



**CLASS: MBA 2<sup>ND</sup> SEM**

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**LEGAL AND BUSINESS ENVIRONMENT**  
*(Notes as per Punjab Technical University Syllabus)*

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## UNIT –III

### LEGAL ENVIRONMENT

#### FOREIGN EXCHANGE MANAGEMENT ACT, 1999 (FEMA)

##### MEANING:

It is an **Act** of the Parliament of India "to consolidate and amend the **law** relating to foreign exchange with the objective of facilitating **external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India**".

##### APPLICABILITY OF FEMA ACT:

- Exports of any goods and services from India to outside, foreign currency, that is any currency other than Indian currency,
- foreign exchange,
- foreign security,
- Imports of goods and services from outside India to India,
- securities as defined in Public Debt Act 1994,
- banking, financial and insurance services,
- sale, purchase and exchange of any kind (i.e. Transfer),
- any overseas company that is owned 60% or more by an NRI (Non Resident Indian) and
- any citizen of India, residing in the country or outside (NRI)

##### MAJOR PROVISIONS OF FEMA ACT 1999:

Here are major provisions that are part of FEMA (1999) –

- Free transactions on current account subject to reasonable restrictions that may be imposed.

- RBI controls over capital account transactions.
- Control over realization of export proceeds.
- Dealing in foreign exchange through authorized persons like authorized dealer or money changer etc.
- Appeal provision including Special Director (Appeals)
- Directorate of enforcement
- Any person can sell or withdraw foreign exchange, without any prior permission from RBI and then can inform RBI later.
- Enforcement Directorate will be more investigative in nature
- FEMA recognized the possibility of Capital Account convertibility.
- The violation of FEMA is a civil offence.
- FEMA is more concerned with the management rather than regulations or control.
- FEMA is regulatory mechanism that enables RBI and Central Government to pass regulations and rules relating to foreign exchange in tune with foreign trade policy of India.

### **MAIN FEATURES**

- ✓ Activities such as payments made to any person outside India or receipts from them, along with the deals in foreign exchange and foreign security is restricted. It is FEMA that gives the central government the power to impose the restrictions.
- ✓ Free transactions on current account subject to reasonable restrictions that may be imposed.
- ✓ Without general or specific permission of FEMA, MA restricts the transactions involving foreign exchange or foreign security and payments from outside the country to India – the transactions should be made only through an authorized person.
- ✓ Deals in foreign exchange under the current account by an authorized person can be restricted by the Central Government, based on public interest generally.

- ✓ Although selling or drawing of foreign exchange is done through an authorized person, the RBI is empowered by this Act to subject the capital account transactions to a number of restrictions.
- ✓ Residents of India will be permitted to carry out transactions in foreign exchange, foreign security or to own or hold immovable property abroad if the currency, security or property was owned or acquired when he/she was living outside India, or when it was inherited by him/her from someone living outside India.

## NEXT TOPIC

### EXIM POLICY

It is the **export import policy** of the government that is announced every five years. ... This **policy** consists of general provisions regarding exports and imports, promotional measures, duty exemption schemes, export promotion schemes, special economic zone programs and other details for different sectors.

**Export means** “To send goods or services across national frontiers for the purpose of selling and realizing foreign exchange.” **Import means** “a good or service brought into one country from another.” Exports & Imports form the backbone of international trade. The higher the value of imports entering a country, compared to the value of exports, the more negative that country’s balance of trade becomes.

## Objectives of EXIM Policy

- To establish the framework for globalisation.
- To promote the productivity, competitiveness of Indian industry.
- To encourage the attainment of high & internationally accepted standards of quality.
- To increase export by facilitating access to raw materials, intermediate components, consumables and capital goods from the international market
- To generate new employment.
- To provide quality consumer products at reasonable prices.



### OBJECTIVES OF THE EXIM POLICY :-

Government control import of non-essential items through the EXIM Policy . At the same time, all-out efforts are made to promote exports.

