

# Understanding Provisions of Consumer Protection in Nepal

EC - Nepal WTO Assistance Programme  
Project No: EE/NEP/07/001

Technical Assistance for the  
Development of the Consumer Movement  
as a Viable Market Force in Nepal

Implemented by  
United Nations Industrial Development Organisation (UNIDO)

Conducted by  
Consumers International  
Office of the Asia Pacific and Middle East

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# Understanding Provisions of Consumer Protection in Nepal

***Prepared by***

Kamal Kanta Poudel, Nepal

***Reviewed by***

Ramesh Chandra Poudel, Nepal

***Edited by***

Indrani Thuraisingham, Consumers International

RSN Sharma (Satya), Consumers International

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Indrani Thuraisingham  
Head  
Consumers International  
Office for Asia-Pacific and the Middle East



## **Preface**

Consumer protection in Nepal has received considerable attention these days. The role of legal intervention with the aim of protecting the consumer has come under scrutiny in a number of cases, many of which concentrate upon the role of consumer law in the marketplace. Consumers' role in asserting their rights has also been discussed by a large number of leading commentators, with particular attention being paid to consumers lodging a complaint with relevant government agency. Against this background, to assist consumers determine their rights under the consumer protection law and other consumer related statutes, this booklet aims to be the first major publication to cover all pertinent information with regards to the protection of consumers in Nepal.

It provides a brief description on the enforcement powers of the Department of Commerce, under the major consumer protection statutes. The information in this booklet should not be considered the granting or denying of any rights guaranteed under the law. This is written from the perspective of a consumer, but it provides a good idea of how the Law is intended to regulate the way businesses should interact with the consumer.

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# 1. Who is a Consumer?

“Consumer” is a broad label for any individuals, households or organisations that use any of the goods and services produced or imported in an economy, for the fulfilment of the felt needs and wants. It is a term commonly used in many disciplines like economics and marketing, law and politics and intelligence studies. In economics and marketing, the "consumer" is the one who purchases and/or uses goods and services for personal use. As such, consumers play a vital role in the economic system of a nation because in the absence of effective demand that emanates from them, the economy virtually collapses.

Typically when business people and economists talk of *consumers* they are talking about *person as consumer*, an aggregated commodity item with little individuality other than that expressed in the buy/not-buy decision. However there is a trend in marketing to individualise the concept. Instead of generating broad demographic profiles and psycho-graphic profile of market segments, marketers have started to engage in personalized marketing, permission marketing, and mass customization.

But in law and politics the term consumer is used in a different sense. The law primarily uses the notion of "consumer" in relation to consumer protection laws and the definition of consumer is often restricted to living persons (i.e. not corporations or businesses) and excludes commercial users. A typical legal rationale for protecting the consumer is based on the notion of policing market failures and inefficiencies, such as inequalities of bargaining power between a consumer and a business. As all potential voters are also consumers, consumer protection takes on a clear political significance.

Concern over the interests of consumers has also spawned much activism, as well as incorporation of consumer education into school curricula. There are also various non-profit publications, such as the Consumer Report and Choice magazine, dedicated to assist in consumer education and decision making, in the US and Australia respectively.

In India, the Consumer Protection Act 1986 clearly differentiates a consumer as consuming a commodity or service either for his personal domestic use or to earn his livelihood. Only consumers are protected as per this Act and any person, entity or organisation purchasing a commodity for commercial reasons are exempted from any benefits of this Act. Furthermore, there are Indian cases that distinguish a consumer from a customer.

As the term consumer is defined differently in different disciplines, the usage and significance of the term may also vary. So, different pioneer consumer right activists in their respective countries, organisations and international agencies have defined consumers in a different way.

On 15 March, 1962, US President John F. Kennedy delivered an historic address to the US Congress in which he outlined his vision of consumer rights. This was the first time any politician had formerly set out such principles. 'Consumers by definition include us all,' Kennedy said in his Congressional Statement, 'They are the largest economic group, affecting and affected by almost every public and private economic decision. Yet they are the only important group... whose views are often not heard.'

In the words of Ralph Nader, pioneer of the American consumer movement, "consumers are the vital force of the Economy".

Similarly under the Consumer Protection Act 1986 of India, the term consumer has been clearly defined to prevent misinterpretation and denial of the rights of consumers. The exact definition of “consumer” as given by it has been given below within quotes as “consumer means any person who

- (i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or
- (ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who ‘hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person but does not include a person who avails of such services for any commercial purposes”.

In Nepal, the consumer rights movement took a new direction after the enforcement of the Consumer Protection Act, 2054 effective from Baisakha 1, 2055 BS. As defined in the Consumer Protection Act of Nepal: “Unless otherwise meant with reference to the subject or context, in this Act consumer means an individual or institution consuming or using any consumer goods or service”.

As emphasised in all the definitions given above, consumers are the larger group of people using any goods and services either by affording resources to achieve them or by acquiring them as fundamental rights as envisaged in the state directive guidelines or principles. So in broader terms, “consumer” includes all the people worldwide in the sense that even a producer of any goods and services is the consumer for all the goods and services that he/she consumes except his/her own product.

## 2. UN Guidelines for Consumer Protection

Consumer Protection relates to efforts to ensure that products purchased by consumers are safe to use, meet all expressed or implied performance standards, that consumers will have adequate information to make safe purchase and use decisions, that marketers are prevented from using fraudulent methods to sell their products, and that marketers compete fairly in the market place.

Consumer rights became a global issue and a matter of concern to all consumers especially after the General Assembly of the United Nations on April 9 1985. It unanimously adopted a set of General Guidelines for Consumer Protection. Member states became aware of the issues of consumer rights and began to ensure some provisions in their national laws as per internationally recognised standards. This success must be attributed to the tireless efforts of Consumer International.

After the introduction and adoption of consumer rights in the UN Guidelines, the demand for strong constitutional protection for consumers is growing worldwide. It is generally believed that a strong constitutional and legal framework for consumer rights protection compels governments to be more accountable towards the consumer. The current global scenario dictates consumer rights should be protected, mutually balanced and reconciled within the national constitution as part of human rights and honoured as one of the fundamental rights.

Consumer protection relates to efforts to ensure that products purchased by consumers are:

- (i) safe to use
- (ii) meet all expressed or implied performance standards
- (iii) purchased with adequate information on safe use



- (iv) free from fraudulent methods of marketers
- (v) purchased fairly in a competitive market place.

### 3. Consumers International and Consumer Rights

Consumers International (CI) is the world federation of consumer groups that serves as the only independent and authoritative global voice for consumers. It is based in London, England. Founded on April 1, 1960, currently with over 220 member organisations in 115 countries around the world, the organisation continues to build a powerful international movement to empower and protect consumers everywhere. In campaigning for the rights of consumers across the world, CI seeks to hold corporations to account and acts as a global watchdog against any behaviour that threatens, ignores or abuses the principles of consumer protection. CI materialised the idea put forth by Kennedy and set out eight different rights as consumer rights, which have been encapsulated into the UN Guidelines for Consumer Protection. They are:

1. **Right to Satisfaction of Basic needs:** According to this right every consumer has the right to have access to food, clothing, education, healthcare and shelter.
2. **Right to safety:** A consumer has the right to demand safe goods and be protected from unsafe products and services.
3. **Right to information:** A consumer has the right to demand information regarding a certain product like the quality, purity, standard, the cost of goods, etc.
4. **Right to choose:** A consumer has the right to choose the product among a variety of products, which he/she likes.

5. **Right to be heard:** Consumers have the right to express themselves if they have been cheated.
6. **Right to seek redress:** The right to legal redress when they are cheated.
7. **Right to consumer education:** Consumer have the right to be educated on “consumer evils” in the society as informed consumers cannot be exploited.
8. **Right to a healthy environment:** A consumer has the right to work in an environment that does not affect his/her progress and health.

## **4. Legal Framework for Consumer Protection Act in Nepal**

Though the interim Constitution of Nepal was promulgated after the people's movement in 2062/2063 BS, it did not recognise consumer right as one of the basic rights of its citizens. Moreover, the right of information is protected as rights to publication, broadcasting and press. Together with the right to information, other rights ensured by the interim constitution of Nepal that have some implication on consumer rights are the right to social justice and the right to constitutional remedy. So the Constitution provides fundamental rights to every citizen to demand and receive information on any matter of public interest. The Directive Principles of State Policy endorsed by the Constitution aspires to promote a just system in all aspects of life, including social, economic and political, while at the same time protecting the lives, property and liberty of people pursuing the principles of openness. The fundamental economic objective of the State as enunciated in the Constitution is to transform the national economy by making necessary arrangements for the equitable distribution of economic gains on the basis of social justice. Similarly, the State is directed under the Constitution to pursue a policy of raising the standard of living of the general public through the development of basic needs such as education, health, housing and employment. All of these constitutional provisions have the sole objective to protect the life and security of the consumer either directly or indirectly.

