

Protection of Consumer's Rights in Pakistan

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Abstract

This paper is based on a qualitative research study which paves the way for a number of empirical studies related to the awareness about the consumer's rights in Pakistan. The prime objective behind conducting this study is to clarify the fact that the old doctrine of Caveat Emptor is not sufficient in current days. The markets are highly competitive with an ample consumer's choice and they need a greater awareness how to protect their rights. The paper starts with an introduction explaining the background detail of consumer's rights and liabilities. There is a problem statement with a null and alternate hypothesis. The procedure for getting the legal remedy is discussed in detail. The evidence is sought from the registered lawsuits filed by consumers primarily

Key words: consumer and consumer's rights, importance of consumer protection, Consumer Laws in Pakistan. Legal procedure of filing a complaint. Getting a suitable remedy. Claiming damages in consumer's courts. Obligations of manufacturers and service providers.

Introduction

A consumer is a king in the marketplace. The idea of consumer's sovereignty was put forth by Ludwig von Moses of Austrian school of economics for the first time in 1969, Consumption is the motivation for production and consumers demand for the commodities and services is the base for aggregate effective demand. What ever amount is in the pocket of the consumer confronting a market the choice totally lies with him to select any particular item of use. Producers, i.e. the firms, companies and all other manufacturing units produce whatever the consumer prefers.

This very important term of economics was introduced and coined initially in 1936 by an economist W.H.Hutt in his book, "The economist and the public", the problems of a consumers were highlighted and keeping in view their possible difficulties an increasing attention of the economists was emphasized. Thus the consumer class in general plays a crucial role in making the major macro economic decisions like what to produce and how to produce and for whom to produce.

Consumer is an economic as well as a legal term. PCPA, 2005

Section 2(c) has defined the concept of "Consumer" as following.

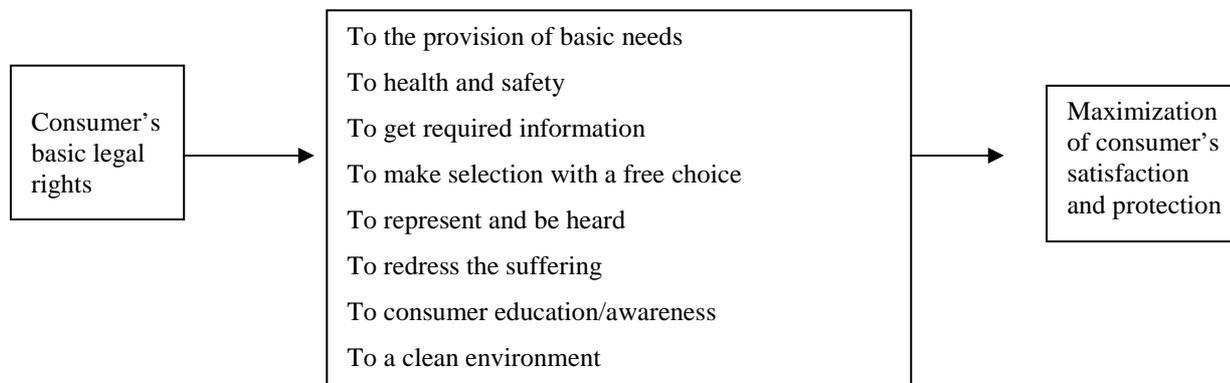
1. A consumer is a person who is either a purchaser or a lessee of a particular product after due payment. The final or ultimate user of the product is also included.
2. This section excludes any person who obtains such product for further commercial transaction or reselling. It further excludes hiring of any service for a consideration including any beneficiary for that service.

Here arise certain important questions that on the one hand the role of consumer is accepted in law so how to save this class from the exploitation of the market shrewd. On the one hand there are consumers who have their limited resources and acting rationally in the market they want to maximize their satisfaction as much as possible. On the other hand we have the sellers, business class and the manufacturers who in any way are interested in maximizing their profit level and minimizing their costs. Therefore the idea of consumer rights was based on a long felt need. How these rights can be protected? The answer is a proper legislation and implementation of consumer's laws.

Khan Kishwar and S.Mansoor(1995) concluded that a strategy for consumer protection in Pakistan would involve;

1. firstly, an appropriate legislation for protection of the consumer right's for the whole country and
2. Secondly ensuring a prompt and effective implementation of consumer's laws. Through country wide publicity on media a greater awareness is created both among the sellers as well as purchasers.
3. In the short run an awareness campaign regarding consumer's rights and speedy redress options in case of violation is created. Information is provided about how to avail the legal remedies.
4. In the long run emphasis is given to the research both qualitative and empirical. Field research may be conducted to assess the consumer's extent of awareness and the number of lawsuits filed in consumer courts over a particular year in a particular region.
5. Consumer' associations and pressure groups are organized to safeguard their sufferings.