Thus, there are two aspects of Exim Policy;

- The import policy:** which is concerned with regulation and management of imports and
- The export policy:** which is concerned with exports not only promotion but also regulation. The main objective of the Government's EXIM Policy is to promote exports to the maximum extent. Exports should be promoted in such a manner that the economy of the country is not affected by unregulated exportable items specially needed within the country. Export control is, therefore, exercised in respect of a limited number of items whose supply position demands that their exports should be regulated in the larger interests of the country.

✓ In other words, the main objective of the EXIM Policy is:

1. To accelerate the economy from low level of economic activities to high level of economic activities by making it a globally oriented vibrant economy and to derive maximum benefits from expanding global market opportunities.
2. To stimulate sustained economic growth by providing access to essential raw materials, intermediates, components, consumables and capital goods required for augmenting production.
3. To enhance the technological strength and efficiency of Indian agriculture, industry and services, thereby, improving their competitiveness.
4. To generate new employment opportunities and encourage the attainment of internationally accepted standards of quality.
5. To provide quality consumer products at reasonable prices.

✓ **IMPORT POLICY:**

The Indian Trade Classification (ITC)-Harmonized System (HS) classifies goods into three categories:

1. Restricted
2. Canalized
3. Prohibited

Goods not specified in the above mentioned categories can be freely imported without any restriction, if the importer has obtained a valid IEC. There is no need to obtain any import license or permission to import such goods. Most of the goods can be freely imported in India.

**(1). *Restricted Goods:***

Restricted goods can be imported only after obtaining an import license from the relevant regional licensing authority. The goods covered by the license shall be disposed of in the manner specified by the license authority, which should be clearly indicated in the license itself. The list of restricted goods is provided in ITC (HS). An import license is valid for 24 months for capital goods, and 18 months for all other goods.(6)

**(2). *Canalized Goods:***

Canalized goods are items which may only be imported using specific procedures or methods of transport. The list of canalized goods can be found in the ITC (HS). Goods in this category can be imported only through canalizing agencies. The main canalized items are currently petroleum products, bulk agricultural products, such as grains and vegetable oils, and some pharmaceutical products.

**(3). *Prohibited Goods:***

These are the goods listed in ITC (HS) which are strictly prohibited on all import channels in India. These include wild animals, tallow fat and oils of animal origin, animal rennet, and unprocessed ivory.

**Why there is Need of Import?**

As in today's perspective there is lots of competition and because of tough competition, one country can sell only if the quality of your product is better than that of your competitors, the price most competitive and the buyers get delivery on time. In order to achieve all this, one needs to have access to international standard quality materials and capital goods.

By accepting membership of the World Trade Organization (WTO), India has become a part

of the global village. New trade blocks are emerging and new world order is getting established. Regional trading arrangements (RTAs) were mushrooming and even India is negotiating bilateral agreements with various countries and regional groupings.

The area in which the imports are almost essential are defence requirements, crude oil, fertilizers, capital goods, industrial inputs like raw materials, components, consumables, spares, etc., import of samples, import of technology, import of drawing and designs, import of services etc.

### ✓ **EXPORT POLICY:**

Just like imports, goods can be exported freely if they are not mentioned in the classification of ITC (HS). Below follows the classification of goods for export:

1. Restricted
2. Prohibited
3. State Trading Enterprise

#### ***(1). Restricted Goods:***

Before exporting any restricted goods, the exporter must first obtain a license explicitly permitting the exporter to do so. The restricted goods must be exported through a set of procedures/conditions, which are detailed in the license.

#### ***(2). Prohibited Goods:***

These are the items which cannot be exported at all. The vast majority of these include wild animals, and animal articles that may carry a risk of infection.

#### ***(3). State Trading Enterprise (STE):***



Certain items can be exported only through designated STEs. The export of such items is subject to the conditions specified in the EXIM policy.

