Commission does not decide the issue of admissibility of the complaint within the period so specified, it shall be deemed to have been admitted.

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Mediation

- S. 37. (1) At the first hearing of the complaint after its admission, or at any later stage, if it appears to the District Commission that there exists elements of a settlement which may be acceptable to the parties, except in such cases as may be prescribed, it may direct the parties to give in writing, within five days, consent to have their dispute settled by mediation in accordance with the provisions of Chapter V
- (2) Where the parties agree for settlement by mediation and give their consent in writing, the District Commission shall, within five days of receipt of such consent, refer the matter for mediation, and in such case, the provisions of Chapter V, relating to mediation, shall apply

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3.4.2 District Commission

Procedure on admission of complaint.

- S. 38. (1) The District Commission shall, on admission of a complaint, or in respect of cases referred for mediation on failure of settlement by mediation, proceed with such complaint.
- (2) Where the complaint relates to any goods, the District Commission shall,—
- (a) refer a copy of the admitted complaint, within twenty-one days from the date of its admission to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by it;

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Procedure on admission of complaint.

- (b) if the opposite party on receipt of a complaint referred to him under clause
- denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Commission, proceed to settle the consumer dispute in the manner specified in clauses (c) to (g);
- (c) if the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, obtain a sample of the goods from the complainant, seal it and authenticate it in the manner as may be prescribed and refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory to make an analysis or test, whichever may be necessary, with a view to finding out whether such goods suffer from any defect alleged in the complaint or from any other defect and to report its findings thereon to the District Commission within a period of forty-five days of the receipt of the reference or within such extended
- period as may be granted by it;

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Procedure on admission of complaint.

- (d) before any sample of the goods is referred to any appropriate laboratory under clause (c), require the complainant to deposit to the credit of the Commission such fees as may be specified, for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question;
- (e) remit the amount deposited to its credit under clause (d) to the appropriate laboratory to enable it to carry out the analysis or test mentioned in clause (c) and on receipt of the report from the appropriate laboratory, it shall forward a copy of the report along with such remarks as it may feel appropriate to the opposite party;

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Procedure on admission of complaint.

- (f) if any of the parties disputes the correctness of the findings of the appropriate laboratory, or disputes the correctness of the methods of analysis or test adopted by the appropriate laboratory, require the opposite party or the complainant to submit in writing his objections with regard to the report made by the appropriate laboratory;
- (g) give a reasonable opportunity to the complainant as well as the opposite party of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the objection made in relation thereto under clause (f) and issue an appropriate order under section 39.

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Procedure on admission of complaint.

- (3) The District Commission shall, if the complaint admitted by it under sub-section (2) of section 36 relates to goods in respect of which the procedure specified in sub-section (2) cannot be followed, or if the complaint relates to any services,—
- (a) refer a copy of such complaint to the opposite party directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Commission;
- (b) if the opposite party, on receipt of a copy of the complaint, referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Commission, it shall proceed to settle the consumer dispute—

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Procedure on admission of complaint.

- (i) on the basis of evidence brought to its notice by the complainant and the opposite party, if the opposite party denies or disputes the allegations contained in the complaint, or
- (ii) ex parte on the basis of evidence brought to its notice by the complainant, where the opposite party omits or fails to take any action to represent his case within the time given by the Commission;
- (c) decide the complaint on merits if the complainant fails to appear on the date of hearing.
- (4) For the purposes of sub-sections (2) and (3), the District Commission may, by order, require an electronic service provider to provide such information, documents or records, as may be specified in that order.

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Procedure on admission of complaint.

- (5) Every complaint shall be heard by the District Commission on the basis of affidavit and documentary evidence placed on record:
- Provided that where an application is made for hearing or for examination of parties in person or through video conferencing, the District Commission may, on sufficient cause being shown, and after recording its reasons in writing, allow the same.

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Procedure on admission of complaint.

- (7) Every complaint shall be disposed of as expeditiously as possible and endeavour shall be made to decide the complaint within a period of three months from the date of receipt of notice by opposite party where the complaint does not require analysis or testing of commodities and within five months if it requires analysis or testing of commodities:
- Provided also that in the event of a complaint being disposed of after the period so specified, the District Commission shall record in writing, the reasons for the same at the time of disposing of the said complaint.

