

# *Introduction to Competition Law*

(Part 2-Consumer Associations/NGOs)



Fair Competition  
For Greater Good

भारतीय प्रतिस्पर्धा आयोग

Competition Commission of India

## Preface

The Competition Commission of India (Commission) has been established under the Competition Act, 2002<sup>1</sup> (the Act) to prevent practices having adverse effect on competition, to promote and sustain competition in Indian markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto. It is mandated, inter alia, to take suitable measures for the promotion of competition advocacy, creating awareness and imparting training about competition issues. It, therefore, pursues its objectives through two sets of instruments, namely, advocacy and enforcement targeted at enterprises. These measures are complementary and are expected to promote and ensure thereby freedom of trade by enterprises and consumer welfare to achieve 'fair competition for greater good'.

As a measure to promote competition advocacy, that is, to disseminate the message of competition law, promote competition culture and competition compliance, the Commission has proposed to maintain a panel of "Competition Resource Persons", to organise competition advocacy programmes for groups of stakeholders to supplement its own efforts on competition advocacy. In order to provide training to the selected Resource Persons and to equip them with adequate knowledge of competition law, the present study material has been prepared. This material will be used as advocacy material by the Resource Persons for educating the different stakeholders. This study material has been prepared for the benefit of the following stakeholders:

- Consumers, and Consumer Associations
- Trade/ Industry Associations
- Government Bodies
- Regulatory Bodies
- Compliance Professionals and Associations of Compliance Professionals

The study material is divided into six parts. The first part provides an overview of the Competition Law. The second part (this document) deals with the issues relating to the Consumer Protection Act vis-à-vis the Competition Act and focuses on the Consumer Associations and Non-Government Organizations (NGOs) as stakeholders. The other four parts contain information and understanding of the law from the perspective of the stakeholders. The first part is a general introduction, while the others are stakeholder specific.

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Edited and prepared by Advocacy Division with inputs from other divisions.<sup>2</sup>