### ✓ **Why there is Need of Export?**

As we know that whole world was rushing towards globalization and integration. Earlier India had not joined the race, which resulted that the economic scenario had worsened the development. At that point of time the only recourse left to India was to increase its exports to tide over the ever-increasing imports. After that India aimed to gain a considerable proportion of international business and make its presence felt on the international front. The Government announced various export promotion measures and incentives. Laws were framed to streamline the process of export and import. These laws ensured that our commitment to expansion of India's trade remained firm. The laws and facilitation announced by the Government were not only related to export and import of goods and services, but were also directed to up gradation of technology and integration of all the departments by using latest technologies available. As we can see, e-commerce plays a very significant role in today's trade.

## NEXT TOPIC

# COMPETITION ACT, 2002

### Introduction to Competition Act, 2002

Competition Law for India was triggered by *Articles 38 and 39* of the Constitution of India. These Articles are a part of the *Directive Principles of State Policy*. Based on the Directive Principles, the first Indian competition law was enacted in 1969 and was labeled the MONOPOLIES AND RESTRICTIVE TRADE PRACTICES ACT, 1969 (MRTP Act).

Articles 38 and 39 of the Constitution of India mandate, inter alia, that the State shall strive to promote the welfare of the people by securing and protecting as effectively, as it may, a social order in which justice – social, economic and political – shall inform all the institutions of the national life, and the State shall, in particular, direct its policy towards securing

1. That the ownership and control of material resources of the community are so Distributed as best to sub serve the common good; and
2. that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

One of the *main goals* of the MRTP Act was to *encourage fair play* and *fair deal* in the market besides promoting healthy competition. They seek to afford protection and support consuming public *by reducing* Monopolistic, Restrictive and Unfair Trade Practices from the market

Globalization has the fundamental attributes of relying significantly in the market forces, ensuring competition and keeping market functioning efficiently.

In the *Pre-1991* Reforms period, India's planned strategic and economic development stressed the broad policy objectives of

1. The development of an industrial base with a view to achieving self reliance and
2. The promotion of social justice

The MRTP Act has become *obsolete* in certain areas in the light of international economic developments relating to competition laws and hence focus was shifted from *curbing monopolies* to *promoting competition*

In October, Central government appointed high level committee under the chairmanship of Mr. Raghavan, the aim of the committee was to formulate the competition law in tune with economic reforms and international development. The committee presented its report on May 2000, The draft competition law was presented on November 2000. After certain amendments the parliament passed the new law, called completion Act 2002. The act came into force on **January 2003**

The Act was amended by the Competition Amendment Act, 2007 and became fully operational from **1 June 2011**,

- The provisions relating to competition advocacy was notified *in 2003*,
- The provisions regulating anti-competitive agreements and abuse of dominance were notified with effect from **20 May 2009**
- The provisions regulating mergers and acquisitions were notified on **June 2011**

Both the Competition Commission of India (CCI) (which administers the law) and the Competition Appellate Tribunal (CAT) are operational.

The Framework of Competition Act 2002 has essentially four compartments:

1. Anti- Competitive Agreements [ Section 3]
2. Abuse of Dominance [ Section 4]
3. Combination Regulation [ Section 5 & 6]
4. Competition Advocacy [ Section 49]

#### **Difference between MRTP ACT and Competition Act**

<b>Bas is</b>	<b>MR TP</b>	<b>Competition ACT</b>
Base	It is based upon Pre-Liberalization	It is based upon Post-Liberalization
Focus	Curbing Monopolies	Promoting Competition
Registration of Agreements	Compulsory registration of agreements relating to restrictive trade practices	It does not provide for registration of agreement

Dominance	Under MRTP, Dominance itself is bad	Under Competition Act, Dominance per se is not but only abuse of dominance is considered bad
Provisions for combination	Does not contain provisions of combination	Competition Act contain provisions of combination
Penalties	No Penalties for offences	Penalties for offences
Principles	Rule of law approach	Rule of reason approach
Competition Advocacy	No competition Advocacy role for the MRTP	CCI has competition advocacy role
Exclusion	Blanket exclusion of intellectual property rights	Exclusion of intellectual property rights, but unreasonable restriction covered
Provision for Unfair Trade practices	Provisions was there in MRTP Act(Section 36A )	Not included in the new completion Act and now under purview of Consumer protection Act

**The Competition Act, 2002** was enacted to fill the gaps left open by the MRTP Act — certain offending trade practices such as

1. abuse of dominance,
2. cartels,
3. bid rigging,
4. collusive agreements,
5. price fixing,
6. Predatory pricing, etc.