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Procedure on admission of complaint.

- 8) Where during the pendency of any proceeding before the District Commission, if it appears necessary, it may pass such interim order as is just and proper in the facts and circumstances of the case.



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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Power of Distt. Comm.

- (9) For the purposes of this section, the District Commission shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—
- (a) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;
- (b) requiring the discovery and production of any document or other material object as evidence;
- (c) receiving of evidence on affidavits;
- (d) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
- (e) issuing of commissions for the examination of any witness, or document; and
- (f) any other matter which may be prescribed by the Central Government.

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Finding of Dist. Comm.

- S. 39. (1) Where the District Commission is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services or any unfair trade practices, or claims for compensation under product liability are proved, it shall issue an order to the opposite party directing him to do one or more of the following, namely:—
 - (a) to remove the defect pointed out by the appropriate laboratory from the goods in question;
 - (b) to replace the goods with new goods of similar description which shall be free from any defect;

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Finding of Dist. Comm.

- (c) to return to the complainant the price, or, as the case may be, the charges paid by the complainant along with such interest on such price or charges as may be decided;
- (d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party:
- Provided that the District Commission shall have the power to grant punitive damages in such circumstances as it deems fit;
- (e) to pay such amount as may be awarded by it as compensation in a product liability action under Chapter VI;
- (f) to remove the defects in goods or deficiencies in the services in question;

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Finding of Dist. Comm.

- (g) to discontinue the unfair trade practice or restrictive trade practice and not to repeat them;
- (h) not to offer the hazardous or unsafe goods for sale;
- (i) to withdraw the hazardous goods from being offered for sale;
- (j) to cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;
- (k) to pay such sum as may be determined by it, if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently
- Provided that the minimum amount of sum so payable shall not be less than twenty-five per cent. of the value of such defective goods sold or service provided, as the case may be, to such consumers;

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Finding of Dist. Comm.

- (l) to issue corrective advertisement to neutralise the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;
- (m) to provide for adequate costs to parties; and
- (n) to cease and desist from issuing any misleading advertisement.
- 2) Any amount obtained under sub-section (1) shall be credited to such fund and utilised in such manner as may be prescribed.

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Finding of Dist. Comm.

- (3) In any proceeding conducted by the President and a member and if they differ on any point or points, they shall state the point or points on which they differ and refer the same to another member for hearing on such point or points and the opinion of the majority shall be the order of the District Commission:
- Provided that the other member shall give his opinion on such point or points referred to him within a period of one month from the date of such reference.
- (4) Every order made by the District Commission under sub-section
- shall be signed by the President and the member who conducted the proceeding:
- Provided that where the order is made as per majority opinion under sub-section (3), such order shall also be signed by the other member.

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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Review by Dist.Comm.

- S. 40. The District Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order.



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3.4 Consumer Dispute Redressal Commissions

3.4.2 District Commission

Appeal against Dist. Comm.

- S. 41. Any person aggrieved by an order made by the District Commission may prefer an appeal against such order to the State Commission on the grounds of facts or law within a period of forty-five 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 forty-five days, if it is satisfied that there was sufficient cause for not filing it within that period:
- Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District Commission, shall be entertained by the State Commission unless the appellant has deposited fifty per cent. of that amount in the manner as may be prescribed:
- Provided also that no appeal shall lie from any order passed in pursuant to a settlement by mediation under section 80.

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3.4 Consumer Dispute Redressal Commissions

3.4.3 State Commission

- S. 42. (1) The State Government shall, by notification, establish a State Consumer Disputes Redressal Commission, to be known as the State Commission, in the State.
- (2) The State Commission shall ordinarily function at the State capital and perform its functions at such other places as the State Government may in consultation with the State Commission notify in the Official Gazette:
- Provided that the State Government may, by notification, establish regional benches of the State Commission, at such places, as it deems fit.

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3.4 Consumer Dispute Redressal Commissions

3.4.3 State Commission

Composition of State Comm.

- (3) Each State Commission shall consist of—
- (a) a President; and
- (b) not less than four or not more than such number of members as may be prescribed in consultation with the Central Government.

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3.4 Consumer Dispute Redressal Commissions

3.4.3 State Commission

Qualification etc.