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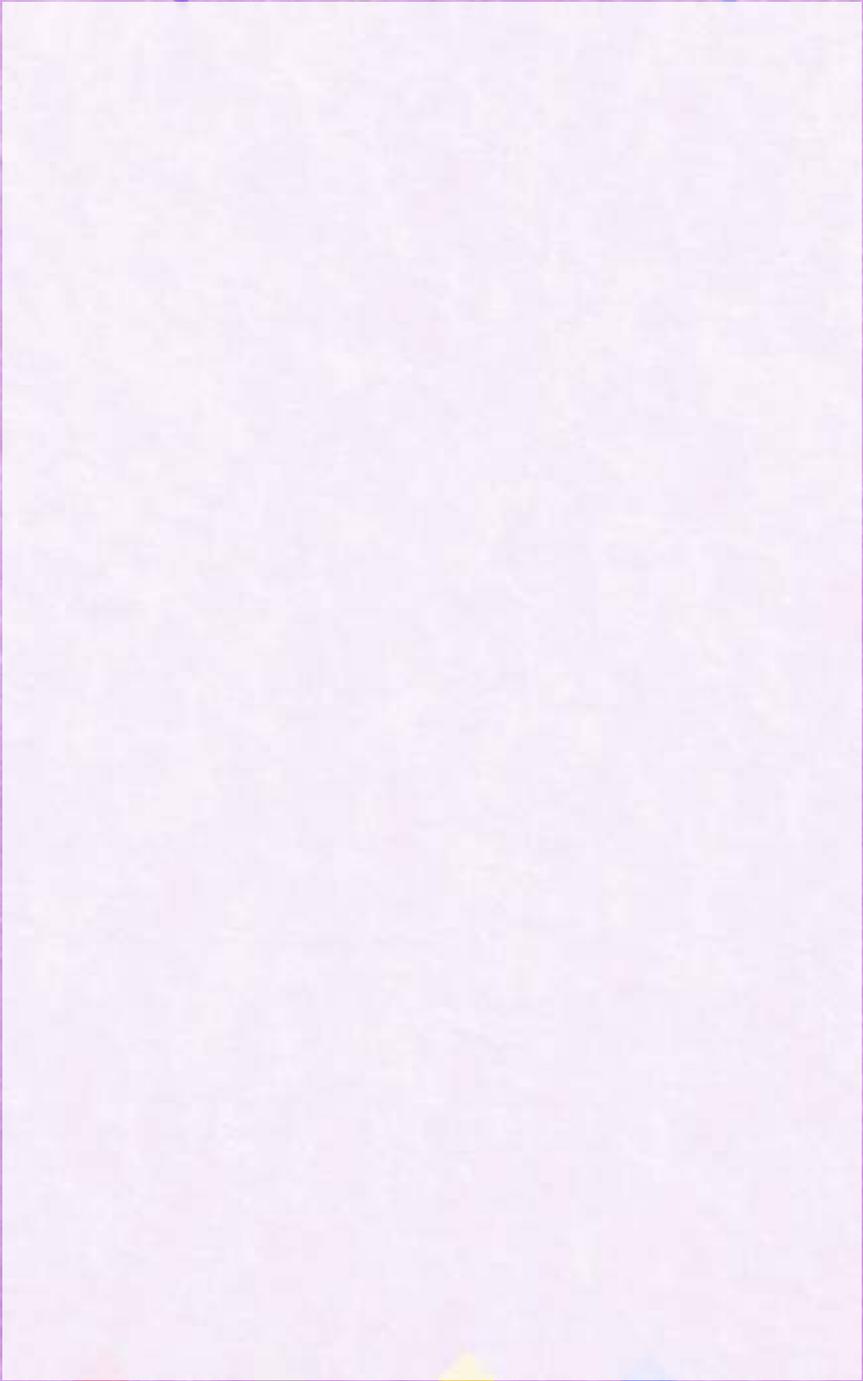
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1. The Competition Act 2002 can be accessed at <http://www.cci.gov.in/competition-act>

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## Consumer Associations/NGOs

### 1. Definition of Consumer Association/NGOs

Consumer Association<sup>3</sup> are the advocacy groups that seek to protect people from corporate abuse (Consumer Economics Issues in America, 2012). They may operate via protests, campaigning or lobbying. The associations advocate for the cause of consumers and litigate as a group. As per Cambridge English dictionary, a Consumer Association is defined as, 'an organization that examines and compares products in order to advise people on them as well as giving support to people who have problems with things they buy or businesses they use.'

Non-Governmental-Organization or NGOs are those organizations which aim at promoting the welfare of the people, and are non-profit in nature. They may be fully or partially financed by the government or any other agency/ individuals that promotes social cause (es). NGOs that deal with the consumers' grievances are also known as Consumer Organisations or Consumer Associations.

### 2. Objectives of the Consumer Association

Most of the Consumer Associations are NGOs which have been created for the protection of consumers. They play the following roles:

- a) Create social awareness by organizing campaigns on various consumer related issues.
- b) Conduct and organize training programs for the consumers to make them conscious of their rights and educate them about the modes of redressal of their grievances available as per provisions of the Consumer Protection Act.
- c) Bring out periodicals and other publications to enlighten the consumers about various consumer related developments. For instance, 'Voluntary Organization in Interest of Consumer Education', an NGO based in Delhi, publishes a bimonthly magazine with the title, 'Consumer Voice'. The magazine covers a wide variety of subjects of importance for the consumers.
- d) Educate the consumer about various provisions and remedies available under the Consumer Protection Act.
- e) To institute class action suits on behalf of consumers in the consumer courts and take up the cause of consumers before other regulators as the case may be.

