

MODULE : 4

IT ACT 2000

The Information Technology Act, 2000 or ITA, 2000 or IT Act, was notified on October 17, 2000. It is the law that deals with cybercrime and electronic commerce in India.

Due to increasing crime in cyber space, Govt. of India understood the problems of internet user and for safeguarding the interest of internet users, this act was made. This act is helpful to promote business with the help of internet. It also set of rules and regulations which apply on any electronic business transaction. Information technology is one of the important law relating to Indian cyber laws.

The objectives of the Act are as follows:

- a. Grant legal recognition to all transactions done via electronic exchange of data or other electronic means of communication or e-commerce, in place of the earlier paper-based method of communication.
- b. Give legal recognition to digital signatures for the authentication of any information or matters requiring legal authentication
- c. Facilitate the electronic filing of documents with Government agencies and also departments
- d. Facilitate the electronic storage of data
- e. Give legal sanction and also facilitate the electronic transfer of funds between banks and financial institutions
- f. Grant legal recognition to bankers under the Evidence Act, 1891 and the Reserve Bank of India Act, 1934, for keeping the books of accounts in electronic form.

Scope/Features of the Information Technology Act, 2000

- a. All electronic contracts made through secure electronic channels are legally valid.
- b. Legal recognition for digital signatures.
- c. Security measures for electronic records and also digital signatures are in place
- d. A procedure for the appointment of adjudicating officers for holding inquiries under the Act is finalized
- e. Provision for establishing a Cyber Regulatory Appellant Tribunal under the Act. Further, this tribunal will handle all appeals made against the order of the Controller or Adjudicating Officer.
- f. An appeal against the order of the Cyber Appellant Tribunal is possible only in the High Court
- g. Digital Signatures will use an asymmetric cryptosystem and also a hash function
- h. Provision for the appointment of the Controller of Certifying Authorities (CCA) to license and regulate the working of Certifying Authorities. The Controller to act as a repository of all digital signatures.
- i. The Act applies to offences or contraventions committed outside India
- j. Senior police officers and other officers can enter any public place and search and arrest without warrant
- k. Provisions for the constitution of a Cyber Regulations Advisory Committee to advise the Central Government and Controller.

Electronic governance

or **e-governance** is the application of IT for delivering government services, exchange of information, communication transactions, integration of various stand-alone systems between government to citizen (G2C),

government-to-business (G2B), government-to-government (G2G), government-to-employees (G2E) as well as back-office processes and interactions within the entire government framework.

Through e-governance, government services are made available to citizens in a convenient, efficient, and transparent manner. The three main target groups that can be distinguished in governance concepts are government, citizens, and businesses/interest groups. In e-governance, there are no distinct boundaries.

Offences

Cyber offences are the illegitimate actions, which are carried out in a classy manner where either the computer is the tool or target or both.

Cyber-crime usually includes the following –

- Unauthorized access of the computers
- Data diddling
- Virus/worms attack
- Theft of computer system
- Hacking
- Denial of attacks
- Logic bombs
- Trojan attacks
- Internet time theft
- Web jacking
- Email bombing
- Salami attacks
- Physically damaging computer system.

The offences included in the IT Act 2000 are as follows:

1. Tampering with the computer source documents.
2. Hacking with computer system.
3. Publishing of information which is obscene in electronic form.
4. Power of Controller to give directions.
5. Directions of Controller to a subscriber to extend facilities to decrypt information.
6. Protected system.
7. Penalty for misrepresentation.
8. Penalty for breach of confidentiality and privacy.
9. Penalty for publishing Digital Signature Certificate false in certain particulars.
10. Publication for fraudulent purpose.
11. Act to apply for offence or contravention committed outside India.
12. Confiscation.
13. Penalties or confiscation not to interfere with other punishments.
14. Power to investigate offences.

Offences Under The It Act 2000

Section 65. Tampering with computer source documents

Whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to conceal, destroy or alter any computer source code used for a computer, computer program, computer

system or computer network, when the computer source code is required to be kept or maintained by law for the being time in force, shall be punishable with imprisonment up to three year, or with fine which may extend up to two lakh rupees, or with both.

Explanation – For the purpose of this section “computer source code” means the listing of programs, computer commands, design and layout and program analysis of computer resource in any form.

Object – The object of the section is to protect the “intellectual property” invested in the computer. It is an attempt to protect the computer source documents (codes) beyond what is available under the Copyright Law

Essential ingredients of the section

knowingly or intentionally concealing

knowingly or intentionally destroying

knowingly or intentionally altering

knowingly or intentionally causing others to conceal

knowingly or intentionally causing another to destroy

knowingly or intentionally causing another to alter.