After a prolonged struggle and advocacy by consumer organisations and the civil society for a separate and comprehensive consumer protection law based on UN Guidelines, the Nepalese Parliament finally enacted the Consumer Protection Act in the year 2054 BS (1998). Except for the right to basic needs and the right to a healthy

environment, all the rights endorsed by the United Nations as consumer rights have been included in the Consumer Protection Act, 2054 as basic consumer rights in Nepal.

## **5. Consumer rights as recognised under the Consumer Protection Act of Nepal**

The Consumer Protection Act, 2054 clearly states that any of the activities that intended to deceive consumers are strictly punishable by law. Provisions of the Act protect consumers from irregularities such as the quality, quantity and prices of consumer goods or services; ensuring that no one lowers or removes the attributes or usefulness of consumer goods or services; preventing circumstances in which monopolies and unfair trading practices may lead to an increase in prices, as well as false and misleading propaganda about the use and usefulness of consumer goods or services. Provisions on selling, supplying, importing, exporting and storing safe and quality consumer goods or services, and protecting the rights and interests of consumers through the establishment of an agency for redress.

Consumer Protection by the Government covers 3 basic areas:

- (i) Ensuring a legal framework that comprises of the Consumer Protection Act.
- (ii) Evolving standards for different products to enable consumers to make an informed choice. Standards, which are the essential building blocks for quality, play a key role in consumer protection. Standards could be on technical requirement (specifications), improved specific standard terminologies (glossary of terms), and codes of practice or test methods or management system standards. The standards are set generally by Government or inter-Governmental bodies but worldwide it is being recognised that voluntary establishment of standards plays an equally important role in protecting consumers.

- (iii) Thirdly, consumer awareness and education are the main building block for consumer protection.

With the objective of maintaining the health of consumers, offering facilities and economic benefits, maintaining the quality of goods and services, controlling the inflation caused by monopoly and unfair trade practices, making arrangements to establish institutions for facilitating consumer complaints and redressing grievances, the Consumer Protection Act, 2054 was enacted and promulgated. This Act includes 30 Sections and is the specific and comprehensive legislation that protects the rights of consumers as well as restricts unfair trade practices to some extent. The legal framework of the Consumer Protection Act may be summarised in the following sub-headings:

## **5.1 Assurance of Consumer Rights**

Section 6 of the Act assures and recognises six rights of the consumer out of the eight rights recognised globally in line with UN guidelines. The Act has not included the right to basic needs and the right to a healthy environment. The Act has guaranteed the following rights to consumers:

- i. Right to protection of life, health and property from harmful consumer goods,
- ii. Right to be informed about price, quantity and quality of consumer goods in order to be protected from bad business practices,
- iii. Right to choose the goods and services at competitive prices,
- iv. Right to be assured of a hearing by an appropriate authority on consumer protection,

- v. Right to a hearing and compensation, and
- vi. Right to consumer education

## **5.2 Obligations of Manufacturers**

The Right to safety is ensured by directing every producer to mention basic information about the products as mentioned clearly in Section 9 of the Act. Under statutory obligation, the manufacturers are to mention the following information in the label of each product:

- i. Name, address and registration number of manufacturer.
- ii. Composition, quantity and weight of products like food and medicines.
- iii. Standard mark of certification if given to the product.
- iv. Method of consumption and any side effects of the product.
- v. Price, batch number, date of manufacturing and expiry date of product.
- vi. Products guarantee and guarantee time limit of products like electric, electronics hardware and machinery parts.
- vii. Preventive and security measures necessary for any inflammable and hazardous products.



### **5.3 Restrictions on Sub-standard Goods and Services:**

The Act restricts the following activities under Section 10 of the Act:

- i. Production, selling, exports and import of any sub-standard goods.
- ii. Duplication of any products to cheat consumers.
- iii. Selling of any sub-standard or lower quality goods.
- iv. Unfair business practices and commercial transactions such as false or misleading advertisements of the use, utility or effectiveness of any goods or services.
- v. Manufacturing and selling of any goods or services injurious to the health of consumers.

### **5.4 Prohibition on Unfair Trade Practices**

Section 7 of the Act prohibits the creation of circumstances that would lead to any adverse impact in the market or demand on the supply or price of goods or services, through collusion, by fixing quotas, hoarding and by creating an artificial scarcity of goods and services. This provision assures consumers of quality goods and services at reasonable prices, as the producers/traders are barred from forming any kind of collusion. Section 8 of the Act empowers the Government of Nepal (GON) to formulate policies regarding the standard of goods or services, price determination and arrangement of supply. Section 8(1) (b) of the Act empowers the government to control monopoly and unfair trade practices which could adversely affect consumers. To this end, the Act further mentions that the

government should prepare a work plan for monitoring, preventing and controlling such activities.

## **5.5 Provision for Punishments:**

The Act has some provisions for punishments for any offender violating the Consumer Protection Act. Section 18 of the Act deals with the punishments as follows:

- I. Maximum of 3 years imprisonment or Rupees 50,000 fine or both in case of creating circumstances that lead to any adverse impact in the market or in demand, supply or price of goods or services, through collusion, by fixing quotas, hoarding and by creating an artificial scarcity of goods and services.
- II. Maximum of 2 years imprisonment or Rupees 30,000 fine or both in case of violating obligation to mention name, address and registration number of the manufacturer in the label of products.
- III. Maximum of 3 years imprisonment or Rupees 50,000 fine or both in case of manufacturing, selling, exporting and importing of lower quality goods.
- IV. Maximum of 5 years imprisonment or Rupees 100000 fine or both in case of duplicating any product, selling of goods in guise of standard goods and unfair commercial transactions like false or misleading advertisements of the use, utility or effectiveness of any goods or services.
- V. Maximum of 14 years imprisonment or Rupees 500000 fine or both in case of consuming any goods or services that may cause serious hazard to life.

- VI. Maximum of 10 years imprisonment or Rupees 500000 fine or both in case of serious injury to any parts of the body that may cause permanent damage.
- VII. Maximum of 5 years imprisonment or Rupees 300000 fine or both in case of other injuries to health.

## **6. Other Laws having Consumer Protection Implications**

Besides the Consumer Protection Act 2054 and its regulations 2056, there are some other laws and regulations with some provision for consumer rights. Right from the Essential Service Regulation Act, 2014, there are some forty plus laws and regulations that have consumer protection elements. Some of the most relevant Acts are that listed hereunder:

1. Essential Commodities Protection Act, 2012
2. Essential Service Regulation Act, 2014
3. Nepal Agency Act, 2014
4. Essential Material Control (Right) Act, 2017
5. General Code (Muluki Ain), 2020
6. Hotel Management and Sales and Distribution Alcoholic Beverage(Liquor) (control) Act, 2023
7. Food Act,2023
8. Standard Measurement and Weight Act, 2025
9. Local Administration Act, 2028
10. Alcoholic Beverage (Liquor) Act, 2031
11. Black Marketing and Some Social crimes and punishment Act, 2032
12. Drugs Act, 2035
13. Nepal Standard (Certification mark) Act, 2037
14. Nepal Milk Product Development Board Act, 2048
15. Electricity Act, 2049

16. Water Resources Act, 2049
17. Breast Feed substitutes (control of sales and distribution) Act, 2049
18. Forest Act, 2049
19. Nepal Health Service Act, 2053
20. Environment Protection Act, 2053
21. Iodized Salt (Production, Sales and Distribution) Act, 2055
22. Animal Slaughter House and Meat Inspection Act, 2055
23. Competition Promotion and Market Protection Act, 2063
24. Competition Promotion and Market Protection Regulation, 2066

## **7. Some Policies having implication on Consumer Rights**

There are Government policies, which have provisions that do impact on consumer rights. They are:

- a) Commercial Policy, 2049
- b) Hydropower Development Policy, 2049
- c) Industrial Policy, 2049
- d) National Communication Policy, 2049
- e) Irrigation Policy, 2049
- f) National Aviation Policy, 2050
- g) Tourism Policy, 2056
- h) Telecommunication Policy, 2056
- i) Hydro Electricity Development Policy, 2058
- j) Rotary Service Directory, 2060
- k) Effectiveness of Government Service and Facilities Directory, 2061
- l) Commercial Policy, 2065

## **8. Enabling Provisions for Consumers in CPA and other Laws**

Even before the enactment of the Consumer Protection Act 2054, there were some other laws that are still in existence in that have provisions with the objective of protecting the interests of consumers. Though they weren't very effective, they offered some measure of consumer protection. Some of the main Acts and Regulations which have a direct impact on consumer rights are as follows;

### **8.1 Consumer Protection Act, 2054 and Regulation, 2056**

The Consumer Protection Act, 2054 (1998) and its Regulations, 2056 (2000) is taken as the milestone in safeguarding the rights of Nepalese consumers. Its provisions protect consumers from irregularities such as the quality, quantity and prices of consumer goods or services ensuring that no one lowers or removes the attributes or usefulness of consumer goods or services preventing circumstances in which monopolies and unfair trade practices may lead to an increase in prices, as well as false and misleading propaganda about the use and usefulness of consumer goods or services. Provisions on selling, supplying, importing, exporting and storing safe and quality consumer goods or services, and protecting the rights and interests of consumers through the establishment of an agency for redress are salient provisions for consumer protection.