## 5. Salient Features of the Competition Act, 2002

### Objective of the Act

- Facilitate & Foster Competition
- Establish a Commission to prevent practices having adverse effect on competition
- Promote and sustain competition in markets
- Protect the interests of consumers
- Ensure freedom of trade in the Indian markets

### Duties of the Commission [Sec 18]

- Eliminate Practices that have an adverse effect on competition
- Promote & Sustain Competition
- Protect the interest of Consumers, economy and nature

### Scope or Focus of the Act

1. Enquire into Anti Competitive Agreements [Section - 3]
2. Enquire Abuse of Dominant Position [Section – 4]
3. Regulation of Combination & Mergers [Section – 5 to 6]
4. Undertake Competition Advocacy [Section – 49]

### Exclusion from Jurisdiction

1. Those right protected as intellectual property
2. Agreement exclusively for experts

### 6. Anti-competitive agreements [Section 3]

Any agreement for goods or services which has ***appreciable adverse effect on competition*** in India is ***prohibited***. These kinds of agreements are known as anti-competitive agreements.

Anti competitive agreement of entered into shall be ***void***

Section 3 of the Act states that no enterprise shall enter into:

1. Any agreement With respect to ***production, supply distribution, storage, acquisition*** or ***control of goods/provision of services*** which is anti-competitive is prohibited and void.
2. Such agreements must cause or be likely to cause appreciable adverse effect on competition (AAEC) in a relevant market in India.

The relevant market may be a geographical or a products market.

There are Two kinds of agreements

1. Horizontal agreements ( □ )

## 2. Vertical agreements. ( | )

### Horizontal agreements (see Table 1)

They are Agreements Between Parties in the same line of production.

Example - Agreement between Manufactures, Agreement between Distributors.

Horizontal agreements are presumed to have AAEC if they:

1. Directly or indirectly determine purchase or sale prices
2. Limit or control output, technical development, services etc.
3. Share or divide markets
4. Indulge in rigging or collusive bidding

**Cartels prohibited** (Use the same definition Cartel and Horizontal Agreement)+  
Add

1. Agree to limit,
2. Control or attempt to control production, distribution, sale or price

### Types of Horizontal Agreements

#### 1) Price Fixing Agreement

- a) Agreement to raise or stabilize price
- b) Establish uniform discount or eliminate discount
- c) Set uniform price as Starting point for negotiation
- d) Discontinue free service
- e) Impose Mandatorily surcharge
- f) Restrict price advertising

#### 2) Facilitating practices

This include agreements that make it easier for competitors to collectively exercisemarket power, and to avoid competing with each other

Eg- Agreements to share information

Sellers agrees either to meet any price, The buyer is able to obtain from anothersupplier or release the buyer to purchase from another seller

#### 3) Quiet Life Agreements

They are Agreements that restrict competition by free competitors form some significantaspect of competition

Eg- Agreement not to advertise Agreements to limit business hours

**4) Group Boycotts**

These are agreements among competitors not to deal with other competitors, suppliers distributors or retailers

**5) Trade Associations****Vertical Agreements (see Table 1)**

Vertical agreement are those agreements between Non-Competition undertaking operating at different levels of manufacturing and distribution process

EX- , the agreement between manufacturers of components , manufactures of products, between producers and whole- sellers or between producers, whole sellers and retailers

They are prohibited if such agreements cause or are likely to cause AAEC **Types of**

