Consumer Protection Laws
(A comparative study)

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In Pakistan Consumer Protection Laws have often been, intentionally or unintentionally, dealt with either separately or confused with some other laws. For example on the one hand, Pakistan had “Monopolies & Restrictive Trade Practices (Control & Prevention) Ordinance, (V of 1970)”, Competition
Ordinance (LII of 2007)” as amended from time to time and now an Act of 2010. On the other hand, Pakistan has several provisions in Pakistan Penal Code for consumer protection and against hoarding etc. For example sections 364, 265, 266 and 267 of PPC, 1860 pertain to offences relating to weights & measures, it was a small measure for protecting the rights of consumers, but if looked on a larger canvass, if the electricity meters, the
supply of which is monopolized, are engineered to run faster by those who are in power, it results in ripping off the entire society. Please note that Monopolies Ordinance of 1970 recites as follows:

“An Ordinance to provide for measures against undue concentration of economic power, growth of unreasonable monopoly power and unreasonably restrictive trade practices.”

It does not have the word “Consumer” in the entire law. While Anti-
Competition Ordinance of 2007 recites as follows:-

“An Ordinance to provide for free competition in all spheres of commercial and economic activity to enhance economic efficiency and to protect consumers from anti-competitive behavior.”

**The Essential Commodities Act (III of 1957) (6th March, 1957)**

This law starts with the recital “An Act to provide for price control and regulation of trade and commerce between provinces. In the schedule of the “essential
commodities” given at the end of this law, the items like, foodstuff, petroleum & petroleum products and “Sugar” is specifically included in addition to the general item of “foodstuff”.

In view of the above, no comprehensive codified serious law existed with regard to protection of consumers.

In U.S.A, what is called Anti-Trust Law, in other Countries, it is called Competition Law and/or
Anti-Monopoly Law and/or Consumer Protection Law.¹

U.S.A has “The Sherman Antitrust Act” (1890)” named for Senator Johan Sherman as a first measure passed by the U.S. Congress to “regulate interstate commerce” as well, Clayton Act, 1914) and “Robinson Patman Act (1936)”. “The Punjab Consumer Protection Act (Pb. Act II of 2005)” came into being, while the other Provinces

¹ The Term “antitrust” originated from the process of combating “business trusts” which used to create monopoly or unequal bargaining power presently called “Cartels”. Such laws deal with, inter alia, illegal monopoly, unfair business practices such as, but not limited to, cartels, hoarding, undue financial & stock controls, malafide connivance etc. European Union has provisions under the Treaty of Rome while Australia deals with it under “Trade Practices Act, 1974”.
have not yet started applying Consumer Protection Law. India promulgated “The Consumer Protection Act, 1986” and Rules 1987 which includes “goods” as well as “services”. The present exercise is aimed at comparative study of the abovesaid laws.

**What is Consumer Protection?**

Consumer Protection Laws are aimed at regulating, inter-alia, the following subject/topics:
• Minimum standards of product quality.
• Disclosure of certain details of the product and/or service.
• Cost of the product/service.
• Express or Implied Warranty. (Contract Act)
• Prohibition of misleading advertisement.
• Product liability including any possible present or future side or after-effects.

Thus, Consumer Protection Laws are, in certain respects, distinct from Antitrust or Anti
Competition Laws. The approach of U.S Supreme Court has shifted since 1970s and is now focused solely on what is best for the consumer rather than the Company’s practices².

CONSTITUTIONAL ROOTS OF PAKISTANI LAW

The roots of the anti-monopoly law, anti-competition law and consumer protection law stems from Article-18 of the Constitution of the Islamic Republic of Pakistan, 1973

which deals with “Freedom of Trade, business or profession”, Article-37 deals with “Promotion of Social Justice and eradication of social evils”

Article-38 deals with “Promotion of social and economic well being of the people”. It is understood that these articles also apply to the Government, particularly in the matters of Petroleum, Gas, Electricity, Water, Food and the scope of the matter further widens
when we talk of basic human rights in which the Government has monopoly, controlling power, blackmailing power, Coercing power and no question can be raised because it is fully covered by the law.

**Indian Consumer Protection Law**

Chapter-IV of the Indian Constitution contains the “directive principles” while Chapter-III contains fundamental rights of citizens. Chapter-IV directly directs the State in the
matters of concentration of wealth, welfare of consumers vis-à-vis fundamental rights under Chapter-III. From this general mandate, government enacted MRTP ACT, Consumer Protection Act, Competition Act, Company Act and few other Statutes. Prior to these Statutes, there existed different enactments like Code of Civil Procedure (1908), the Indian Contracts Act (1872), the Sale of Goods Act (1930), the
Indian Penal Code 1860), the Standards of Weights and Measures Act (1976) and the Motor Vehicle Act, 1988, but very little could be achieved in the area of consumer protection. However, the Monopolies and Restrictive Trade Practices Act, 1969 and the Prevention of Food Adulteration Act, 1954 provided some relief to the consumers. But the fast developing world of goods & services projected through high technical
media, all the aforesaid laws proved to be extremely naïve in upholding the principle of consumer sovereignty”. Therefore, the Consumer Protection Act of 1986 was promulgated with the following:

*(Quote) “STATEMENT OF OBJECTS AND REASONS*

The Consumer Protection Bill, 1986 seeks to provide for better protection of the interest of consumers and for the purpose, to make provisions for the establishment of Consumer councils and other
authorities for the settlement of consumer disputes and for matters connected therewith.

2. It seeks, inter-alia, to promote and protect the rights of consumers such as:

a) The right to be protected against marketing of goods which are hazardous to life and property.

b) The right to be informed about the quality, quantity, potency, purity, standard and price of
goods to protect the consumer against unfair trade practices;

c) The right to be assured, wherever possible, access to an authority of goods at competitive prices;

d) The right to be heard and to be assured that consumers interest will receive due consideration at appropriative forums;

e) The right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers;

and
f) Right to consumers education.


Recital & Preamble

1. “An Act to provide for protection and promotion of the rights and interests of Consumers.”

Preamble:

“Whereas it is expedient to provide for protection and promotion of the rights and interests of the Consumers, speedy redress of consumer complaints and for matters connected therewith.”
2. The definitions of the following terms are very important.

Sect.2(c) Consumer

Sect.2(d) Damage – is also dealt with by Sect. 10, 15.

Sect.2(e) Manufacturers

Sect.2(f) “Services” – which includes legal services.

3. A Consumer Court is a Civil Court u/s 30(3) and has criminal powers – its proceedings are judicial proceedings within the
meaning of Sect.193 & 228 of P.P.C. and Sect. 195 of Cr.P.C.

4. No Execution Petition is to be filed for execution of a decision of a Consumer Court. Sect.31, 32 provide penalties of fine & jail in case of non-compliance of orders. Sect.36 provides that all agencies of the Govt. shall act in aid of Consumer Court in performance of its functions who are to implement the orders of the Court. In case of non-
compliance, penalties are provided in Sect.32 which can up to 3-years imprisonment.

5. Appeal can be filed to High Court within 30-days.