## **8.2 Food Act, 2023**

The Food Act, 2023 (1966) is one of the oldest legislations in the field of consumer protection. The basic objectives of this Act are to safeguard the health and comfort of the consumer, to prevent the adulteration of food stuffs with undesirable elements, to prohibit the change of any originalities of the food and to maintain the quality standard of food. The Act strictly prohibits selling, distributing, storing and producing food staple of low quality or adulterated or harmful to human health.

## **8.3 Standard Measurement and Weight Act, 2025**

The Standard Measurement and Weight Act, 2025 (1968) protects the right of consumers by ensuring standard weight based on the metric system and quantity in every commercial transaction. The Act empowers the authorities to check equipment of metrology used in commercial practices as per standards.

## **8.4 Black Marketing and Some other Social Crime and Punishment Act, 2032**

The Black Marketing and Some other Social Crime and Punishment Act, 2032 (1975) protects consumers from black marketing and hoarding of essential commodities. This law aims to control black-marketing, profiteering, adulteration and some other social offences in order to maintain health, convenience and economic interests of the general public



## **8.5 Drugs Act, 2035**

The Drugs Act of 2035 (1978) also contains some provisions of consumer rights. This law was formulated to prevent the misuse or abuse of drugs and allied pharmaceutical substances, false or misleading information relating to the efficacy and use of drugs and to control the production, sale, distribution, export, import, storage and consumption of those drugs which are not safe for public consumption.

## **8.6 Nepal Standard (Certification Mark) Act of 2037**

The Nepal Standard (Certification Mark) Act of 2037(1980) regulates a comprehensive quality control system within the manufacturing industries. The certification mark scheme under the Act has brought quality awareness among Nepalese consumers and producers alike.

## **8.7 Animal Slaughterhouse and Meat Inspection Act, 2055**

This Act was enacted by the government of Nepal to establish slaughterhouses and to arrange for meat inspections to safeguarding the health and welfare of the people in general and to control adulteration in meat and meat products. It further aims to maintain a reasonable standard of meat by protecting the wholesomeness, quality and adequacy of meat.

## **8.8 Competition Promotion and Market Protection Act, 2063**

This law was enforced by the government of Nepal in order to further make the national economy more open, liberal, market-oriented and competitive by maintaining fair competition between or among the persons or enterprises producing or distributing goods or services; by enhancing national productivity by developing the business capacity of producers or distributors by way of competition; to protect markets against undesirable interference; to encourage the production of goods and services available to consumers at a competitive price by enhancing the quality of goods or services through the prevention of monopoly and restrictive trade practices; and to maintain the economic interests of the general public by doing away with possible unfair competition in trade practices.

This law was enforced by the government of Nepal in order to further make the national economy more open, liberal, market-oriented and competitive by:

- (i) maintaining fair competition between or among the persons or enterprises producing or distributing goods or services;
- (ii) enhancing national productivity through the development of the business capacity of producers or distributors by way of competition;
- (iii) by protecting markets against undesirable interference;
- (iv) encouraging the production of goods and services at competitive prices;
- (v) enhancing the quality of goods and services through the prevention of monopoly and restrictive trade practices; and

- (vi) maintaining the economic interests of the general public by preventing unfair competition in trade practices.

## 9. Consumer Protection Provisions for Effective Enforcement

### 9.1 Enforcement Agencies under the Consumer Protection Act, 2054 and its Regulations, 2056

The following agencies are responsible for enforcing CPA and the Regulations in Nepal. They are:

- ◆ **Government of Nepal (GON):** GON is under statutory duty to conduct investigation on any circumstances leading to any adverse impact on the rights and interests of consumer. The government has wide discretionary power to prosecute any manufacturer, dealer, agent, person or corporate body if found guilty of violating the provisions of consumer protection laws.
- ◆ **Ministry of Commerce and Supply:** The Ministry of Commerce and Supply is the chief enforcement agency for consumer protection laws. The Consumer Protection Regulations provides the Ministry with many rights and duties to protect the interest of consumers. The Ministry, in collaboration with the Consumer Protection Council, has the legal duty to implement consumer education and awareness programmes through educational institutions' curricula. The Ministry formulates policy regarding quality, price, and the supply system of goods and services.
- ◆ **Consumer Protection Council:** The Consumer Protection Council is the highest body under the Chairmanship of the Minister/ State Minister of Ministry of Commerce and Supply that make policies and recommend appropriate work plans

and actions to protect the rights of the consumers as specified under the Consumer Protection Act. The other members of the Council include various Secretaries of GON such as the Ministry of Commerce and Supply, Agriculture, Home Affairs, the Director General of the Department of Nepal Standards, Weight and Measures, President of the Federation of Nepalese Chambers of Commerce and Industry, three representatives from consumer organisations working in the area of consumer rights protection, two women consumer rights activists nominated to the Council by GON and the Director General of Department of Commerce as Member Secretary. The Council formulates comprehensive programmes and policies regarding consumer protection and recommends to the GON for appropriate actions.

- ◆ **Inspector:** The Inspector supervises the market and supply system so that consumers can get standard goods and services within reasonable price. GON appoints Inspectors or authorises any officer to discharge the function of an Inspector. The qualification of an Inspector is provided under the Consumer Protection Regulations which requires a Bachelors degree in either of following disciplines, namely, Chemistry, Pharmacy and Public Health, Law, and Market Management. Of the total 75 administrative districts, every district has one Inspector but there is no uniformity in the appointment of Inspectors. For example, the Department of Commerce supervises four districts including three districts of Kathmandu Valley. The Department of Standards and Metrology supervises four districts. The District Cottage and Small Industries Office supervises 17 districts and the Assistant Chief District Officer supervises the remaining districts. The Inspector has power under the Consumer Protection Act to supervise, investigate and search any place he believes goods and services are being

provided contrary to the law. The Inspector has the power to prosecute the offender before the District Court after consulting with the Public Prosecutor.

- ◆ **Monitoring Committee:** The Consumer Protection Regulation establishes two separate Monitoring Committees, one at the central and the other at the district level in order to supervise and monitor the supply of goods or services, their prices, quality standard and purity. The central level committee comprises of 11 members from different government Departments, consumer organisations and headed by the Joint-Secretary of the Ministry of Supply. The district level committee comprises six members from various sectors and the Chief District Officer heads the Committee.
  
- ◆ **Department of Standards and Metrology:** Department of Standards and Metrology is the national standards body of Nepal created under Standard Metrology Act. It carries out conformity certification by means of a mark of conformity called the Nepal Standard Certification Mark. Any entity which carries this mark with the standard number written around in a specific way signifies that the entity is in compliance to Nepal standard with respect to characteristics mentioned in the particular number of the standard. The quality of such entities are guaranteed and if a customer finds any defect or deviation in the characteristics of the entity from that specified in the standard, he/she may complain to the Department. If the Department finds the complainant to be a genuine one upon investigation, it will arrange for the replacement of the defective entity.
  
- ◆ **Department of Food Technology and Standard Control:** The Department of Food Technology and Standard Control looks after the quality of national food products and food

products imported from other countries. It has a statutory duty under the Food Act to control adulterated food products and to provide consumers quality food products. The quality standard has been fixed in 54 food items such as milk and milk products, edible fats and oils, fruit vegetables products, spices, tea and biscuits.

## **Unfair Trade Practices under CPA**

The following are the malpractices and activities that are prohibited under the Consumer Protection Act such as the:

1. Production, selling, exports and imports of any sub-standard goods.
2. Duplication of any product to cheat consumers.
3. Selling of sub-standard or lower quality goods in the form of standard goods.
4. Unfair commercial transactions such as false or misleading advertisements of the use, utility or effectiveness of any goods or services.
5. Manufacturing and selling of any goods or services injurious to the health of consumers.