This section extends towards the Copyright Act and helps the companies to protect their source code of their programs.

Penalties – Section 65 is tried by any magistrate.

This is cognizable and non-bailable offence.

Penalties – Imprisonment up to 3 years and / or

Fine – Two lakh rupees.

What is the Consumer Protection Act?

The Consumer Protection Act, implemented in 1986, gives easy and fast compensation to consumer grievances. It safeguards and encourages consumers to speak against insufficiency and flaws in goods and services. If traders and manufacturers practice any illegal trade, this act protects their rights as a consumer. The primary motivation of this forum is to bestow aid to both the parties and eliminate lengthy lawsuits.

This Protection Act covers all goods and services of all public, private, or cooperative sectors, except those exempted by the central government. The act provides a platform for a consumer where they can file their complaint, and the forum takes action against the concerned supplier and compensation is granted to the consumer for the hassle he/she has encountered.

Consumer protection is the practice of safeguarding buyers of goods and services, and the public, against unfair practices in the marketplace. Consumer protection measures are often established by law. Such laws are intended to prevent businesses from engaging in fraud or specified unfair practices in order to gain an advantage over competitors or to mislead consumers. They may also provide additional protection for the general public which may be impacted by a product (or its production) even when they are not the direct purchaser or consumer of that product. For example, government regulations may require businesses to disclose detailed information about their products—particularly in areas where public health or safety is an issue, such as with food or automobiles.

Consumer protection is linked to the idea of consumer rights and to the formation of consumer organizations, which help consumers make better choices in the marketplace and pursue complaints against businesses.

Definitions:

Consumer

As per Consumer Protection Act, 1986, “Consumer” means any person who buys or avails of any service for a consideration which has been paid or promised or partly paid and partly promised under any system of deferred payment etc.

Defect - Section 2(1)(f) of the Act provides that, “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 of the time being in force under any contract, express or implied or as is claimed by the trader in any manner whatsoever *in relation to any goods*.

Section 2(1)(f) of the Consumer Protection Act, 1986 defines defect in goods. The defect is defined as any imperfection, fault, a shortcoming in certain parameters of the good which are as follows:

- Quality
- Quantity
- Purity
- Potency
- Standard

The above has a level that needs to be maintained by or under any law in force at that time.

Hence, if any good is not up to the mark or is faulty, that is, does not meet the mark of the laws applicable in the particular period, it is defective.

Deficiency of Service

Deficiency of Service as “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 or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service and includes (a) any act of negligence or omission or commission by such person to the consumer and (b) deliberate withholding of relevant information by such person to the consumer.”

What is Unfair Trade Practice?

An unfair trade practice refers to that malpractice of a trader that is unethical or fraudulent. These practices cause an inconvenience or grievance to consumers.

An unfair trade practice is defined under Section 2(1)(r) of the Consumer Protection Act, 1986. According to this definition, it is a trade practice carried out for the promotion of sale. It is the distribution or utilisation of any good or service by adopting a deceptive method or practice.

The following practices fall under unfair trade practice:

1. False Representation

The practice of making any oral nor written statement or representation which:

- Falsely suggests that the goods are of a particular **standard quality**, quantity, grade, composition, style or model;
- Falsely suggests that the services are of a particular **standard, quantity or grade**;
- Falsely suggests any re-built, second-hand renovated, reconditioned or **old goods as new goods**;

- Represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which they do not have;
- Represents that the seller or the supplier has a sponsorship or approval or affiliation which he does not have;
- Makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;
- Gives any warranty or **guarantee** of the performance, efficacy or length of life of the goods, that is **not based on an adequate or proper test**;
- Makes to the public **a representation** in the form that purports to be-
 1. a warranty or guarantee of the goods or services,
 2. a promise to replace, maintain or repair the goods until it has achieved a specified result,

if such representation is **materially misleading** or there is no reasonable prospect that such warranty, guarantee or promise will be fulfilled

- Materially **misleads about the prices** at which such goods or services are available in the market; or
- Gives false or misleading facts disparaging the goods, services or trade of another person.

2. False Offer of Bargain Price-

Where an advertisement is published in a newspaper or otherwise, whereby goods or services are offered at a bargain price when in fact there is no intention that the same may be offered at that price, for a reasonable period or reasonable quantity, it shall amount to an unfair trade practice.

The '**bargain price**', for this purpose means-

1. the price stated in the advertisement in such manner as suggests that it is lesser than the ordinary price, or
2. the price which any person coming across the advertisement would believe to be better than the price at which such goods are ordinarily sold.