- S. 43. The Central Government may, by notification, make rules to provide for the qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the President and members of the State Commission.
- S. 44. The State Government may, by notification, make rules to provide for salaries and allowances and other terms and conditions of service of the President and members of the State Commission.

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3.4 Consumer Dispute Redressal Commissions

3.4.3 State Commission

Jurisdiction of State Comm.

- S. 47. (1) Subject to the other provisions of this Act, the State Commission shall have jurisdiction—
- (a) to entertain—
- (i) complaints where the value of the goods or services paid as consideration, **exceeds rupees one crore, but does not exceed rupees ten crore:**
- Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit;
- (ii) complaints against unfair contracts, where the value of goods or services paid as consideration does not exceed ten crore rupees;
- (iii) appeals against the orders of any District Commission within the State; and

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3.4 Consumer Dispute Redressal Commissions

3.4.3 State Commission

Jurisdiction of State Comm.

- (b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Commission within the State, where it appears to the State Commission that such District Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity

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3.4 Consumer Dispute Redressal Commissions

3.4.3 State Commission

Jurisdiction of State Comm.

- S. (4) A complaint shall be instituted in a State Commission within the limits of whose jurisdiction,—
- (a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, ordinarily resides or carries on business or has a branch office or personally works for gain; or
- (b) any 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 has a branch office or personally works for gain, provided in such case, the permission of the State Commission is given; or
- (c) the cause of action, wholly or in part, arises; or
- (d) the complainant resides or personally works for gain.

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3.4 Consumer Dispute Redressal Commissions

3.4.3 State Commission

Transfer of cases

- S. 48. On the application of the complainant or of its own motion, the State Commission may, at any stage of the proceeding, transfer any complaint pending before a District Commission to another District Commission within the State if the interest of justice so requires

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3.4 Consumer Dispute Redressal Commissions

3.4.3 State Commission

Review by State Comm.

- S. 50. The State Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order.

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3.4 Consumer Dispute Redressal Commissions

3.4.3 State Commission

Appeal from State Comm.

- S. 51. (1) Any person aggrieved by an order made by the State Commission in exercise of its powers conferred by sub-clause (i) or (ii) of clause (a) of sub-section (1) of section 47 may prefer an appeal against such order to the National 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 National Commission shall not entertain the appeal after the expiry of the said period of thirty days unless it is satisfied that there was sufficient cause for not filing it within that period:
- Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited fifty per cent. of that amount in the manner as may be prescribed.

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3.4 Consumer Dispute Redressal Commissions

3.4.3 State Commission

Hearing of Appeal

- S. 52. An appeal filed before the State Commission or the National Commission, as the case may be, shall be heard as expeditiously as possible and every endeavour shall be made to dispose of the appeal within a period of ninety days from the date of its admission:
- Provided that no adjournment shall ordinarily be granted by the State Commission or the National Commission, as the case may be, unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by such Commission:
- Provided further that the State Commission or the National Commission, as the case may be, shall make such orders as to the costs occasioned by the adjournment, as may be specified by regulations:
- Provided also that in the event of an appeal being disposed of after the period so specified, the State Commission or the National Commission, as the case may be, shall record in writing the reasons for the same at the time of disposing of the said appeal.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission

- S. 53. (1) The Central Government shall, by notification, establish a National Consumer Disputes Redressal Commission, to be known as the National Commission.
- (2) The National Commission shall ordinarily function at the National Capital Region and perform its functions at such other places as the Central Government may in consultation with the National Commission notify in the Official Gazette:

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission

Composition of Nat. Comm.

- 54. The National Commission shall consist of—
- (a) a President; and
- (b) not less than four and not more than such number of members as may be prescribed.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission qualification etc.

- S. 55. (1) The Central Government may, by notification, make rules to provide for qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the President and members of the National Commission:
- Provided that the President and members of the National Commission shall hold office for such term as specified in the rules made by the Central Government but not exceeding five years from the date on which he enters upon his office and shall be eligible for re-appointment.
- Provided further that no President or members shall hold office as such after he has attained such age as specified in the rules made by the Central Government which shall not exceed,—
- (a) in the case of the President, the age of seventy years;
- (b) in the case of any other member, the age of sixty-seven years.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Jurisdiction of Nat. Comm.