These unfair trade practices are strictly punishable by law. Here are some examples of prosecution offences under law:

- a) Maximum of 3 years imprisonment or Rupees 50,000 fine or both in case of creating circumstances that lead to any adverse impact in the market or in demand, supply or price of goods or services through collusion, fixing quotas, hoarding and creating an artificial scarcity of goods and services.

- b) Maximum of 2 years imprisonment or Rupees 30,000 fine or both in case of violating obligation to mention name, address and registration number of manufacturer.
- c) Maximum of 3 years imprisonment or Rupees 50,000 fine or both in case of manufacturing, selling, exporting and importing of lower quality goods.
- d) Maximum of 5 years imprisonment or Rupees 100,000 fine or both in case of duplicating any product, selling of goods in the guise of standard goods and unfair commercial transactions like false or misleading advertisement of the use, utility or effectiveness of any goods or services.
- e) Maximum of 14 years imprisonment or Rupees 500,000 fine or both in case of consuming any goods or services that may cause serious hazard to life.
- f) Maximum of 10 years imprisonment or Rupees 500,000 fine or both in case of serious injury to any parts of the body that may cause permanent damage.
- g) Maximum of 5 years imprisonment or Rupees 300,000 fine or both in case of other injuries to health.

## **9.2 Enforcement Provisions under the Food Act, 2023**

This Act aims to maintain proper standard of foodstuffs and to prevent any undesirable adulteration in foodstuffs or to prevent the reducing or extracting of any natural quality or utility from foodstuffs in order to maintain the health and convenience of the general public. anyone violating the rules as mentioned in the Act is punishable. The provision of prosecution offences in this Act are as follows:



- 1) A person who produces, sells, distributes, exports or imports sub-standard foodstuffs may be penalised with a fine from 1,000 to 2,000 rupees for the first time and with a fine from 2,000 rupees to 5,000 rupees or with an imprisonment for a term from Six months to One year or with both for each time from the second time onwards.
- 2) Notwithstanding anything contained above, if a mobile vender selling milk, curd and other foodstuffs without opening a fixed shop violates this Act, or Rules or Orders framed under this Act, the person may be penalised with a fine from 50 to 200 rupees for the first time, with a fine from 200 to 500 rupees or with an imprisonment for a term not exceeding three months or with both for the second time and with a fine from 500 to 1000 rupees or with an imprisonment for a term from Three months to Six months or with both for each time from the third time onwards.
- 3) A person who produces, sells, distributes, exports or imports the adulterated foodstuffs may be penalised with a fine from 5,000 rupees to 10,000 rupees or with an imprisonment for a term from one year to two years or with both.
- 4) If any person upon consuming any adulterated foodstuff is likely to die or dies or sustains an irreparable damage to the body or is likely to sustain such damage, the person who produces, sells or distributes such adulterated foodstuff may be penalised with a fine from 10,000 to 25,000 rupees and with an imprisonment for a term not exceeding three years and such a person shall have to compensate a sum from 25,000 rupees to 100,000 rupees to the victim of such adulterated foodstuff or his/her heir.

- 5) A person who violates this Act, or the Rules or Orders framed under this Act in a manner other than those as referred to in Sub-sections (1), (2), (3) and (4) may be penalised with a fine not exceeding 1,000 rupees.

### **9.3 Black marketing and some social crime and Punishment Act, 2032:**

If any person commits, or causes to be committed, any of the following acts, that person shall be deemed to have committed black-marketing and be liable for the punishment as follows:

- i. If any person sells any goods by charging the price higher than the price fixed by the government or the price determined by the manufacturers, importers or main distributors authorised by the government, such person shall be punished with imprisonment for a term not exceeding Ten years and with also a fine, and the price of the goods received by such person shall be returned and the goods forfeited.
- ii. If any person, who has taken any goods which are not easily available in the open market in the required quantity at the fixed price with or without getting an order or coupon for personal consumption, sells such goods or order or coupon at a higher price with or without receiving commission or gives the same in any other manner, such person may be punished with imprisonment for a term not exceeding Three years or with a fine or both, and the money and commission received for such goods or order or coupon shall be returned and the order or coupon shall be cancelled.

- iii. If any person sells a ticket for the fee or fare payable for any recreation or transportation service by receiving the price higher than the price of ticket, such person may be punished with imprisonment for a term not exceeding one year or with a fine or with both, and the amount of the price received in excess shall be forfeited.
- iv. In cases where a person trading any goods prescribed by Government of Nepal has taken profit in excess of Twenty percent normally or sells the goods, by receiving undue profit, taking advantage of the shortage, such a person may be punished with imprisonment for a term not exceeding five years or with a fine or with both.
- v. Each wholesaler or retailer shall display a price index of the goods as prescribed by Government of Nepal at the place of sale in a manner conspicuous to all. One who fails to display may be punished with imprisonment for a term not exceeding One year or with a fine or with both.
- vi. If any person is involved in deflection of the goods in some other places other than specific regions and districts determined by the government, for which he received the dealership, in a manner that may not have proper distribution among the consumers, such person may be punished with imprisonment for a term not exceeding Five years or with a fine or both.
- vii. If any person hoards the goods and creates artificial shortage, such person shall be punished with imprisonment for a term not exceeding Five years or with a fine or with both.
- viii. If a person sells any goods by misinterpretation, such person may be punished with imprisonment for a term not exceeding Two years or with a fine or with both.
- ix. If a person adulterates any medicine and sells it,

- a. He/she is charged with life imprisonment or imprisonment for a term not exceeding Ten years and with a fine in the event of the existence of a possibility of causing threat to the human body,
- b. With imprisonment for a term not exceeding Ten years or a fine in the event of Physical harm and damage of any organ and
- c. With imprisonment for a term not exceeding Five years or a fine or with both, in other cases.

## **9.4 Drugs Act, 2035**

Under the Drugs Act, 2035 any of the activities that lead to the deceptive and harmful trading of drugs is taken as strictly punishable by law. The Act has set some provision such as:

- ◆ If a drug is manufactured in such a manner that it is not safe for public consumption and results in the death of or causes injury to the health of any person, the drug manufacturer shall be responsible and provide compensation as prescribed, to the successor of the deceased for such death and to that person in the event of such injury.

## **9.5 Nepal Standard (Certification Mark) Act of 2037**

To make arrangements for determining the standard of any goods for the welfare of the public and for the use of the marks certifying the standard on such goods, Nepal Standard (Certification Mark) Act was enacted by the government of Nepal. Penalties for wrongdoers under this law are as follows:

1. A person who uses improperly the certification mark shall be punished with a fine up to Rupees 3,000 or an imprisonment of up to Six Months, or both.
2. A person uses a name similar to Council or office shall be punished with a fine up to Rupees 1,500 or an imprisonment of up to Three Months, or both.
3. In case the goods or process referred under the Act is not up to the prescribed standard, or in case a person brings into use such goods or process without using the certification mark, such a person shall be punished with a fine up to Rupees 5,000 or an imprisonment of up to One Year, or both.
4. In case a person exports, or attempts to export, or abets the export of goods specified, which are not of the prescribed standard, shall be punished with a fine up to Rupees 3,000 or an imprisonment of up to Six Months, or both.
5. A person who violates other provisions of this Act shall be punished with a fine up to Rupees 1,000 or an imprisonment of up to One Month, or both.
6. Goods on which a certificate of standard or certification mark is used, or which is exported or imported in violation of this Act, shall be confiscated.

## **9.6 Animal Slaughter House and Meat Inspection Act, 2055**

The Government of Nepal enacted this law in order to avoid various irregularities and unethical practices seen in this field. For this purpose, there are provisions of a Meat Inspector and other mechanism to check market irregularities and

malpractices. If anyone is found guilty, he/she will be strictly punished as follows:

- 1) A person establishes an animal slaughterhouse in some other place than instructed by the Meat Inspector and the diseased animal is slaughtered; if not slaughtered in the slaughter house; if the meat is found defective after examination; if the meat is sold with skin; and if non-stamped and non-marked meat is sold, then he/she shall be liable to a fine of up to Rupees 5,000 for the first time and Rupees 10,000 or an imprisonment of up to one month or both for subsequent offences.
- 2) A person who sells meat without license and slaughters animals in some place other than the slaughterhouse; sells the meat of the dead animal and adulterates the meat of one species of animal with the meat of another species, he/she shall be liable to a fine of up to Rupees 10,000 for the first offence and Rupees 20,000 or an imprisonment of up to three months or both for subsequent offences.

## **9.7 Competition Promotion and Market Protection Act, 2063**

Any person or enterprise that does, or causes to be done, any of the following activities shall be liable for punishment as follows, according to the degree of the offence:

- a. When any person or enterprise does, or causes to be done, any activity like practising anti-competitive activities, abuse of dominant position and merger and

amalgamation with intent to control competition, such person or enterprise shall be punishable with a fine not exceeding Rupees 500,000.