### 3. Consumer Protection Act, 1986

The main objective of Consumer Protection Act can be inferred from the preamble that states 'An Act to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumer's disputes and for matters connected therewith'. The purpose of the Act is to serve the needs of the consumers as they are

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3. As per section 12 of Consumer Protection Act, 1986 : recognised consumer association” means any voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force

found to be the most vulnerable stakeholders in a capitalist economy. Businesses often indulge in practices which results in exploitation of the consumer. Hence, in order to protect the interest of the consumer, the government enacted the Consumer Protection Act in 1986. The Act provides the following rights to all the consumers:

### **1. Right to Safety<sup>4</sup>**

The consumers have the right to be protected against the marketing of goods and services which prove hazardous to their life and property.

### **2. Right to Information<sup>5</sup>**

The consumer has the right to be informed about the detailed specifications of the product or the extent and scope of the services. He should get full information about the quality, quantity, purity, standard and price of goods or service in order to be protected against the abusive and unfair practices of the businesses.

### **3. Right to Choice<sup>6</sup>**

Every consumer has the right to choose the goods or services of his or her likings. It means an assurance of availability, ability and access to a variety of products and services at a just or fair price (competitive price)

Apart from these rights, the Consumer Protection Act also provides consumers with the Right to be Heard or Right to Representation.<sup>7</sup> The right to redressal<sup>8</sup> is concerned with compensation in the form of money or replacement of goods or repair of defect in the goods as per the satisfaction of consumer. Also, the consumer has the right to acquire the knowledge and skills to become an informed customers.<sup>9</sup> In order to widen the ambit and modernize the law with changing market dynamics, the Consumer Protection Bill was introduced in Parliament in 2015. The new bill introduces the concept of product liability; establishes a Consumer Protection Authority to enforce consumer rights, pass orders, impose penalties etc.

Thus, the main objective of the Consumer Protection Act is to protect the consumers against exploitation. On the other hand, the Competition Act is concerned with promoting and sustaining competition among businesses in the market. Competition in the market leads to allocative,<sup>10</sup> dynamic<sup>11</sup> and productive efficiency<sup>12</sup> which ultimately leads to increase in consumer welfare. Competition brings in benefits for consumers through lower prices, improved services and greater choice. However, despite the benefits of competition, anti-competitive practices are rampant as these increases profits of firms. But these profits can't be sustained till long. The main

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4. As per section 6(a) of the Consumer Protection Act, 1986

5. As per section 6(b) of the Consumer Protection Act, 1986

6. As per section 6(c) of the Consumer Protection Act, 1986

7. As per section 6(d) of the Consumer Protection Act, 1986

8. As per section 6(e) of the Consumer Protection Act, 1986

9. As per section 6(f) of the Consumer Protection Act, 1986

10. Allocative efficiency is defined as allocations of resources in activities which consumers value the most

11. Dynamic efficiency promotes innovative practices

12. Productive efficiency is efficient use of resources by firms

provisions of the Competition Act have already been discussed in details in the previous section i.e. Basic Introduction (Part 1). However, it may be important to note that as per the preamble the Competition Act also inter-alia enjoins the Competition Commission of India (the Commission) with the task of promoting consumer welfare. Thus the two legislations complement each other.

Consumer Act deals with one aspect of the market i.e consumer whereas Competition Act deals with market as a whole. The Consumer Protection Act provides for a redressal mechanism for Consumer Complaints through a structure of Consumer Forums at District, State and National level whereas the Competition Act provides for promoting a pro-competitive market environment by punishing anti-competitive behavior. In general, competition policy aims at protecting, and where appropriate and efficient extending, the range of choices available to consumers. At the same time, consumer policy seeks to protect,

and where appropriate enhance, the quality of that choice, and to ensure that consumers can exercise choice effectively and with confidence in the fairness and integrity of market process (OECD,2008).<sup>13</sup> The next section highlights the