- 58. (1) Subject to the other provisions of this Act, the National Commission shall have jurisdiction—
- (a) to entertain—
- (i) complaints where the value of the goods or services paid as consideration exceeds rupees ten crore.
- (iii) appeals against the orders of any State Commission;
- (iv) appeals against the orders of the Central Authority; and
- (b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.



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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Review

- S. 60. The National Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission

set aside ex-parte order

- S. 61 . Where an order is passed by the National Commission ex parte, the aggrieved party may make an application to the Commission for setting aside such order.



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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission

Transfer of cases

- S.62. On the application of the complainant or of its own motion, the National Commission may, at any stage of the proceeding, in the interest of justice, transfer any complaint pending before the District Commission of one State to a District Commission of another State or before one State Commission to another State Commission.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission

Experts to assist

- S. 66. Where the National Commission or the State Commission, as the case may be, on an application by a complainant or otherwise, is of the opinion that it involves the larger interest of consumers, it may direct any individual or organisation or expert to assist the National Commission or the State Commission, as the case may be.



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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Appeal

- S. 67. Any person, aggrieved by an order made by the National Commission may prefer an appeal against such order to the Supreme Court within a period of thirty days from the date of the order:
- Provided that the Supreme Court may entertain an a expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period:
- Provided further that no appeal by a person who is required to pay any amount in terms of an order of the National Commission shall be entertained by the Supreme Court unless that person has deposited fifty per cent. of that amount in the manner as may be prescribed.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Finality of orders

- S. 68. Every order of a District Commission or the State Commission or the National Commission, as the case may be, shall, if no appeal has been preferred against such order under the provisions of this Act, be final.



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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Administrative control

- S. 70. (1) The National Commission shall have the authority to lay down such adequate standards in consultation with the Central Government from time to time, for better protection of the interests of consumers and for that purpose, shall have administrative control over all the State Commissions in the following matters, namely:—
- (a) monitoring performance of the State Commissions in terms of their disposal by calling for periodical returns regarding the institution, disposal and pendency of cases;
- (b) investigating into any allegations against the President and members of a State Commission and submitting inquiry report to the State Government concerned along with copy endorsed to the Central Government for necessary action;

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Administrative Commission control

- (c) issuance of instructions regarding adoption of uniform procedure in the hearing of matters, prior service of copies of documents produced by one party to the opposite parties, furnishing of english translation of judgments written in any language, speedy grant of copies of documents;
- (d) overseeing the functioning of the State Commission or the District Commission either by way of inspection or by any other means, as the National Commission may like to order from time to time, to ensure that the objects and purposes of the Act are best served and the standards set by the National Commission are implemented without interfering with their quasi-judicial freedom.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Administrative control

- (2) There shall be a monitoring cell to be constituted by the President of the National Commission to oversee the functioning of the State Commissions from the administrative point of view.
- (3) The State Commission shall have administrative control over all the District Commissions within its jurisdiction in all matters referred to in sub-section (1).
- (4) The National Commission and the State Commissions shall furnish to the Central Government periodically or as and when required, any information including the pendency of cases in such form and manner as may be prescribed.
- (5) The State Commission shall furnish, periodically or as and when required to the State Government any information including pendency of cases in such form and manner as may be prescribed.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Enforcement of orders

- S. 71. Every order made by a District Commission, State Commission or the National Commission shall be enforced by it in the same manner as if it were a decree made by a Court in a suit before it and the provisions of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 shall, as far as may be, applicable, subject to the modification that every reference therein to the decree shall be construed as reference to the order made under this Act.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission

Penalty for non compliance of orders

- S. 72. (1) Whoever fails to comply with any order made by the District Commission or the State Commission or the National Commission, as the case may be, shall be punishable with imprisonment for a term which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than twenty-five thousand rupees, but which may extend to one lakh rupees, or with both.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission

Penalty for non compliance of orders

- (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the District Commission, the State Commission or the National Commission, as the case may be, shall have the power of a Judicial Magistrate of first class for the trial of offences under sub-section (1), and on conferment of such powers, the District Commission or the State Commission or the National Commission, as the case may be, shall be deemed to be a Judicial Magistrate of first class for the purposes of the Code of Criminal Procedure, 1973.
- (3) Save as otherwise provided, the offences under sub-section (1) shall be tried summarily by the District Commission or the State Commission or the National Commission, as the case may be.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission

Penalty for non compliance of orders

- S 73. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, where an order is passed under sub-section (1) of section 72, an appeal shall lie, both on facts and on law from—
 - (a) the order made by the District Commission to the State Commission;
 - (b) the order made by the State Commission to the National Commission; and
 - (c) the order made by the National Commission to the Supreme Court.
- (2) Except as provided in sub-section (1), no appeal shall lie before any court, from any order of a District Commission or a State Commission or the National Commission, as the case may be.
- (3) Every appeal under this section shall be preferred within a period of thirty days from the date of order of a District Commission or a State Commission or the National Commission, as the case may be.
- Provided that the State Commission or the National Commission or the Supreme Court, as the case may be, may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period of thirty days.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission

Consumer mediation cell

- S. 74. (1) The State Government shall establish, by notification, a consumer mediation cell to be attached to each of the District Commissions and the State Commissions of that State.
- (2) The Central Government shall establish, by notification, a consumer mediation cell to be attached to the National Commission and each of the regional Benches.
- (3) A consumer mediation cell shall consist of such persons as may be prescribed.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission

Consumer mediation cell

- (4) Every consumer mediation cell shall maintain—
 - (a) a list of empanelled 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.
- (5) Every consumer mediation cell shall submit a quarterly report to the District Commission, State Commission or the National Commission to which it is attached, in the manner specified by regulations.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Empanelment of mediators.

- S. 75. (1) For the purpose of mediation, the National Commission or the State Commission or the District Commission, as the case may be, shall prepare a panel of the mediators to be maintained by the consumer mediation cell attached to it, on the recommendation of a selection committee consisting of the President and a member of that Commission.
- 2) The qualifications and experience required for empanelment as mediator, the procedure for empanelment, the manner of training empanelled mediators, the fee payable to empanelled mediator, the terms and conditions for empanelment, the code of conduct for empanelled mediators, the grounds on which, and the manner in which, empanelled mediators shall be removed or empanelment shall be cancelled and other matters relating thereto, shall be such as may be specified by regulations.
- (3) The panel of mediators prepared under sub-section (1) shall be valid for a period of five years, and the empanelled mediators shall be eligible to be considered for re-empanelment for another term, subject to such conditions as may be specified by regulations.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Nomination of panel

- 76. The District Commission, the State Commission or the National Commission shall, while nominating any person from the panel of mediators referred to in section 75, consider his suitability for resolving the consumer dispute involved.



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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission

Duty of mediator

- S. 77. It shall be the duty of the mediator to disclose—
- (a) any personal, professional or financial interest in the outcome of the consumer dispute;
- (b) the circumstances which may give rise to a justifiable doubt as to his independence or impartiality; and
- (c) such other facts as may be specified by regulations.



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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Procedure for mediation

- S. 79. (1) The mediation shall be held in the consumer mediation cell attached to the District Commission, the State Commission or the National Commission, as the case may be.
- (2) Where a consumer dispute is referred for mediation by the District Commission or the State Commission or the National Commission, as the case may be, the mediator nominated by such Commission shall have regard to the rights and obligations of the parties, the usages of trade, if any, the circumstances giving rise to the consumer dispute and such other relevant factors, as he may deem necessary and shall be guided by the principles of natural justice while carrying out mediation.
- (3) The mediator so nominated shall conduct mediation within such time and in such manner as may be specified by regulations.

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission settlement through mediation

- S. 80. (1) Pursuant to mediation, if an agreement is reached between the parties with respect to all of the issues involved in the consumer dispute or with respect to only some of the issues, the terms of such agreement shall be reduced to writing accordingly, and signed by the parties to such dispute or their authorised representatives.
- (2) The mediator shall prepare a settlement report of the settlement and forward the signed agreement along with such report to the concerned Commission.
- (3) Where no agreement is reached between the parties within the specified time or the mediator is of the opinion that settlement is not possible, he shall prepare his report accordingly and submit the same to

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission settlement through mediation