- b. If any person or enterprise is entering into an agreement which provides that any bidder shall not submit a tender or only one bidder shall submit a tender or all bidders shall submit tenders with similar price or details, directly or indirectly, such person or enterprise shall be punishable with a fine not exceeding Rupees 300,000.
- c. If a person or enterprise that produces or distributes any goods or services makes, or cause to be made, an exclusive dealing of such goods or services, such person or enterprise shall be punishable with a fine not Rupees 100,000.
- d. If a person or enterprise produces or distributes any goods or services, or causes any transaction, in such a manner as to restrict the market of the production or distribution of such goods or services, such person shall be punishable with a fine not exceeding Rupees 5,000.
- e. In case of tied selling and misleading advertisements, such person or enterprise shall be punishable with a fine not exceeding Rupees 25,000.
- f. If any person and enterprise is involved in other activities against this Act except aforementioned ones; such person or enterprise shall be punishable with a fine not exceeding Rupees 10,000.

## **10. Role of Department of Commerce in Consumer Protection**

The Department of Commerce was established under the Ministry of Industries, Commerce and Supplies in the year 2057 BS though its institutional framework was set up in the year 2016 BS. After that the Department operated under different Ministries under different names. The main objective of this Department is to maintain favourable internal and external balance of trade; to arrange the supply of commodities essential for mass consumption and required for the development of the country; and to implement import- export policies.

### **The other objectives of the Department are:**

- To increase contribution of internal and external trade through the participation of the private sector to promote liberal policies in trade.
- To regulate small business enterprises and facilitate coordination with various business stakeholders.
- To enhance competitive and sustainable businesses at National and International level.
- To promote employment oriented trade by developing multilateral linkages.
- To promote liberal and dynamic trade policies to acquire foreign currency as well as to maintain and regulate internal supply.



## **Major functions of the Department are:**

- To formulate and implement export and import policy.
- To initiate contemporary steps for the promotion of export.
- Issue and control of licenses required by existing regulations.
- Registration, administration and promotion of trading forms.
- To put orderly distribution of imported goods.
- Protection of consumer rights and welfare
- To take necessary measures for trade promotion, licensing and supplies.
- To create and promote favourable a trading environment for private sector participation.
- To update concerned records and databases.
- To monitor and report to the concerned authority about the situation of regular supply of necessary goods.
- To do other functions related with the management of supply.

## **Where do consumers go for help?**

If consumers are cheated by wrong doers in the trading of goods and services, they can go to the following institutions for help as provided by law:

- a. Department of Commerce (DOC)
- b. Consumer Organisations
- c. Municipality and local administration

- d. Police offices
- e. Respective departments and ministries
- f. Office of the Market Inspector
- g. District Surveillance and Compensation Committee

# **11. Consumer Education in Nepal**

## **11.1 Legal Provision**

By the right provided under the Section 23 of the Consumer Protection Act, the Government of Nepal has formulated certain rules regarding consumer education in Nepal:

- i. As envisaged in Consumer Protection Regulation 2056, section 6 has ascertained some provisions regarding consumer education. As per this provision, consumer education shall be included in the curriculum of schools and colleges. To educate consumers about the type of goods and services to be consumed and to make consumers aware of the adverse effects of consuming substandard goods, the Consumer Protection Council shall prepare the necessary educational curriculum regarding consumer education.
- ii. Under section 8 of this regulation, provisions for generating consumer awareness will be coordinated with concerned authorities of the government of Nepal and consumer organisations.

## **11.2 Current Practices**

- i. As provided by the Consumer Protection Act 2054, and its regulation 2056 the following practices are currently in place;
- ii. Consumer education tutorials have been included in physical and health education for class 9, targetted at secondary school level students.

- iii. The Department of Commerce has prepared consumer education booklets for secondary level students.
- iv. DOC launched educational programmes in cooperation with consumer associations. According to this provision, the DOC assists consumer organisations financially with supportive teaching materials and graduate consumer rights activists deliver consumer education to secondary students. 80% of cost for conducting such a programme is borne by the Department and the remaining 20% by the consumer organisation itself.
- v. Investigation Inspectors appointed by the DOC at the District level also conduct consumer education and awareness programmes for secondary students in their respective districts.
- vi. The Consumer Protection Council has forwarded consumer education materials to be included in the school curriculum under the Ministry of Education. It is in progress. This is still a work in progress.
- vii. Various interactions, seminars and talk programmes are being conducted by DOC, district level officers and others, in collaboration with consumer organisations, chambers of commerce, lawyers and local authorities.
- viii. Magazines and booklets are published by DOC to provide valuable material regarding consumer protection.

## **12. Filing a complaint with the Department of Commerce**

If a consumer finds himself/herself deceived by unfair trade practices, he/she can file a complaint with the Department of Commerce through following methods:

a. Written complaint:

- i. Filling consumer complaint form
- ii. By sending an email to [docom@netplus.com.np](mailto:docom@netplus.com.np)

b. Oral complaint:

- i. Direct oral complaint by the consumer at DOC.
- ii. Through phone calls at 01-4247912, 01-4247913, 01-4243939 or a toll free number.

## How to file a complaint?

A complaint needs to be in writing. However, this is not mandatory. If the consumer would like to make a complaint over deceptive trade practices, he/she can complain to the District Inspector, District Court, nearest Police Station, consumer organisations, Department of Commerce, Ministries and Departments or other institutions mentioned in the Consumer Protection Act either by making an oral, written, telephone, or electronic complaint via email. If the consumers are seeking compensation for the deceptive deal, they can file a compensation claim with the Compensation Committee. The following are some general points that consumers need to consider when making a complaint:

- Complete details of name, permanent address, phone number, email ID etc. in the complaint.
- Name and address of the opposite party (who you are complaining about) including the email address and contact number.
- The date on which the grievance took place.
- The events and happenings in a chronological order of date and time together with supporting documents in the same order so the case is properly understood.
- The most important aspect of the complaint, i.e. the amount and issue involved.
- Expectation from the opposite party.
- Do not hide any mistake from your end. Mention it to the consumer group / authority for a better understanding of the case.
- Enclosures of earlier correspondence, cash memos, bills etc., policy with terms and conditions in the case of

insurance, loan agreement, terms and conditions of credit cards, bills, etc., guarantee and warranty of products, reply from the opposite party, if any.

- While lodging a complaint via email, ensure the attachment of all the supporting documents.
- A copy of the letter sent to the opposite party and to the consumer organisations as well, if any.
- Cooperate with consumer organisations as much as possible in their efforts to solve the problem.
- Try to do follow-ups to show the seriousness of the case.

**The following persons can file complaint regarding any act against consumer rights:**

- Any consumer or more than one consumer having interests in the matter,
- Any registered consumer organisations,
- The National Consumer Right Protection Council or any person authorised to file a complaint on its behalf, the Government or any officer authorised by the government,
- Concerned wholesaler or retailer

**What happens once the complaint is filled?**

If any consumer witnesses any activities against the Consumer Protection Act and thinks it punishable, he/she can file a complaint with the District Inspector as provisioned by the Act. If the Inspector also finds some serious flaws in such activities,

he/she can inspect the product as well as the place and can test the product. If the situation demands it, even the products can be sealed.

After the laboratory test, if the product is found defective, the trader will be punished as provisioned by the law. If the person is not satisfied with the decision of the Inspector, he/she can file a case in the district court and even at the appellate court if he/she does not find the decision taken by district court justifiable. But the Ministry pursues the final decision on the dispute if the period of disputed is prolonged.

Section 22 of the Consumer Protection Act gives every consumer the right to demand compensation for losses caused due to any goods or services used. The demand for compensation can be lodged by any consumer organisation on behalf of the consumer too. The time limit for filing a demand is 35 days from the date of losses caused to the consumer. The demand is filed with the Compensation Committee. Similarly, the Consumer Protection Regulation provides time limit of 7 days for filing complaint for any act-committed. In such complaint, the complainant or consumer organisation has to mention the name and address of the wrong doer / person or organisation, details of losses caused or possible losses, defects in goods or services received and relevant evidence. Consumers can also file complaints directly to the Department of Commerce by filling a complaint form, sending an email, through the telephone or directly.

