



Unfair Trade Practices

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ABSTARCT

“Any fraudulent, dishonest trade practise or business practises which are prohibited by a statute” are considered unfair trade practises. It can involve the employment of any unfair technique or dishonest or misleading behaviour with the Intention of encouraging the supply, use, or sale of any goods. This rationale behind the inclusion of a legislation against unfair business practises will be the subject of the research paper. The topic of unfair commercial practises in India and the law governing them will be further examined in this essay. The essay will also attempt to study this term’s evolution and attempt to discuss UTP’s evolution. The document will also attempt to promote India’s viewpoint about “unfair trade practises.”

Keywords: Consumer Protection Act, Unfair Trade Practice, Misleading, Falsity, Internet Fraud

Introduction

Today’s globe is a connected global economy, in contrast to the world before the industrial revolution and the explosive expansion of global trade. Due to the industry boom, a large range of consumer goods are now available to satisfy the constantly changing needs of consumers. Offers a variety of services. Distributors and suppliers have also organised themselves more and more over time. As a result, the weaker side in the customer transaction had less negotiating strength. At both the international and domestic levels, numerous legal efforts, rules, and regulations have been put in place to deter and safeguard consumer exploitation. India has a unique law known as the Consumer Protection Act of 1986, which safeguards consumer interests. The author has made an effort to comprehend the reality of these practises on the ground, particularly in locations like airports, five-star hotels, shopping centres, and multiplexes where the negotiating power is severely skewed in favour of these institutions. The author has also looked into how these practises affect the treatment of.

The same under the laws in force at the time. In order to compare the effectiveness of the two major powers’ consumer protection laws, the United States of America and the United Kingdom, the article has concentrated on the key distinctions between them. In conclusion, an effort has been made to research the current consumer protection laws in India for the protection of consumers from unfair trade practises. The Consumer Protection Bill, 2015 has also been touched upon, and ideas to improve these laws have been made. The same have been given to improve. Unfair trade practises cover a wide range of offences, many of which involve financial harm brought on by deceptive or improper behaviour. Trade secret theft, unfair competition, deceptive advertising, palming off, dilution, and defamation are just a few of the claims that can be made. The tenets of law that are admissible. Although efforts have been made to elevate the status of the customer and to make the consumer king, this person is nonetheless susceptible to numerous unfair business practises used by manufacturers and retailers.

Achieve greater profits and sales revenues. There is a great deal of manipulation that revolves around product pricing.

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It is vital to gain a deeper grasp of these two key concepts before diving into a critical analysis of the unfair trade practises directly related to the maximum retail price. As is common knowledge, many terms have different use and legal definitions. They have in everyday language. The definition of “unfair trade practise” is provided in Section 2(1)® of the Consumer Protection Act, 1986. The definition of “unfair trade practise” is provided in Section 2(1)® of the Consumer Protection Act of 1986. And encompasses a broad range of actions considered to be harmful to consumers³. This excerpt from Section 2(1)® encompasses, among other things, the unfair refusal of a transaction, the exclusion of unfairly justified competitors, the unfair solicitation of customers, the intimidation of customers, the unfair treatment of a transacting party, and the unfair exploitation of a position of power.

A particular negotiating stance taken by the transacting party, the conduct of business, including doing so under terms and conditions that unfairly limit the trading endeavours of a negotiating party, Disrupting another company’s business activities, and unequal provision of financial, assets, Manpower, etc⁴. Unfair trade practises often result in unjustified harm to consumers; this harm must be significant, unbalanced by any consumer advantage, not anti-competitive, and incapable of being rationally avoided by the customer. Therefore, it follows that no harm will be deemed to be “unfair.” Among other things, substantial harm includes financial loss, harm to consumers’ health, coercion, and information asymmetry. There are some exceptions to the general rule that emotional distress or mental injury do not provide grounds for unfair trade practises. The Consumer Forums and Commissions consider the financial expenses spent by the corporation in question as well as costs to society, including As well as less innovation and more restrictions on information flow The caveat emptor, or “let the buyer beware” principle, governed buyer-seller relations in India prior to the Consumer Protection Act and after it the Monopolies and Restrictive Trade Practises Act. The purchasers were anticipated to gather enough information Before making a purchase, learn more about the good or service.