- S. 81. (1) The District Commission or the State Commission or the National Commission, as the case may be, shall, within seven days of the receipt of the settlement report, pass suitable order recording such settlement of consumer dispute and dispose of the matter accordingly.
- (2) Where the consumer dispute is settled only in part, the District Commission or the State Commission or the National Commission, as the case may be, shall record settlement of the issues which have been so settled and continue to hear other issues involved in such consumer dispute.
- (3) Where the consumer dispute could not be settled by mediation, the District Commission or the State Commission or the National Commission, as the case may be, shall continue to hear all the issues involved in such

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Offences and penalties

- S. 88. Whoever, fails to comply with any direction of the Central Authority under sections 20 and 21, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to twenty lakh rupees, or with both.
- S. 89. Any manufacturer or service provider who causes a false or misleading advertisement to be made which is prejudicial to the interest of consumers shall be punished with imprisonment for a term which may extend to two years and with fine which may extend to ten lakh rupees; and for every subsequent offence, be punished with imprisonment for a term which may extend to five

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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Offences and penalties

- S. 90. (1) Whoever, by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any product containing an adulterant shall be punished, if such act—
- (a) does not result in any injury to the consumer, with imprisonment for a term which may extend to six months and with fine which may extend to one lakh rupees;
- (b) causing injury not amounting to grievous hurt to the consumer, with imprisonment for a term which may extend to one year and with fine which may extend to three lakh rupees;
- (c) causing injury resulting in grievous hurt to the consumer, with imprisonment for a term which may extend to seven years and with fine which may extend to five lakh rupees; and
- (d) results in the death of a consumer, with imprisonment for a term which shall not be less than seven years, but which may extend to imprisonment for life and with fine which shall not be less than ten lakh rupees.

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Temporary Injunction, Enforcement of order, Appeal, frivolous and vexatious complaints;
Offences and penalties.
Leading Cases decided under Consumer Protection law by Supreme Court/National Commission:
Medical Negligence;
Banking;
Insurance;
Housing & Real Estate;
Electricity and Telecom Services;
Education;
Defective Products;
Unfair Trade Practices.

3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Offences and penalties

- (2) The offences under clauses (c) and (d) of sub-section (1) shall be cognizable and non-bailable.
- (3) Notwithstanding the punishment under sub-section (1), the court may, in case of first conviction, suspend any licence issued to the person referred to in that sub-section, under any law for the time being in force, for a period up to two years, and in case of second or subsequent conviction, cancel the licence
- Explanation.—For the purposes of this section,—
- (a) "adulterant" means any material including extraneous matter which is employed or used for making a product unsafe;
- (b) "grievous hurt" shall have the same meaning as assigned to it in section 320 of the Indian Penal Code..

Who can file a complaint?
Grounds of filing a complaint;
Limitation period;
Procedure for filing and hearing of a complaint;
Disposal of cases, Relief/Remedy available;
Temporary Injunction, Enforcement of order, Appeal, frivolous and vexatious complaints;
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3.4 Consumer Dispute Redressal Commissions

3.4.4 National Commission Offences and penalties

- S. 91. (1) Whoever, by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any spurious goods shall be punished, if such act—
- (a) causing injury not amounting to grievous hurt to the consumer, with imprisonment for a term which may extend to one year and with fine which may extend to three lakh rupees.
- (b) causing injury resulting in grievous hurt to the consumer, with imprisonment for a term which may extend to seven years and with fine which may extend to five lakh rupees;
- (c) results in the death of a consumer, with imprisonment for a term which shall not be less than seven years, but may extend to imprisonment for life and with fine which shall not be less than ten lakh rupees.

Who can file a complaint?
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- (3) Notwithstanding the punishment under sub-section (1), the court may, in case of first conviction, suspend any licence issued to the person referred to in that sub-section, under any law for the time being in force, for a period up to two years, and in case of second or subsequent conviction, cancel the licence.
- S. 92. No cognizance shall be taken by a competent court of any offence under sections 88 and 89 except on a complaint filed by the Central Authority or any officer authorised by it in this behalf.
- S. 93. The Director General or any other officer, exercising powers under section 22, who knows that there are no reasonable grounds for so doing, and yet—
 - (a) searches, or causes to be searched any premises; or
 - (b) seizes any record, register or other document or article, shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.
- S. 100. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.