If it is under the supervision of the Department of Commerce, the DOC can take action against the wrongdoer as per Section 23 of Consumer Protection Act. The DOC convenes Compensation Committee in each administrative district. The Committee is headed by the Chief District Officer. Other members include the District Government Attorney, District



Medical Officer, one representative from any district level consumer organisation, one representative the from local Chamber of Industry and Commerce and an Officer appointed by the government as member secretary. It hears compensation claims by any aggrieved consumer or consumer organisation on his/her behalf. The complaint is to be made under the prescribed form as specified in the Consumer Protection Regulation and must include the name and address of the wrongdoer, details of losses caused, details of defects in goods or services received, relevant evidence in support of the claim and the amount of compensation claimed. The Committee has the power to issue seven days notice to the defendant for the reply in writing. It has mandatory duty under the Consumer Protection Regulation to decide the matter within 15 days after receiving the reply from the defendant or after the expiry of the time limit of reply given to the defendant. Before arriving at a decision, it can examine witnesses and receive expert opinion. The decision of the Committee is collectively made and the attendance of the President of the Committee is mandatory for every decision. In the case of a split decision, the majority opinion shall be the decision of the Committee. In the case of a tie, the opinion of the President of the Committee shall be final. The Committee can award necessary compensation to an aggrieved consumer after doing a real time evaluation of the losses. It can also fine Rupees 1,000 for any complaint with a malafide intention. If the consumer complaint is not within the jurisdiction of DOC, it forwards the complaint to respective Ministries or Departments and a similar process is carried on as mentioned above.

## **Instructions for filing a consumer complaint form**

If the consumer feels that he/she has been cheated, he/she has to file a complaint. For that, he/she needs to fill the complaint as instructed below and forward the form to the respective department. While filing a complaint, the following instructions are to be followed:

- The complaint is to be made under the prescribed form as specified in the Consumer Protection Regulation.
- Complete details of the complainant, such as the consumer's name, permanent address, phone number, email ID etc. should be mentioned in the complaint form.
- It must include the name and address of the wrongdoer, details of losses caused and details of defects in goods or services received,
- Relevant evidence in support of the claim are to be submitted, and
- Amount of compensation claimed should be mentioned

**Below is a sample of a consumer complaint form provided under the Consumer Protection Regulation 2056:**

### **Complainant Details**

Name:

Age:

Nationality:

Address:

District:

VDC/Municipality:

Telephone (Res.):

Telephone (Off.):

Mobile No:

Email ID:

Complaint Details

Sector:

Name of the Seller/ Company/ Public Agency:

Address:

VDC/Municipality:

District:

Office Telephone No:

Office Fax No.:

Office Email ID:

Website:

Person in charge: Position:      Tel No:

Date of Incidence:

Date of complaint to Seller/ Company/ Public Agency:

Reply to Complaint:

State your complaint:

Attachment of Documents:

- 1.
- 2.
- 3.
- 4.
- 5.

Estimated loss in NR:

How do you know of (Consumer Organisation):

I affirm that all information in this form is correct and true

Signature:

Date:

## 13. Other Redress Mechanisms

There are some other redress mechanisms available for the hearing of consumer grievances. Some of the provisions of direct complaints handling are;

1. Hello Sarkar: This is a populist government programme where the consumer can complain to the government directly by using a toll free number. The Government takes appropriate action against the complaint made. Currently, the Prime Minister is available for a radio programme where the consumers directly voice their grievances directly to the government and immediate action is taken by the government. Furthermore consumers can directly write to the Prime Minister in his blog regarding any of their concerns.
2. Ministry
3. Department

## 14. Concluding observations

### Proposals for Reform in the consumer Protection framework

Though the Consumer Protection Act, 2054 and its Regulation are in execution, the Department of Commerce and other implementing bodies of this law have indicated serious concerns. The major loophole of the law is that it is lengthy and complex. It is claimed that more than 75% of cases filed are able to escape punishment due to weak and prolonged jurisdiction time. On this premise, amendments to the existing CPA provisions is a must.

The following are some recommendations for a more practical and effective CPA that may address the problem of consumer rights violation in various sectors:

- ◆ **Consumer commission:** In the case of Nepal, the state itself is involved in trading practices and there are various consumer complaints regarding the issue of ineffective public service delivery. In this situation if the redress mechanism is fully under State control, it might be ineffective especially when the complaints are made relating to public service. For effective enforcement of consumer law, Consumer Commissions are highly recommended.
- ◆ **Fast Track Court:** The lengthy judicial system and complex legal procedures are the major problems in implementing the Consumer Protection Act. Due to the long gestation period of legal procedure, the CPA is ineffective in real practice. To solve this problem, fast track courts in the form of consumer courts should be established.

- ◆ **Sub-Judicial Right:** Though the consumer Protection Act has the provision of District Inspectors for the inspection of business malpractices violating the rights of consumers, they are not provided with sub-judicial rights. Due to this, the Consumer Protection Act is ineffective. For effective prosecution offences, it is essential to provide sub-judicial rights to Inspection Officers for on-the-spot punishment of wrong doers.
- ◆ **Flying Squad:** Market Inspectors and other officials are facing security risks when conducting market surveillance. Until and unless security protection is provided for monitoring, surveillance cannot be effective. There should be some legal provision of establishing a flying squad model security to back up the Department of Commerce and other regulatory bodies for effective implementation of CPA.
- ◆ **Consumer Laboratory:** Testing defective items is currently a major problem due to the lack of reliable and credible laboratories under the institutional framework of DOC. Consumer laboratories established by the DOC and other regulatory bodies in every district is necessary for effective testing of defective products.
- ◆ **Consumer Library:** The lack of a consumer information centre amongst the DOC and other regulatory bodies is one of the major problem for up to date knowledge relating to various consumer issues even among high ranking officials. A consumer information centre in the form of a consumer library or virtual library or both are necessary for better awareness among the various stakeholders relating to consumer rights.
- ◆ **Standardisation of Consumer Products:** Due to the lack of official standardisation of consumer products, it is found

that even Food Inspectors and District Inspectors are not that clear on what should be the minimum standard for consumer goods. Currently the practice is to file the case against those who have adulterated goods but there is confusion as to identifying sub standard goods. The solution is to push for the standardisation of consumer products.

- ◆ **Consumer Desk:** For effective implementation of the Consumer Protection Act, the establishment of a Consumer Desk must be carried out by each and every institutional framework of public service delivery. This is because there are many complaints from consumers in almost every sectors and the handling of all cases will be a difficult and time-consuming task by any single institution or department. It is better to solve the problems by every sector having a respective Consumer Desk and only the unsolved cases are to be filed in the Consumer Court that is going to be established in fourteen zones as provisioned in the ongoing amendments of the CPA.
- ◆ **Consumer Rights as Fundamental rights:** To ensure consumer rights are implemented in its real sense, Consumer rights should not be established as fundamental rights under the new constitution.
- ◆ **Consumer Protection Offices:** Consumer Protection Offices should be established in each district with sufficient infrastructure, personnel and funds.

# **Annexure –1:**

## **CONSUMER PROTECTION ACT, 2054 (1998)**

Date of Authentications and publication :

2054/10/15, (January 28, 1998)

1. Some Nepal Acts Amendment Act, 2055 2055/10/07(January 21, 1999)
2. Strengthening Republic and Some Nepal Laws Amendment Act, 2066 (2010)

ACT NO. 20 OF THE YEAR 2054 (1998)

### **Preamble**

Whereas it is expedient to make provisions for protecting consumers from irregularities concerning the quality, quantity and prices of consumer goods or services, ensuring that no one lowers or removes the attributes or usefulness of consumer goods or services, preventing circumstances in which monopolies and unfair trading practices may lead to an increase in prices, as well as false and misleading propaganda about the use and usefulness of consumer goods or services, selling, supplying, importing, exporting and storing safe and quality consumer goods or services, and protecting the rights and interests of consumers through the establishment of an agency for redressing the hardships of consumers, and thus maintaining the health, convenience and economic welfare of consumers, now therefore, the Parliament has enacted this law in the 26th year of the reign of His Majesty's King Birendra Bir Bikram Shah Dev.



## **1. Short Title and Commencement**

- (1) This law shall be known as Consumer Protection Act, 1998.
- (2) It shall come into force on Baisakh 1, 2055 (April 13, 1999).

## **2. Definitions**

Unless otherwise meant with reference to the subject or context, in this Act,

- (a) Consumer means an individual or institution consuming or using any consumer good or service.
- (b) Council means the Consumer Protection Council formed under Section 3.
- (c) Compensation Committee means the Compensation Committee formed under Section 23.
- (d) Consumer goods mean goods or materials made through the admixture of several goods which are consumed or used by consumers; the term includes raw materials, colours, flavours or chemicals used in the production of such consumer goods.
- (e) Service means any labour, facility or consultancy provided for any work on payment of any kind of service charge or other consideration.
- (f) Production means the process of producing, preparing, processing, converting, packing, repacking, assembling or labelling any consumer goods, or all or any process to be adopted in that connection.
- (g) Label means a tag, symbol, picture or other descriptive objects written, printed, lithographed, symbolized, embossed, affixed or otherwise shown in consumer goods or their containers.

