



Procedure To Lodge Consumer Complaints

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ABSTRACT

The Consumer Protection Act of India has been acknowledged world over as a revolutionary piece of consumer protection legislation. It is simple and aims to provide speedy and inexpensive redressal of consumer grievances besides providing for promotion and protection of six rights of the consumer. The author, in this paper Entitled "Procedure To Lodge Consumer Complaints", has attempted to review the procedure and functioning of the Consumer Protection Act in India. The government apathy and indifference has resulted into tardy implementation of this benevolent legislation. The continuous monitoring by consumer bodies and regular periodic review of the progress at regional and international level alone can ensure effective consumer protection in the Region.

Keywords: Consumer, Customer, Redressal, forum, commission

Introduction:

The Department of Consumer Affairs is committed to ensuring consumers are provided information about consumer complaints in a timely, fair and equitable manner.

The standards set forth in this document are intended to set a recommended minimum standard for disclosing information concerning complaints filed by consumers. They are not intended to replace the overall disclosure practices of the various agencies throughout the Department. Rather, they are offered as a model for how to handle the disclosure of information that meets certain criteria. Constituent agencies within the Department are responsible for reviewing these standards to determine how they can be incorporated into existing disclosure practices.

WHO IS A CONSUMER?

A "consumer" is a person who buys any goods or hires any service for valuable consideration (including deferred payment). The term does not include a person who obtains goods or services for resale or for any commercial purpose. However, persons who avail goods or services exclusively for the purpose of earning their livelihood by means of self employment are considered as 'consumers'.

PROCEDURE TO FILE COMPLAINT:

Stage 0: Decide To File

The most common emotions when you have been duped, ignored, insulted or cheated by a company from whom you bought a product is that of helplessness, anger or revenge. You may also hear yourself threatening the company about going to consumer court.

A few steps to ensure that the company pays for its mistakes and to ensure other innocent customers do not walk into the same trap of buying a product from this company. These include:

- Filing a complaint at other popular consumer blogs in India
- Filing a complaint with various consumer advocacy groups in your city

- Filing a complaint with the local police as applicable
- Filing a complaint with the controller of legal metrology in your state as applicable
- Opting to move your complaint to lok adalats (after you have already filed) as applicable
- Filing a complaint with your state's Human Rights Commission
- Filing a complaint with Ombudsman (for Insurance and Banking issues)
- Filing a complaint with Insurance Regulatory and Development Authority (for Insurance issues)
- Filing a complaint with TRAI (Telecom Regulatory Authority of India) (for Telecom issues)
- Filing a complaint with Bureau of Indian Standards (BIS) as applicable
- Sending a detailed report of the incident to Press / Television and Radio media companies

Stage 1: Collect Necessary Documentation

Before a consumer complaint can be filed against a company, you need to ensure that you have all the supporting documentation that you need. These may include the following documents related to the purchase of the product from the company:

- An invoice or bill for the purchase (Preferably with an invoice number and Tax ID of the company)
- Warranty card for products and SLA for services (This is optional)
- Proof of payment such as copy of the cheque or credit card statement (This is optional)
- Any other communication or record from the company that can show negligence, insensitivity or lack of attention from the company.

Stage 2: Send a Notice to the Company

In this step, you will be required to "officially" notify the company of your grievance. Be detailed about what it is that you are complaining about and what you expect the company to do. Be fair in your demands to the company. You are also entitled to ask for interest on any amount paid, if you think you are eligible for it.

Important points to take care of in the notice include the following:

- Providing clarity to the company on the nature of your grievance
- Providing clarity to the company on how you expect the company to solve your complaint
- Providing the time frame in which you expect the company to rectify your grievance
- Providing a polite and stern notification that you intend to pursue the matter legally

Stage 3: Get Legal Representation

There are people who would advise you for and against hiring an advocate or lawyer to represent you. If you decide to get legal representation, then the remaining steps will be followed through by your lawyer.

Stage 4: Prepare Your Complaint

As you prepare your complaint, here are a few questions that may come to your mind.