<b>Differences</b>	
<p><b>Consumer Protection Act, 1986</b> The purpose is to protect consumers against defective goods, unsatisfactory services, unfair trade practices etc.</p>	<p><b>Competition Act, 2002</b> Competition Act investigates all actions that may hinder competition and reduce consumer’s welfare in the market.</p>
<p>It is concerned with complaints related to restrictive trade practices, defects, deficiency, unfair trade practices etc.</p>	<p>It is concerned with complaints related to anti-competitive agreements and abuse of dominance etc</p>
<p>It covers only the end–consumers who purchases goods for personal purposes.</p>	<p>Wider Coverage of definition of consumers.<sup>14</sup></p>
<p>Consumer Act provides for Rights-in Personam.</p>	<p>Competition Act provides for Rights-in-Rem.</p>
<p>Consumer Protection Act is primarily concerned with the nature of consumer transactions, trying to improve market conditions for effective exercises of consumer choice.</p>	<p>Competition law concentrates in promoting and sustaining the process of competition between enterprises and tries to remedy behavioural or structural problems.</p>

13. OECD. (2008). Policy Roundtable: The Interface between Competition and Consumer Policies. Retrieved from <http://www.oecd.org/regreform/sectors/40898016.pdf>

14. Refer to section 2(f) of the Competition act, 2002

<b>Differences</b>	
Remedies available to consumer agencies are more targeted and specific: For example measures designed to improve information flows to consumers.	Remedies of redressal are heavy fines and or prohibition of anticompetitive conduct.
Example: If the consumer is provided with a defective product for instance a washing machine which is not working due to some inherent defect. The Act provides that the defective product may be repaired /replaced or amount paid may be reimbursed.	Example: If the consumer is forced to purchase a washing machine along with a particular brand of detergent (XYZ) and the terms of its usage mandates the use of XYZ detergent only, then it may restrict competition in the market of detergent. The Act provides this as a violation of section 3(4) (a) of the Act.

differences and similarities between the two legislations.

#### **4. Interface between Consumer Protection Act & Competition Act**

Promotion of consumer welfare is the common goal of Consumer Protection Act and the Competition Act. There are differences and similarities between both the acts which are as under:

##### **Similarities**

- The objectives of the consumer and competition policy are mutually complementary. Both the acts aim at the promotion of the development of market conditions which provide consumers with appropriate choices at lower prices and better quality.
- Promotion of Consumer welfare is the common goal of consumer protection and competition law.
- At the root of both Consumer Protection Act and Competition Act is the recognition of the fact that consumers need protection from the abusive position of producers at the market place.

##### **5. Conclusion**

The spirit of competition warrants continuous improvement in the existing market place where the efficient players push in-efficient players out of the market thereby promoting economic well-being of both the market participants and the consumers. Though, the perfect competition in the markets may seem a utopia, the presence of competition watch-dog i.e. the Competition Commission of India, provide for sufficient regulatory oversight and restraints to promote healthy practices and to restrain anti-competitive behavior. The markets continuously strive for achieving higher efficiency with the help of informed consumers. Consumer Associations can play their role more effectively if they understand the mandate and scope of both the Consumer Protection Act and the Competition Act and take up appropriate cases at

the appropriate forum for larger benefit to the consumers and in-turn the society. It is in the interest of the Consumer Associations to get familiar with the provisions of the Competition Act and the procedure to submit formal information as and when they come across anti-competitive practices.

### **Further Suggested Readings**

UNCTAD. (2014). The benefits of competition policy for consumers, Retrieved from [http://unctad.org/meetings/en/SessionalDocuments/ciclpd27\\_en.pdf](http://unctad.org/meetings/en/SessionalDocuments/ciclpd27_en.pdf)

OECD. (2008). Policy Roundtable: The Interface between Competition and Consumer Policies. Retrieved from <http://www.oecd.org/regreform/sectors/40898016.pdf>

### Other Resource Persons' Material

Part 1: Basic Introduction

Part 3: Trade/Industry Associations

Part 4: Public Procurement – Government and Public Sector Enterprise

Part 5: Regulatory Bodies

Part 6: Competition Compliance Programme

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