- (h) Unfair trading practices mean the sale or supply of consumer goods or services by making false or misleading claims about their actual quality, quantity, price, measurement, design, make, etc., or the sale or supply of consumer goods produced by others by affecting their quality, quantity, price, measurement, design, make, etc.
- (i) Sub-standard consumer goods mean consumer goods of any of the following conditions:
  - (1) Consumer goods in which the quantity of an essential ingredient has been lowered, or any other material has been mixed, in such a manner that the quality falls short of the standard determined under Section 11.
  - (2) Consumer goods which are stale, rotten or stored or prepared in dirty or toxic conditions or in which any chemical, colour or flavour has been used, so that they become harmful to health.
  - (3) Consumer goods which are fully or partly made of any diseased or disease generating animals or birds or harmful vegetation.
  - (4) Consumer goods of a quality which falls short of the minimum necessary standard or exceeds the maximum standard prescribed, if any, in this Act or in the orders issued under the rules framed under this Act.
- (i) **Vendor** means an individual or a governmental or non-governmental organisation or cooperative society selling and supplying consumer goods or services on a wholesale or retail basis.

- (j) **Laboratory** means an institution which has been established with the objectives of testing the purity, wholeness or quality of consumer goods, and which has been recognised by Government of Nepal.
- (k) Consumers' Association means an association established under current law with the objective of protecting and promoting the rights and interests of consumers.
- (l) Inspection Officer means an Inspection Officer appointed or designated under Section 14.
- (m) Prescribed or as prescribed means prescribed or in the manner prescribed in the rules framed under this act.

### **3. Formation of Consumer Protection Council**

- (1) A Consumer Protection Council shall be formed in order to formulate policies relating to the protection of the rights and interests of consumers, and offer suggestions to Government of Nepal on matters concerning the rights and interests of consumers.
- (2) The Council mentioned in Sub-Section (1) shall comprise the following Chairman and members:
  - (a) Minister/Minister of State for Supplies : Chairman
  - (b) \*
  - (c) Secretary, Ministry of Supplies : Member
  - (d) Secretary, Ministry of Industry : Member
  - (e) Secretary, Ministry of Agriculture : Member
  - (f) Secretary, Ministry of Home : Member

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\*Removed by Strengthening Republic and Some Nepal Laws Amendment Act, 2066 (2010)

- (g) Secretary, Ministry of Commerce : Member
- (h) Director-General, Nepal Standards and Weights and Measures Department : Member
- (i) President, Federation of Nepalese Chambers of Commerce and Industry : Member
- (j) Three representatives nominated by Government of Nepal from non-governmental organisations connected with the rights and interests of consumers : Members
- (k) Two women representatives nominated by Government of Nepal from among women working in fields connected with the rights and interests of consumers : Members
- (l) An officer of Government of Nepal designated by Government of Nepal : Member-Secretary

- (3) Members nominated under Clauses (j) and (k) of Sub-Section (2) shall have a term of two years, and they shall be eligible for re-nomination for one more term.
- (4) The Chairman and members of the Council shall be entitled to meeting allowances as prescribed by Government of Nepal.

#### **4. Functions, Duties and Powers of the Council**

- (1) The functions, duties and powers of the Council shall be as follows:
  - (a) To offer suggestions to Government of Nepal on matters relating to the protection of the rights and

- interests of consumers, the supply system, and prices, quality and purity of consumer goods and services.
- (b) To disseminate information relating to the rights and interests of consumers in order to inform them about the standard of goods and services so as to protect them in matters concerning consumer goods and services.
  - (c) To inform consumers about the prices, quality, quantity and purity of consumer goods and services, as well as about unfair trading practices concerning them, or make arrangements for doing so.
  - (d) To conduct studies in connection with the protection of the rights and interests of consumers, or make arrangements for doing so.
  - (e) To offer suggestions to Government of Nepal on changing the existing policies or framing new policies relating to the protection of the rights and interests of consumers.
  - (f) To maintain updated national and international information relating to the protection of the rights and interests of consumers, and make arrangements for doing so.
  - (g) To monitor the rights of consumers, or make arrangements for doing so, and offer suggestions to Government of Nepal to rectify the shortcoming noticed in the course of such monitoring
  - (h) To discharge the functions prescribed by Government of Nepal, or make arrangements for doing so.

(i) To discharge such other functions as are deemed appropriate for the protection of the rights and interests of consumers, or make arrangements for doing so.

(2) The Ministry of Supplies shall function as the Secretariat of the Council.

## **5. Working Procedures Relating to Meetings of the Council**

(1) The Council shall meet on the date and at the time and place prescribed by the Chairman.

(2) The quorum for a meeting of the Council shall be deemed to have been fulfilled in case it is attended by at least 50 percent of its total membership.

(3) Meetings of the Council shall be presided over by the Chairman, and, in his absence, by a person chosen by the members from among themselves.

(4) Decisions of the Council shall be authenticated by its Member-Secretary.

(5) The other working procedures of the Council shall be as determined by the Council itself.

## **6. Protection and Promotion of Consumer Rights**

(1) For the purpose of protecting the rights and interests of consumers, every consumer shall have the following rights:

(a) Right to be protected from the sale and supply of consumer goods and services which may harm life, body, health and property.

- (b) Right to be informed about the prices, attributes, quantity, purity, quality, etc. of consumer goods and services so as to be safe from unfair trading practices.
  - (c) Right to be assured of an opportunity to select consumer goods and services at competitive prices as far as possible.
  - (d) Right to be assured that an appropriate agency will hear matters concerning the protection of the rights and interests of consumers.
  - (e) Right to be heard and compensated against exploitation and hardships resulting from unfair trading practices.
  - (f) Right to consumer education.
- (2) Government of Nepal shall issue necessary directives to the Council in order to create an atmosphere favourable for the protection and promotion of the rights of consumers mentioned in Sub-Section (1).

## **7. Prohibition to Influence Demand, Supply or Price**

No one shall influence the demand, supply and price of any consumer good or service by taking any of the following actions in collusion with others:

- (a) By fixing the quota of raw materials needed for any consumer good, or reducing the production of any consumer good, or taking any other similar actions.
- (b) By hoarding any consumer good or service or otherwise creating an artificial shortage, or selling and supplying such good or service at specified times or places only, or taking any other similar actions.

## **8. Power to Systematize and Control Supply of Consumer Goods and Services**

- (1) For the purpose of protecting the rights and interests of consumers, Government of Nepal shall exercise the following powers in order to systematize, control and regulate the supply of consumer goods and services:
  - (a) To formulate policies relating to the quality, price and the supply system of consumer goods or services.
  - (b) To formulate action plans in connection with the monitoring, prevention and control of unfair trading practices and monopolies which are likely to harm the rights and interests of consumers, and implement such plans.
  - (c) To analyze and review the situation in respect to the demand and supply of consumer goods consumed within the country.
  - (d) To make necessary arrangements for checking any undesirable increase in prices by producers, vendors or distributors of consumer goods.
  - (e) To discourage unfair trading practices which are likely to create shortages through artificial or other improper means.
- (2) Government of Nepal shall make necessary arrangements in order to effectively implement the provisions concerning the protection of the rights and interests of consumers, regulation of the supply system, and control of the prices and quality of consumer goods and services.



## **9. Particulars to be Mentioned in Consumer Goods**

A producer must mention the following particulars on the labels of consumer goods on a mandatory basis:

- (a) Name and address of the producer, and registration number of the industry.
- (b) In the case of consumer goods such as food and medicines, their ingredients as well as their quantity and weight.
- (c) Quality of consumer goods whose quality has been determined, if any.
- (d) Method of consuming consumer goods and possible impact of such consumption.
- (e) Price, batch number, production date and expiry date of the consumer goods.
- (f) In the case of consumer goods such as electronic goods, hardware and machinery, guarantee thereof, date of guarantee, and other necessary matters.
- (g) In the case of consumer goods which are inflammable, dangerous or fragile, precautions for their safety.
- (h) Other particulars as prescribed.

## **10. Actions Which Must not be Taken in Respect to Consumer Goods or Services**

No one shall take or instigate others to take any of the following actions in respect to any consumer good or service:

- (a) To produce, sell, supply, export or import a sub-standard consumer good.
- (b) To imitate any consumer good in such a manner as to mislead consumers.
- (c) To sell or supply any consumer good or service by making false or misleading claim that it is another consumer good or service, or by describing a substandard consumer good or service as of high standard.
- (d) To engage in unfair trading practices in such a manner as to make false or misleading publicity or advertisements relating to the use, usefulness, or efficacy of any consumer good or service.
- (e) To produce, sell or supply any consumer good or service which is likely to harm consumers' health.
- (f) To take such other actions as are prescribed.