3. Free Gifts Offer and Prize Schemes

The unfair trade practices under this category are:

- Offering any gifts, prizes or other items along with the goods when the real intention is different, or
- Creating impression that something is being offered free alongwith the goods, when in fact the price is wholly or partly covered by the price of the article sold, or
- Offering some prizes to the buyers by the conduct of any contest, lottery or game of chance or skill, with real intention to promote sales or business.

4. Non -Compliance of Prescribed Standards

Any sale or supply of goods, for use by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by some competent authority, in relation to their performance, composition, contents, design, construction, finishing or packing, as are necessary to prevent or reduce the risk of injury to the person using such goods, shall amount to an unfair trade practice.

5. Hoarding, Destruction, Etc.

Any practice that permits the hoarding or destruction of goods, or refusal to sell the goods or provide any services, with an intention to raise the cost of those or other similar goods or services, shall be an unfair trade practice.

CONSUMER PROTECTION COUNCIL

Its core activities are: to inform consumers; to eliminate hazardous products from the market and ensure that products and services comply with required standards and to receive, mediate and provide redress to consumer complaints.

Vision

To be the trusted voice in striving for consumer betterment towards safe and sustainable consumption in a fair and just market.

Mission

The Council is committed to enhancing consumer welfare and empowering consumers to protect themselves. Consumers include consumers of goods and services and purchasers, mortgagors and lessees of immovable property.

- it acts as advocate for consumer interests;
- it facilitates constructive discussion and promulgation of pro-consumer policies;
- it sees to empower consumers to help themselves.

This is to be achieved through initiatives directed at the consumers; the private sector; and networking with other stakeholders, such as the media and government.

Core Values

- be consumer interests driven, with due regard to the concept of sustainable consumption;
- uphold fairness and justice;
- maintain openness in our activities;
- be independent and unsusceptible to undue influence;
- be accountable;
- discharge our functions proactively, constructively and with perseverance; and
- Protect the privacy of personal data.

Functions

The Consumer Council Ordinance prescribes the following functions for the Council:-

- collecting, receiving and disseminating information concerning goods and services and immovable property;
- receiving and examining complaints and giving advice to consumers of goods and services and purchasers, mortgagors and lessees of immovable property;
- taking such action as it thinks justified by information in its possession, including tendering advice to the Government or to any public officer;
- encouraging businesses and professional associations to establish codes of practice to regulate the activities of their members; and

- undertaking such other functions as the Council may adopt with the prior approval of the Chief Executive in Council.
- They guide consumers on how to file cases in the consumer court.
- They also represent individual consumers in the consumer courts.
- These voluntary organisations also receive financial support from the government for creating awareness among the people

Consumer Rights and Responsibilities

Consumer Protection Act provides Consumer Rights to prevent consumers from fraud or specified unfair practices. These rights ensure that consumers can make better choices in the marketplace and get help with complaints.

1. Right to Safety :

- **Meaning:** Consumers has the right to be protected against products and services which are hazardous to health, life and property.
- **The requirement from products and services:** Quality, Quantity, Reliability and Performance should be assured in the products and services provided by sellers.
- **Example:** Electrical appliances without ISI mark may cause serious injuries. While offering iron into the market, the uses of iron should be mentioned with that product.

The other five Consumer Protection Rights are as follows:

2. Right to Get Information: This is an act to give for setting out the practical management of Right to information for citizens to acquire the data under control of public jurisdictions, in order to develop clarity and responsibility in the working of every public authority, the organisation of a central information Commission and State Information.



3. Right to Choose: The meaning of Right to Choose as per the Consumer Protection Act 1986 is 'the right to be assured, wherever possible, to have access to a variety of goods and services at competitive prices'.

4. Right to be Heard: This right says that the complaints of customers should be understood by the seller. And it also allows them to be heard before the sessions and consumer panels. Right to be heard is one of the rights granted to consumers by the consumer protection act.

5. Right to Seek redressal: Right to seek redressal against illegal trade systems or unfair exploitation of consumers. It also involves the right to a reasonable settlement of the legitimate complaints of the consumer. They should be well aware of their rights and must execute them.

6. Right to Consumer Education: The right to obtain the knowledge and skill to be an acquainted consumer throughout life. Ignorance of consumers, especially of rural consumers, is chiefly accountable for their exploitation. They should be well aware of their rights and must execute them.

The Responsibilities of the Consumer

- **Responsibility to be aware** – A consumer has to be mindful of the safety and quality of products and services before purchasing.

- **Responsibility to think independently**– Consumer should be well concerned about what they want and need and therefore make independent choices.
- **Responsibility to speak out**- Buyer should be fearless to speak out their grievances and tell traders what they exactly want
- **Responsibility to complain**- It is the consumer's responsibility to express and file a complaint about their dissatisfaction with goods or services in a sincere and fair manner.
- **Responsibility to be an Ethical Consumer**- They should be fair and not engage themselves with any deceptive practice.