Maximum Retail Price

Today, all packaged goods in India, whether they are cosmetics, electronics, or beverages, are marked with a price. The manufacturer has set this as the highest price the buyer may pay. However, India is the only country with this Maximum Retail Price (MRP) system. And South Asia. This was not always the case, even in India. The majority of other nations use a suggested retail price approach. Over several decades, India has witnessed the development of numerous pricing mechanisms. The Market Determined Pricing System was in use up until 1974. The Administrative Pricing System took its place. It was in effect for 14 years before the decision was made to adhere to the Import Parity Prices were set in 1998.

The Import Parity Price Mechanism thereafter took its place. The Trade Parity Price Mechanism, which was approved as the current pricing structure in 2006, is the last one. Near the end of 1990, the MRP was updated to its current form. Prior to this, the manufacturer had two options for printing the price of the goods. The initial one stated “Retail Price + Local Taxes (extra)”. Maximum Retail Price (Including All Taxes) was the second.. Due to repeated complaints from customers and organisations that retailers were overcharging them while ostensibly adding additional local taxes, this practise was discontinued. The actual municipal tax rate was far lower than this.

These rules were introduced by the Consumer items (Mandatory Printing of Cost of Production and Maximum Retail Price) Act 2006¹³ to prevent charging the consumer more than the maximum price that the producers placed on the packaging of the items. These rules define market products, manufacturing costs, printing, and the maximum retail price. These definitions produced the statutory requirement that the retail price be printed at a conspicuous location and in the languages of English, Hindi, and the regional tongues. This deed Has mandated the use of printing. The maker must also make specific declarations on the package in accordance with Rule 6 of Chapter II of the 2011 Rules

on Legal Metrology (Packaged Commodity). The package's retail selling price must be disclosed in accordance with Rule 6(1)€. Such Additionally, exclusions are allowed.¹⁵ The provisions of Rule 18(2) and Rule 18(5) prohibit selling any goods for more than the MRP and place requirements on the product packaging.

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In order to comprehend the intention of the legislators and its present implementation, it is crucial to comprehend the historical justifications for specific practises being labelled unfair as well as how the definitions have changed over time. Consumers in India had little to no access to remedies for a very long period. They were unable to even file a complaint with the courts to get their complaints addressed. The Monopolies and Restrictive Trade Practises Act was designed to safeguard consumers, however it fell short in that regard. As a result, it was changed in 1984 in accordance with the Sachar Committee's recommendations, and a section on unfair business practises was added:

- 1) Making erroneous or deceptive statements in an advertisement or elsewhere about a good or service.
- 2) Providing bait marketing and deals.
- 3) Offering fictitious prizes or presents and running raffles, lotteries, or skill-based or sales promotion competitions.
- 4) Supplying dangerous or unreliable goods.
- 5) Holding onto, destroying, or refusing to sell things, leading to an increase in price.

In the past, the government had to independently investigate any unfair trade practises after becoming aware of them. Only for the specific product listed in those precise enactments, the consumer was able to immediately approach the courts under some special laws. Another modification MRTTP Act in 1986, which previously only allowed a group of 25 members or by a consumer association with 25 members or more could do so, gave consumers the right to approach the Commission directly. Legal Position in India of Unfair Trade Practices. By mentioning the pertinent sections of the many associated legislations, the author aims to give readers a comprehensive image of the present legal situation regarding the malpractices of overpricing and raising the maximum retail price in these sections. The provisions and definitions concerning the terms "unfair trade practise" and "maximum retail price," in-depth discussion has already been covered in the sections before this one.