**Vertical Agreements****1. Tie-in arrangement**

Agreement between manufacturer and distributor not to sell manufactures product at or above a price floor at or below a price ceiling (e.g. requiring a purchaser of goods to purchase some other goods as condition of such purchase)

**2. Exclusive supply arrangement**

Agreement restricting the purchase in course of trade from acquiring the goods of trade from acquiring the goods of any other seller

(e.g. restricting a purchaser in course of his trade from dealing in any goods other than those of the seller)

**3. Exclusive distribution arrangement**

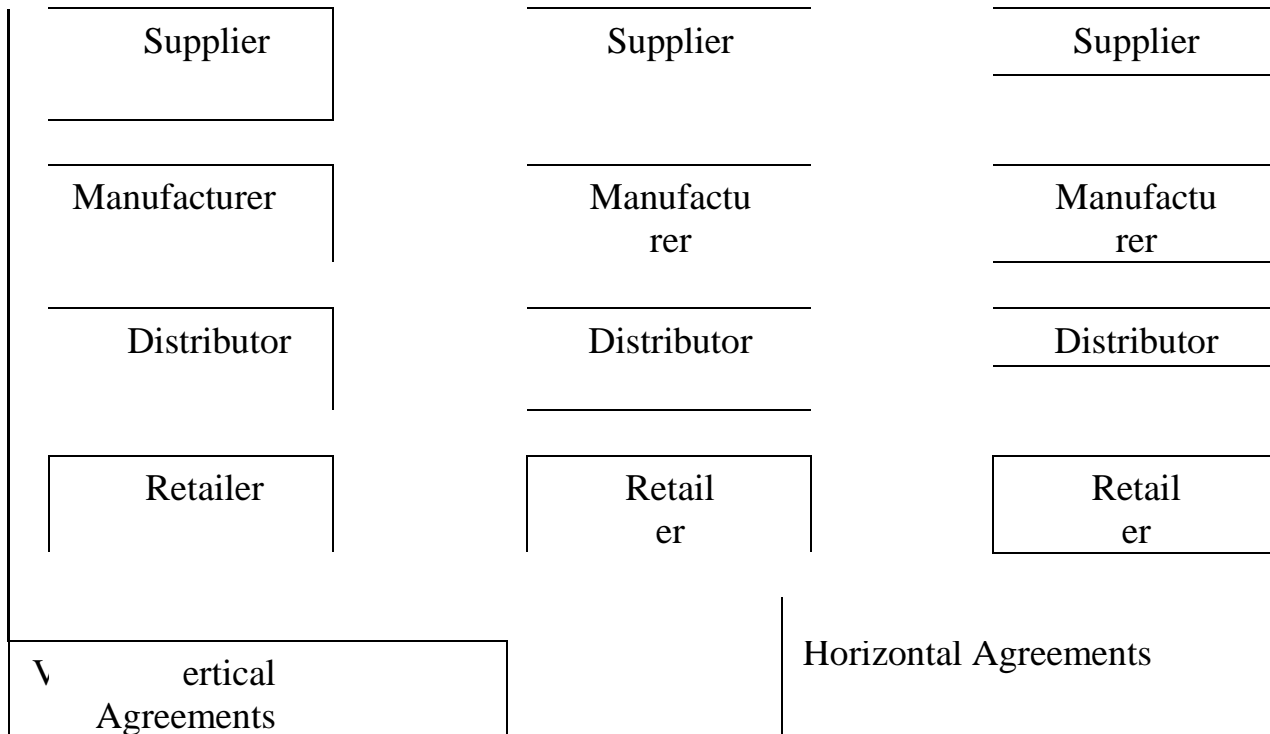
Agreement to limit or restrict the output or supply of any goods to ant market or area (e.g. limiting/restricting supply of goods or allocate any area or market for sale of goods)

**4. Refusal to deal**

(e.g. restricting by any method any person/classes of persons to whom goods are sold)

**5. Resale price maintenance**

(e.g. selling goods with condition on resale at stipulated prices )

**Chain Of Production (Table No :1)****Horizontal vs vertical agreements**

- Horizontal agreements **are presumed to have AAEC**

Vertical agreements, the onus / **Burden of proving AAEC lies on the**

**CCI.**Horizontal Agreement :- (**Per Say**) Vertical Agreement : (**Rule or**

**Reason**)

- Joint venture agreements are an exception to horizontal agreements, provided such agreements increases efficiency in production, supply, distribution, storage



acquisition or control of goods or provisions of services.