B (2006) also mentioned that Consumer rights awareness is now an essential component of our everyday lives. A consumerist way of life is behind the rationality in consumer behavior.. The UN guidelines on consumer protection (1985), are clear and concise while entitling the consumers the following basic rights.



Problem Statement

Pakistan comprises a wide and vast market of more than 18 millions of population (UNFPA, 2013). They differ in age, economic status, education levels and tastes showing their preferences to buy. There are chances of violation or abuse of their rights by the sellers of various products and services. Their rights need to be protected legally. Does there exist a legal procedure in Pakistan and which sort of redress a victimized and dissatisfied consumer can seek?

Hypothesis of the Study

H01. There is no legal protection for consumer's basic rights in Pakistan.

H11. There exists a legal protection for consumer's basic legal rights in Pakistan.

We being the consumers have widely experienced the violation of consumer's rights in our daily transactions. Many times we are victim of cheating/ misleading, price discrimination, substandard quality of product which may prove even harmful for human health. This is due to the reason that merely the existence of a law is insufficient. What is actually required is a warm welcome and practical participation/ response by the consumer class in general and the sufferers in particular. Why the consumers keep quiet at their valid legal right and/ or why they personally quarrel with each other why don't they lodge a proper complaint and seek a legal remedy through filing a lawsuit against the seller or supplier concerned. It is the best option that the consumer can register a complaint before the competent authority and bring the matter before a consumer court.

In order to avoid any possible harm the consumer shall act upon the doctrine of caveat de emptor exercising utmost care and rationality in his buying behavior. In order to protect his rights the consumer must remain alert and observe the following responsibilities on his behalf.

1. Before purchasing a product its manufacturing and expiry date should be checked.
2. The formula of components and ingredients with all their precautions and side effects should be thoroughly checked.
3. The product's safety warning must be checked. If a product is not suitable for a particular consumer it may create serious health hazards for him. Certain medicines are not suggested to be used in pregnancy or chronic liver disease. If the literature in the packaging is not clear ask the chemist about its safety hazard.
4. The using instructions of the product or service should be read.
5. The company rate list of the product or service should be noted carefully.
6. Insist to get a proper receipt while purchasing or hiring any product or service.
7. Such receipt shall be kept and maintained as a proper record.
8. The return/refund policy shall be discussed and ensured.
9. Make sure and certain about the quality standard and design of the product.

Legal Procedure involved

Any civilized and developed society recognizes and believes in the fundamental importance of consumer protection. The consumer's satisfaction counts a lot in modern world of consumerism. If a consumer is dissatisfied with his purchase basket he is entitled to file a law suit against the supplier and avail the remedy possible under consumer's law. Of course he must be aware of the legal procedure to be followed. The limitation period to lodge a formal complaint in the court is 30 days which starts after a reasonable cause of action arose. The pre requisite of a legal notice is 15 days during which a claim in consumer court is filed. A cause or gist of action arises in case;

1. When any provision of the act is violated a consumer is entitled to file a claim for damages which requires no court fee.
2. As a remedy of redress the abused or aggrieved consumer can lodge a complaint before a competent authority i.e. The Consumer Council of Pakistan
 - When receipt is not issued.
 - When price list is not exhibited.
 - When the date of manufacturing, expiry or ingredient is not mentioned.
 - If qualification is not disclosed.
 - For inferior quality of product supplied.
 - For charging higher prices than normal prevailing rates.
 - For gas, phone and water service
 - Bait advertising
 - Deceptive service of lawyer, doctor or any other service provider.

Complaints can be made to the Consumer Court and/or The competent authority (DCO) The procedure for filing a complaint and seeking damages is as following; A fifteen days notice is served addressed to the person who provided and sold a defective product or faulty service. Such a notice is written on a plain paper and is served through person or the lawyer of the consumer and requires a proper acknowledgement of receiving such a notice. The notice must clearly state which kind of physical or mental harm or both were caused to the consumer due to use of the product or service so the consumer be paid damages within fifteen days prior to the reception of such notice otherwise a law suit can be filed in the consumer court to decide the case. If a proper dispute resolution is not reached by such notice the person still have the remaining 15 days after the service of notice to demand adequate damages. It is important point that damages means all kind damage inflicted by a defective product or faulty and includes the economic, physical or mental harm.. Damages can be claimed by the consumers before the consumer courts depending on the extent and nature of their sufferings. In this regard there is no particular limit in this regard.