1. How much time do I have?

According to the Indian Consumer Protection Act of 1986, clause 24A(i) a consumer court shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen¹.

2. Which court should I file the complaint in?

Depending on convenience, you can file the complaint in the area you purchased the product from or the area the company did the action to grievance you or any area where the company does business in. Depending on the amount of compensation you claim, you must file the complaint at appropriate courts. If the total amount (of cost and compensation) in your complaint is below Rs. 20 Lakhs, you must file the complaint with the District Consumer Disputes Redressal Forum. If it is between Rs. 20 Lakhs and Rs. 1 Crore, then you must file the complaint with the State Consumer Disputes Redressal Commission. If it is more than Rs. 1 Crore, then you must file with the National Consumer Disputes Redressal Commission.

Stage 5: File your Complaint

There are several actions involved in this step as listed below:

1. Along with your complaint and the affidavit, attach a list of documents you are submitting as part of the complaint file. You will need to attach copies of the evidentiary documents.
2. You will need to approach a Notary and get your complaint file and the affidavit notarized. The Notary who, unless known to you, will require you to show a proof of identification such as your driver's license, PAN card, passport, ration card or election ID. You will then need to sign the complaint and the affidavit in front of the Notary after which he/she will notarize the document with his/her Notary seal and signature.
3. You will then be required to make a specific number of copies of the complaint. In most cases, you will need to make a total of five copies including three for the court, one for the court to send to the company and one for yourself.
4. The next action is preparing the court fee payment. Most courts accept Demand Drafts (DD) through a Nationalized Bank duly crossed, drawn in favor of the person as shown in the table as the mode of payment. The recent fee structure is also shown in the following table.

5. The last and the most tedious action in this step is to go to the court, locate the receiving clerk, deposit your complaint file and make the court fee payment. Be sure to obtain a receipt of the payment. At this time, the clerk will also give the date a judge will first hear your case (admission hearing) and a complaint reference number.

The court will then send the complaint to the company and ask them to respond to the complaint within 30 days and also to attend the admission hearing.

Stage 6: Attend the Admission Hearing

Most of the consumer courts such as District Consumer Disputes Redressal Forums in the country operate from shacks that are in high probability a little, if not any, better than a cattle shed. Many of them do not have presiding officers for weeks, if not months continuously due to the inefficiency and irresponsibility of our government and bureaucracy. This has been raised repeatedly by consumer advocacy groups and media time and time again with very little if not any effect.

If your case has merits (and you're lucky not to fall in front of an unscrupulous, lazy or corrupt judge), at the admission hearing, the consumer court will admit your complaint and you will be given the date for the subsequent hearings.

Stage 7: Attend Subsequent Hearings till the Verdict

This shall depend on the complexity of your case, and the number of times the judge decides to postpone or conduct hearings. Typically it could be anywhere from one to seven hearings before which your case is disposed.

The consumer court will finally reach a verdict on your case and send you and the company the court order. If the verdict is in your favor, you may be eligible for a refund, and the company may also have to pay for punitive damages that include compensating you for any mental agony, insult, inconvenience, or damage you may have suffered. In many cases, the court will also direct the company to pay for your legal and court expenses.

Stage 8: After the Verdict

Most lawyers will tell you that your actual legal battle with a company starts only after you obtain a verdict from a consumer court. Consumer court system in our country has no stalwart statutory powers to enforce their verdicts on any company. If the company does not follow the verdict of the consumer court, and neither does it file appeal within 30 days, to get a company to abide by the verdict of a consumer forum, you will have to file another proceeding to "execute the verdict" in the consumer court. Put simply, after you get a verdict from a consumer court, you will have to approach it again to issue a judgment to the company to follow the verdict of the consumer court or to face other civil and criminal penalties including attachment of properties or arrest. Sadly, this could mean another 2-5 years of your life fighting a legal battle against this company to remedy your problem.

Conclusion:

Just like the RTI, filing a consumer complaint is a powerful tool for consumers. If you are unhappy with a product or service, just follow this process and you should come out happy on the other side.

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