Additionally, malls frequently use price printing machines to change the MRP on products in order to fool buyers into thinking there is a reduction off the MRP.²² In many cases, the products are also offered for this inflated price. The seller contend that they are forced to provide this service as rentals. Are particularly high in malls .In January 2009, Prahlad was travelling on the Mumbai-Goa highway when he stopped at the Kamat Hotel to purchase a bottle of water. Later, he discovered that the identical bottle was being sold at other stores on the highway for Rs. 15/ without any variation in price, for which he had originally charged Rs .Both quality and quantity.²³ Prahlad filed a complaint against Rasiklal Dhariwal with the Raigad District Consumer Disputes Redressal Forum on behalf of the Pune-based Dhariwal Industries Limited, the manufacturer of the bottled water in question, and Vitthal Kamat of Kamat Hotels. They refuted the claim by saying that the added cost was related to the hotel's amenities. The Forum rejected the appeal on the grounds that it lacked merit and that the higher MRP couldn't be justified by any distinctive attributes. It's noteworthy that this Ruling only applies to retail establishments with a counter and excludes clients who are seated there.

The researcher also discussed a few case laws in the portion where the results of the empirical study and interviews were provided in order to compare them with the complainants' experiences. These cases included Hotel Nyay Manndir v. Ishwar Desai, Prahlad Padalikar v. Kamat Hotels, 29 Pepsi Co. & Ors v. Adithya Banavar & Ors, 30 and D.K. Snack Bar³¹, among others, in Chopra v. The Assistant Controller, as well as numerous irate customers

and precedents, were interviewed as a preamble to the Legal Metrology Act (Packaged Commodity Rules) of 2011.

Comparison of the US and UK Consumer Protection Regimes

The UK has national laws controlling consumer protection against dishonest business practises. It has a consistent regulatory and policing structure. Although there is national legislation in the USA to protect consumers, each state has its own regulations to prevent unfair business practises. here are several US states where people cannot sue in court because there is no private cause of action. This also applied to the UK, where cases could only be taken up by enforcement agencies before the 2014 Consumer Protection (Amendment) Regulations were passed, allowing direct action. 'Unfair' has roughly the same meaning in both legal systems. In the UK, it is defined as behaviour that is inconsistent with professional care and ethical business practise, however in the USA, it is phrased differently as behaviour that is inconsistent with customary business practise or is Unreasonable. But in both situations, the criteria used to hold a trader accountable are completely different. In the US, proof of intent to violate the law is required.

Suggestions for the Indian Consumer Protection Bill, 2015

The UK law has a number of advantages that the authors of the current bill would do well to take into account. In addition to covering goods and services, the UK's 2015 Consumer Rights Act also has a separate chapter on digital material. There are plans in place for its restoration and replacement. Too. Similar measures on e-commerce and electronic intermediaries are also included in the 2015 bill. Consequently, both laws have taken into account the modifications that electronic transactions have made to business to consumer contracts. The Indian legislation is more detailed and provides specific definitions of several types of unfair trade practises, but the UK statute has a far greater scope for what constitutes unfair trade practises. This has the drawback that Future advancements that would not fit into any of the existing categories are not taken into consideration. Additionally, unjust terms that may be imposed on customers who are unable to fully understand their ramifications must receive more attention.

Conclusion

The article introduces the comprehensive consumer protection laws in India, the United Kingdom, and the United States of America, with a focus on protecting consumers against unfair trade. Practices. It also highlights the fact that there was an urgent need for consumer protection in the United Kingdom due to the instability caused by World War II, which led to the adoption of the Monopolies and Restrictive Practises Enquiry and Controls Act in 1948. The government introduced the Consumer Rights Act, 2015, which included a very broad definition of unfair trade practises and unique remedies in the interest of the consumers, in response to the necessity to address the issue that had arisen as a result of technological innovation. The In contrast to the situation in the United States, the United Kingdom's enforcement authorities are granted a wide range of capabilities that can be interpreted as being more consumer-friendly.

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