## **11. Standard of Consumer Goods or Services**

- (1) In case the limits of the quality or quantity of any ingredient to be used in any consumer good or service have been determined, Government of Nepal shall determine the standard of such good or service according to the prescribed procedures.
- (2) Government of Nepal shall publish a notice of the determination of the standard of any good and service under Sub-Section (1) in the Nepal Rajapatra.

## **12. Price Lists to be Kept**

Every vendor must keep at a conspicuous place of his shop a price-list of every consumer good sold and supplied by him, explicitly mentioning its wholesale and retail prices.

## **13. Power of Government of Nepal to Conduct Investigations and Inspections**

- (1) In case there are reasonable grounds to believe that any person is engaging in any unfair trading activity in such a manner as to adversely affect the rights and interests of consumers, or affecting the price and the supply system of consumer goods or services by exercising a monopoly or through any other means, or producing or selling sub-standard goods, or taking any action which is contrary to this act or the rules framed hereunder, Government of Nepal may conduct necessary investigations and inspections, or make arrangements for doing so.
- (2) Government of Nepal shall take necessary action according to current laws against any producer, dealer, agent, vendor, individual or institution found guilty through investigations and inspections conducted under Sub-Section (1).

## **14. Power to Appoint or Designate Inspection Officers**

Government of Nepal may appoint Inspection Officers or designate any officer-employees to work in that capacity in the prescribed manner in order to monitor the supply of quality consumer goods or services to consumers in a

simple manner and at fair prices by making the market and supply systems effective.

## **15. Powers of Inspection Officers to Inspect, Investigate or Search**

- (1) In case there are reasonable grounds to believe that any consumer good or service which is not safe, efficacious or of (the prescribed) standard is being produced, sold or supplied, or that any action is being taken in violation of this act or the rules framed hereunder, at any place, the Inspection Officer may inspect, investigate or search such place.
- (2) In case it is found in the course of an inspection, investigation or search conducted under Sub-Section (1) that any good or service which is not safe, efficacious or of the (prescribed) standard is being produced, sold or supplied, or that actions are being taken in violation of this act or the rules framed hereunder, the Inspection Officer shall take a sample of such good (or service) in the prescribed manner and impose a ban on the production and sale or supply of such good or service for a prescribed period.
- (3) Reports of actions taken by Inspection Officers under Sub-Section (2) must be submitted to Government of Nepal within three days.
- (4) The working procedures to be adopted by Inspection Officers while conducting inspections, investigations, or searches shall be as prescribed.

- (5) The other functions, duties and powers of Inspection Officers, and provisions concerning the implementation of the reports submitted by them, shall be as prescribed.

## **16. Testing of Consumer Goods**

Samples of consumer goods taken by an Inspection Officer under Section 15 shall be sent to the laboratory for a test within the prescribed time-limit.

## **17. Sub-Standard Consumer Goods to be Seized**

In case any consumer good is held to be of sub-standard following the test of its sample at the laboratory where it is sent under Section 16, it shall be seized.

## **18. Penalties**

Any person who takes or instigates others to take any of the following actions shall be punished as follows, depending on the degree of his offence:

- (a) Any person who takes or instigates others to take any action in violation of Section 7 shall be punished with imprisonment for a term not exceeding three years, or with a fine not exceeding Rs 50,000, or with both.
- (b) Any person who takes or instigates others to take any action in violation of Clause (a) of .....\*  
Section 9 shall be punished with imprisonment for a term not exceeding two years, or with a fine not exceeding Rs 30,000 or with both.

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\*Deleted by Some Nepal Acts Amendment Act, 2055

- (c) Any person who takes or instigates others to take any action in violation of Clause (a) of Section 10 shall be punished with imprisonment for a term not exceeding three years, or with a fine not exceeding Rs 50,000, or with both.
- (d) Any person who takes or instigates others to take any action in violation of Clauses (b), (c) and (d) of Section 10 shall be punished with imprisonment for a term not exceeding five years, or with a fine not exceeding Rs 100,000, or with both.
- (e) Any person who takes or instigates others to take any action in violation of Clause (e) of Section 10 shall be punished as follows:
  - (1) If there is a threat to life, for a term not exceeding 14 years, or with a fine not exceeding Rs 500,000, or with both.
  - (2) In case the strength of any organ of the body is likely to be reduced or lost, with imprisonment for a term not exceeding 10 years, or with a fine not exceeding Rs 500,000, or with both.
  - (3) In other circumstances, with imprisonment for a term not exceeding 5 years, or with a fine not exceeding Rs 300,000, or with both.
- (f) Any person who takes or instigates others to take any action, other than those mentioned above, which violates this act or the rules framed under this act shall be punished with imprisonment for a term not exceeding two years, or with a fine not exceeding Rs 200,000, or with both.

## **19. Government of Nepal to be the Plaintiff**

Government of Nepal shall be the plaintiff in cases under this act.

## **20. Investigation and Filing of Lawsuits**

- (1) Lawsuits relating to offences punishable under this act shall be investigated by Inspection Officers. Lawsuits must be filed with the concerned District Court within 35 days from the date of completion of such investigations.
- (2) While investigating and filing lawsuits under Sub-Section (1), an Inspection Officer may seek the opinion of the government lawyer, and such cases shall be defended by the government lawyer.

## **21. Summary Trial Procedure to be Adopted**

The procedure mentioned in the 1972 Summary Trial Procedure Act shall be adopted while taking action on and disposing of lawsuits filed under this act.

## **22. Claims for Compensation May be Made**

In case any consumer suffers a loss or damage of any kind as a result of the sale of any consumer good or service in a manner opposed to this act, such consumer, or any Consumer Association on his behalf, may file a complaint with the Compensation Committee within 35 days from the date of such loss or damage, requesting for the realization

of compensation from the person who has sold or supplied such consumer good or service.

### **23. Compensation Committee**

- (1) A Compensation Committee as follows shall be formed in each district in order to conduct investigations into complaints filed under Section 22 and realize compensation in consideration of losses or damages suffered by consumers:
  - (a) Chief District Officer: Chairman
  - (b) District Attorney: Member
  - (c) District Medical Officer: Member
  - (d) A representative of the District Consumers Association designated by Government of Nepal : Member
  - (e) Representative, District Chamber of Commerce and Industry: Member
  - (f) An officer designated by Government of Nepal: Member Secretary
- (2) The Compensation Committee must take a decision on a complaint filed in connection with compensation within the prescribed time-limit. The working procedure to be adopted while taking decisions shall be as prescribed.

### **24. Realization of Compensation**

In case the Compensation Committee holds that any consumer has suffered a loss or damage following



investigations into a complaint filed for compensation under Section 22, it shall arrange for the payment of compensation on the basis of such loss or damage to the concerned consumer or his heir.

## **25. Appeal**

Any person who is dissatisfied with the decision taken by the Compensation Committee under Section 24 may file an appeal with the concerned Appellate Court within 35 days from the date of such decision.

## **26. Power to Initiate Lawsuits Under Current Laws**

In case any action which is an offence under this act is also an offence under any other current Nepal Law, this act shall not be deemed to have prejudiced the right to initiate lawsuits under the other act.

## **27. Power to Form Sub-Committees**

- (1) Government of Nepal or the Council may form necessary Sub-Committees in order to fulfil the objectives of this act.
- (2) The functions, duties, powers and working procedures of a Sub-Committee formed under Sub-Section (1) shall be as prescribed by Government of Nepal or the Council.

## **28. Delegation of Powers**

Government of Nepal or the Council may delegate some of the powers vested in it under this act to any Sub-Committee formed under Section 27, or to any officer-employee, according to need.

## **29. Immunity for Actions Taken With Bonafide Motives**

Inspection Officers, Compensation Committees or employees of Government of Nepal shall not be held personally liable for any action taken by them with good intentions in the course of fulfilling their duties under this act or the rules framed hereunder.

## **30. Power to Frame Rules**

Government of Nepal may frame necessary rules in order to implement the objectives of this Act.

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Note : Words changed by the Some Nepal Acts Amendment Act, 2055.  
"District Attorney" instead of District Government Advocate"



## **EC - Nepal WTO Assistance Programme Project No: EE/NEP/07/001**

Technical Assistance for the  
Development of the Consumer Movement  
as a Viable Market Force in Nepal

Implemented by  
United Nations Industrial Development Organisation (UNIDO)

Conducted by  
Consumers International  
Office of the Asia Pacific and Middle East