Leading Cases.

1, Rana Rashid V/S M/S Haier Pakistan Ltd

The case was filed by the petitioner Rana Rashid under the Punjab Consumer Protection Act 2005 against the respondent alleging that he purchased a Higher Split air conditioner from messors madina electronics in Abid market Lahore and it was fixed and installed by the authorized company installer. Right from the first day of its installation it did not work properly. The matter was discussed with the dealer and he sent a mechanic for necessary repair but the fault could not be removed.

The claimant asked for either replacement of the unit or refund of full price as being a fair deal but the respondent refused to do so. Following the prescribed legal procedure of sending the notice and then waiting for fifteen days ultimately filed a lawsuit in the consumer court. The case was decided in his favor and the respondent was ordered to refund the full price amounting Rs. 25,500, Rs, 1000 installation charges plus the lawyers fee and Rs. 20,000 as the burden of cost. This judgment was announced on 14th July 2007 in which the case was decreed in favor of petitioner to be paid by the respondent a total amount of Rs. 52,000 as a relief.

In another leading case the petitioner was a husband whose wife died due to doctor's negligence. He took his pregnant wife expecting a delivery in a well known private hospital where she underwent a c-section operation. She was discharged ten days after the operation. But she was complaining continuous and severe pain in her abdomen. She was taken to the doctors of Allied Hospital Faisalabad who found during ultra sound that a cotton towel was left inside the body of the patient during the major operation. The poor patient died due to this criminal act of gross negligence of the doctors' team on duty. The husband lodged a case in the Consumer Court for relief. The court decided the case in favor and ordered the hospital to pay rs550, 000 as damages, rs20, 000 for court case expenses and rs100, 000 as fine. The court also sent a copy of the court decision to medical and dental council Islamabad and ordered to take a disciplinary action against the physician responsible in the case.

Suggestions

Islamic business ethics need to be promoted in Pakistan. It will bring a balance and harmony between the buyers and the sellers. Islam allows only a normal profit and prohibits strictly all kind of fraud, misleading, over charging, underweighting, defective products etc and there is an inherent quality that both the parties make transaction with a positive intention.

The introduction of western style shopping centers, branded products with an electronic price machine system is also very helpful because people of Pakistan after spending their time in developed countries appreciate the overall dealing and environment in their shopping centers. Foreign returned people rather get depressed to find the unfair practices i.e. prevailing market gimmick in Pakistan

Conclusion

Consumer's protection laws and consumer's courts are well established in Pakistan. These laws are enacted to make the sellers of products and providers of services accountable and responsible so that whenever there is an abuse or violation of consumer rights take place the consumer's position is safeguarded. There are a number of legal remedies available to consumers in case they are misled, defrauded or overcharged than normal rates. The only requirement is that a greater awareness be created among the consumer's to minimize their chance of vulnerability. The legal procedure is simple and only a courage and patience is required on the part of consumers. Instead of blaming or exchanging hot words or even mutual quarreling it is the most dignified and amicable solution to present and prove the grievances before the honorable court of justice.

References:

1. B.K. Barik, "Consumer Protection in Indian Economy", in M.Aggarwal (ed.), Consumer Behavior and Consumer Protection in India, 17 (2006).
2. Campbell R. McConnell and Stanley L. Brue (1999, 14th ed.), Economics. McGraw-Hill
3. Financial Analysis Journal (FAJ), Vol 70, No 5, September 2014.
4. Islamabad Consumer Protection Act, October 18, 1995, the Gazette of Pakistan, Islamabad
5. Joel Waldfogel - Does Consumer Irrationality Trump Consumer Sovereignty?
6. JP. Gunning " Consumer Sovereignty: the Key to Mises's Economics"
7. Khan Kishwar and Sarwar Mansoor, "A Strategy for Consumer Protection in Pakistan" ,The Pakistan Development Review 35 : 4 Part II (Winter 1996)
8. Ludwig. Von. Moses (1969), (1969), New Rochelle, NY: Arlington House
9. Mario J. Rizzo and Douglas Glen Whitman - The Knowledge Problem of New Paternalism
10. PCPA (2005)
11. Persky, Joseph, "Retrospectives: Consumer Sovereignty," Journal of Economic Perspectives, (1993).
12. UN. Guidelines 1985
13. United Nations Population Fund". UNFPA. Retrieved 10 July 2013.
14. William, Harold. Hutt. (1936), "Economists and the Public."

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