Consumer Forum

1. At the **district level** it is called District Consumer Disputes Redressal Forum (District Forum). It has jurisdiction to entertain consumer complaints where the value of goods/services including compensation claimed, if any is upto Rs. 20 Lakhs
2. At the **state level** it is known as State Consumer Disputes Redressal Commission (State Commission). It has jurisdiction to entertain consumer complaints where the value of goods/services and compensation claimed if any up to Rs. 1 Crore and appeals against orders of District Forum.
3. At the **national level**, it is called the National Consumer Disputes Redressal Commission. It has jurisdiction to entertain complaints where the value of goods / services including compensation claimed, if any exceeds Rs. 1 Crore and appeals against order of State Commissions.

The Central Government

- (1) The Central Government may by notification, establish with effect from such date as it may specify in such notification a council to be known as the Central consumer protection Council (hereinafter referred to as the Central Council).
- (2) The Central Council shall consist of the following members, namely-
 - (a) The Minister in-charge of [Consumer affairs] in the Central Government, who shall be its Chairman, and
 - (b) Such number of other official or non-official members representing such interest may be prescribed.

Procedure for Meetings of Central Council. –

- (1) The Central Council shall meet as and when necessary, but [at least one meeting] of the Council shall be held every year.
- (2) The Central Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed.

Objects of the Central Council. – The objects of the Central Council shall be to promote and protect the Rights of the Consumers, such as, -

- (a) The right to be protected against marketing of goods [and services] which are hazardous to life and property;
- (b) The right to be inform about the quality, quantity, potency, purity, standard and price of goods [or services, as the case may be] so as to protect the Consumer against unfair trade practices;
- (c) The right to be assured, wherever possible, access to a variety of goods [and services] at competitive prices;

- (d) The right to be heard and to be assured that Consumers' interest will receive due consideration at appropriate forums;
- (e) The right to seek redressal against unfair trade practices [or restrictive trade practices] or unscrupulous exploitation of Consumer; and
- (f) The right to Consumer education.

The State Consumer Protection Councils. -

- (1) The State Government may, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Consumer Protection Council for...(hereinafter referred to as the State Council).
- (2) The State Council shall consist of the following members, namely:
 - (a) The Minister in- charge of Consumer Affairs in the State Government who shall be its Chairman;
 - (b) Such number of other official or non –official members representing such interests as may be prescribed by the State Government.
- (3) The State Council shall meet as and when necessary but not less than two meetings shall be held every year.
- (4) The State Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.

Objects of the State Council. - The objects of every State Council shall be to promote and protect within the State the rights of the Consumers laid down in Claus. (a) to (f) of sec.6.

The main objective of the Act is

- To provide simple, speedy and inexpensive redressal to the consumer's grievances.
- To provide this, a three-tier quasi-judicial machinery at the national, state and district level has been envisaged under the Act.
- National Consumer Disputes Redressal Commission (National Commission).
- State Consumer Disputes Redressal Commission (State Commission).
- District Consumer Disputes Redressal Forum (District Forum).

Who can file a complaint?

- 1. Consumer.
 - 2. Any voluntary organization representing consumers registered under Companies Act/Societies Act.
 - 3. Central Government.
 - 4. State Government or Union Territory.
- A group of consumers having common dispute.

Where to file a complaint?

1. If the cost of goods or services and compensation asked for does not exceed Rs.20 lakhs then the complaint can be filed in the District Forum which has been notified by the government for the District where the cause of action has arisen or where party resides.
2. If the cost of goods or services and compensation asked for is more than Rs. 20 lakhs but less than 1 Crore, the complaint can be filed before State Commission.
3. If the cost of goods or services and compensation asked for exceeds Rs. 1 Crore, the complaint can be filed before the National Commission.

Appeals:

If a person is not satisfied with the decision of the district forum, he can file an appeal with the state commission and in case of not being satisfied with the decision of state commission; appeal can be filed before the national commission. Appeals against the decision of the national commission can be filed in the Supreme Court.

Relief/Remedies available to consumers:

Depending on the nature of relief sought for by the consumer and facts, the redressal forum may give order for one or more of the following relief:-

1. Removal of defects from the goods.
2. Replacement of goods.
3. Refund of consideration paid.
4. Award of compensation for the loss or injury suffered.
5. Removal of Deficiency in Service
6. Discontinuance of Unfair/Restrictive Trade Practice
7. Stopping the Sale of Hazardous Goods

Limitations:

Complaint is to be filed within 2 years from the date on which cause of action has arisen. Time-barred complaints shall not be entertained by Forums.