- Export agreements and agreements to protect intellectual property are allowed to have protective clauses.

### **Anti competitive Agreement under Different laws of Different Country**

<b>USA</b>	<b>European Union</b>	<b>Australia</b>	<b>Canada</b>
Section 1 Of the Sharman Act	Article 81, Treaty of Rome	Part 4 of Trade Practice Act 1974	Section 45 Anti Trust law

### **Anti Competitive Agreement [Vertical Agreement - Rule of Reason] ( Essay )**

(ADD What is Anti competitive Agreements - Section 3 then )

Vertical agreement are those agreements between Non-Competition undertaking operating at different levels of manufacturing and distribution process

EX- , the agreement between manufacturers of components , manufactures of products, between producers and whole- sellers or between producers, whole sellers and retailers

The Following Agreement may be considered as Ant Competitive by applying the rule of reason

### **Time in Arrangement**

Any agreement requiring a purchaser of goods as a condition to purchase some other goods. Tie in agreement is also known as conditional sale or purchase

### **Exclusive supply agreement**

Agreement restricting the purchase in course of trade from acquiring the goods of trade from acquiring the goods of any other seller

(e.g. restricting a purchaser in course of his trade from dealing in any goods other than those of the seller)

### **Exclusive distribution Agreement**

Agreement to limit or restrict the output or supply of any goods to any market or area (e.g. limiting/restricting supply of goods or allocate any area or market for sale of goods)

### **Refusal to deal**

Any agreement which restrict or is likely to restrict by any method any person/classes of persons to whom goods are sold or from whom goods are brought

### **Resale price maintenance**

Any Agreement to sell goods on condition that the price to be charged on the resale by the purchaser shall be stipulated by the seller unless it is clearly stated that prices lower than those price may be charged

(e.g. selling goods with condition on resale at stipulated prices )

## **NEXT TOPIC**

### **THE CONSUMER PROTECTION ACT, 1986**

The **Consumer Protection Act, 1986**. Long Title: An **Act** to provide for **protection** of the interests of **consumers** and for the said purpose, to establish authorities for timely and effective administration and settlement of **consumers'** disputes and for matters connected therewith or incidental thereto.

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 RIGHTS AND RESPONSIBILITIES:**

### ✓ **The Rights of the Consumer**

- **Right to Safety-** Before buying, a consumer can insist on the quality and guarantee of the goods. They should ideally purchase a certified product like ISI or AGMARK.
- **Right to Choose-** Consumer should have the right to choose from a variety of goods and in a competitive price.
- **Right to be informed-** The buyers should be informed with all the necessary details of the product, make her/him act wise, and change the buying decision.
- **Right to Consumer Education-** Consumer should be aware of his/her rights and avoid exploitation. Ignorance can cost them more.
- **Right to be heard-** This means the consumer will get due attention to express their grievances at a suitable forum.
- **Right to seek compensation-** This defines that the consumer has the right to seek redress against unfair and inhumane practices or exploitation of the consumer.

### ✓ **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.

### **HOW TO FILE A COMPLAINT?**

- Within two years of purchasing the product or services, the complaint should be filled.
- In the complaint, the consumer should mention the details of the problem. This can be an exchange or replacement of the product, compensation for mental or physical torture. However, the declaration needs to be reasonable.
- All the relevant receipts, bills should be kept and attached to the complaint letter.
- A written complaint should be then sent to the consumer forum via email, registered post, fax or hand-delivered. Acknowledgement is important and should not be forgotten to receive.
- The complaint can be in any preferred language.
- The hiring of a lawyer not required.
- All the documents sent and received should be kept.

### **WHAT IS THE MEANING OF CONSUMER PROTECTION ACT, 2019?**

- Consumer Protection Act, 2019 is a law to protect the interests of the consumers. This act was inevitable to resolve a large number of pending consumer complaints in consumer courts across the country. It has ways and means to solve the consumer grievances speedily.

### **WHAT IS THE AIM OF THE CONSUMER PROTECTION ACT?**

The basic aim of the Consumer Protection Act, 2019 to save the rights of the consumers by

establishing authorities for timely and effective administration and settlement of consumers' disputes.

## **WHAT IS THE DEFINITION OF THE CONSUMER?**

As per the act; a person is called a consumer who avails the services and buys any good for self-use. Worth to mention that if a person buys any good and avail any service for resale or commercial purpose, is not considered a consumer. This definition covers all types of transactions i.e. online and offline.

### **KEY FEATURES OF THE CONSUMER PROTECTION ACT, 2019**

- **1. Establishment of the Central Consumer Protection Authority (CCPA):**
- The act has the provision of the Establishment of the CCPA which will protect, promote and enforce the rights of consumers. The CCPA will regulate cases related to unfair trade practices, misleading advertisements, and violation of consumer rights.
- The CCPA will have the right to impose a penalty on the violators and passing orders to recall goods or withdraw services, discontinuation of the unfair trade practices and reimbursement of the price paid by the consumers.
- The Central Consumer Protection Authority will have an investigation wing to enquire and investigate such violations. The CCPA will be headed by the Director-General.

### **2. Rights of consumers:**

- **The act provides 6 rights to the consumers;**
- **i.** To have information about the quantity, quality, purity, potency, price, and standard of goods or services.
- **ii.** To be protected from hazardous goods and services.
- **iii.** To be protected from unfair or restrictive trade practices.

- **iv.** To have a variety of goods or services at competitive prices

### **3. Prohibition and penalty for a misleading advertisement:**

- The Central Consumer Protection Authority (CCPA) will have the power to impose fines on the endorser or manufacturer up to 2-year imprisonment for misleading or false advertisement (Like Laxmi Dhan Warsha Yantra).
- Worth to mention that repeated offense, may attract a fine of Rs 50 lakh and imprisonment of up to 5 years.

### **4. Consumer Disputes Redressal Commission:**

- The act has the provision of the establishment of the Consumer Disputes Redressal Commissions (CDRCs) at the national, state and district levels.
- The CDRCs will entertain complaints related to;
  - **i.** Overcharging or deceptive charging
  - **ii.** Unfair or restrictive trade practices
  - **iii.** Sale of hazardous goods and services which may be hazardous to life.
  - **iv.** Sale of defective goods or services

### **Jurisdiction under the Consumer Protection Act, 2019**

- The act has defined the criteria of Consumer Disputes Redressal Commission (CDRCs). The National CDRC will hear complaints worth more than Rs. 10 crores. The State CDRC will hear complaints when the value is more than Rs 1 crore but less than Rs 10 crore. While the District CDRC will entertain complaints when the value of goods or service is up to Rs 1 crore.
- So these were key features of the new Consumer Protection Act, 2019. This topic is very important for various exams like UPSC, State PSC, and Banking, etc. To read more such articles click on the link given below;

**NEXT TOPIC****The Right to Information Act of 2005****Historical Background**

The right to information is a fundamental right under Article 19 (1) of the Indian Constitution. In 1976, in the Raj Narain vs the State of Uttar Pradesh case, the Supreme Court ruled that Right to information will be treated as a fundamental right under article 19. The Supreme Court held that in Indian democracy, people are the masters and they have the right to know about the working of the government.

- Thus the government enacted the Right to Information act in 2005 which provides machinery for exercising this fundamental right.
- To know more in detail about the Constitution of India, visit the linked article.

**The Right to Information Act of 2005**

- The act is one of the most important acts which empowers ordinary citizens to question the government and its working. This has been widely used by citizens and media to uncover corruption, progress in government work, expenses related information, etc.
- All constitutional authorities, agencies, owned and controlled, also those organisations which are substantially financed by the government comes under the purview of the act. The act also mandates public authorities of union government or state government, to provide timely response to the citizens' request for information.
- The act also imposes penalties if the authorities delay in responding to the citizen in the stipulated time.

- Know more about Cultural and Educational Rights at the linked article.

### **What type of information can be requested through RTI?**

- The citizens can seek any information from the government authorities that the government can disclose to the parliament.
- Some information that can affect the sovereignty and the integrity of India is exempted from the purview of RTI.
- Information relating to internal security, relations with foreign countries, intellectual property rights (IPR), cabinet discussions are exempted from RTI.

### **Objectives of the RTI Act**

- Empower citizens to question the government.
- The act promotes transparency and accountability in the working of the government.
- The act also helps in containing corruption in the government and work for the people in a better way.
- The act envisages building better-informed citizens who would keep necessary vigil about the functioning of the government machinery.

### **Significance of the RTI Act**

- The RTI Act, 2005 empowers the citizen to question the secrecy and abuse of power practised in governance.



- It is through the information commissions at the central and state levels that access to such information is provided.
- RTI information can be regarded as a public good, for it is relevant to the interests of citizens and is a crucial pillar for the functioning of a transparent and vibrant democracy.
- The information obtained not only helps in making government accountable but also useful for other purposes which would serve the overall interests of the society.
- Every year, around six million applications are filed under the RTI Act, making it the most extensively used sunshine legislation globally.
- These applications seek information on a range of issues, from holding the government accountable for the delivery of basic rights and entitlements to questioning the highest offices of the country.
- Using the RTI Act, people have sought information that governments would not like to reveal as it may expose corruption, human rights violations, and wrongdoings by the state.
- The access to information about policies, decisions and actions of the government that affect the lives of citizens is an instrument to ensure accountability.
- The Supreme Court has, in several judgments, held that the RTI is a fundamental right flowing from Articles 19 and 21 of the Constitution, which guarantee to citizens the freedom of speech and expression and the right to life, respectively.
- **Recent Amendments**
- The RTI amendment Bill 2013 removes political parties from the ambit of the definition of public authorities and hence from the purview of the RTI Act.

- The draft provision 2017 which provides for closure of case in case of death of applicant can lead to more attacks on the lives of whistleblowers.
- The proposed RTI Amendment Act 2018 is aimed at giving the Centre the power to fix the tenures and salaries of state and central information commissioners, which are statutorily protected under the RTI Act. The move will dilute the autonomy and independence of CIC.
- The Act proposes to replace the fixed 5-year tenure with as much prescribed by the government.

### **Criticism of RTI Act**

- One of the major set-back to the act is that poor record-keeping within the bureaucracy results in missing files.
- There is a lack of staffing to run the information commissions.
- The supplementary laws like the Whistle Blower's Act are diluted, this reduces the effect of RTI law.
- Since the government does not proactively publish information in the public domain as envisaged in the act and this leads to an increase in the number of RTI applications.
- There have been reports of frivolous RTI applications and also the information obtained have been used to blackmail the government authorities.

### **Conclusion**

- The Right to Information Act has not achieved its full objectives due to some impediments created due to systematic failures. It was made to achieve social justice, transparency and to make an accountable government.
- This law provides us with a priceless opportunity to redesign the processes of governance, particularly at the grassroots level where the citizens' interface is maximum.
- It is well recognized that the right to information is necessary, but not sufficient, to improve governance. A lot more needs to be done to usher in accountability in governance, including protection of whistleblowers, decentralization of power and fusion of authority with accountability at all levels.
- As observed by Delhi High Court that misuse of the RTI Act has to be appropriately dealt with; otherwise the public would lose faith and confidence in this "sunshine Act".