

Consumer Rights

The Law Lies Low As Parliament Sleeps

Everyone agrees that a Consumer Protection Act is essential, but the dithering over legislation continues while consumers suffer at the hands of unscrupulous traders. M Shahadat Hossain looks at the big picture

THE year is 1999 and Bangladesh is yet to implement a Consumer Protection Act. The last known such remotely related act date back to 1959 - the East Pakistan Pure Food Ordinance which was preceded by the Control of Essential Commodities Act of 1956. They do not protect the consumer as such. However, the most recent, Ordinance of the Ministry of Law and Justice notified in 1995, the draft being tabled that year at the Ministry of Commerce en-route to the Ministry of Law and Parliamentary Affairs and eventually to the Parliament the act is yet to make any headway. This leads one to ponder if the country's policy makers and more specifically the law-makers are remotely aware of consumerism and the severity of their negligence in delaying the implementation of the Act.

Lobbying for the enactment of the "Consumer Protection Act of Bangladesh" began in 1995. Despite the draft being tabled that year at the Ministry of Commerce en-route to the Ministry of Law and Parliamentary Affairs and eventually to the Parliament the act is yet to make any headway. This leads one to ponder if the country's policy makers and more specifically the law-makers are remotely aware of consumerism and the severity of their negligence in delaying the implementation of the Act.

It is learnt that the Consumer Protection Act was drafted after careful scrutiny and study of the Consumer Protection Acts or similar policies of India, Sri Lanka, Nepal, Thailand, Philippines and the European Community. When contacted, the Minister for Law and Parliamentary Affairs, Abdul Matin Khasru, said the draft copy of the Consumer Protection Act was with the Ministry of Commerce. However, an official of the Ministry of Commerce, on condition of anonymity, said the draft copy of the Consumer Protection Act, was sent to the Cabinet on January 5, 1999. When the Minister was informed of this, he stated that it could not be so, as he would have known had it been sent to the cabinet.

When the Secretary of the Ministry of Commerce was contacted he confirmed that the said draft has been sent to the Cabinet. "Once the cabinet agrees on principle the draft copy will be sent to the Ministry of Law and Parliamentary Affairs. The copy will be sent back to the Ministry of Commerce to be forwarded to the Cabinet, again. Following which it will be sent to the Parliament," said the Secretary. He thinks the draft copy of the Consumer Protection Act will be placed in Parliament in three to four months.

Despite the good intentions of all our national leaders and policy makers, protection of the consumers, is dying an unnatural death. All agree for the need to implement the Consumer Protection Act and that is exactly where it stands: a unanimous agreement that is yet to see the light of day in the form of a law.

Background
A review of the history behind Consumerism might shed some light on the issue and help the policy makers in expediting the decision process.

The word "consumerism" has many connotations, depending on who is using the term. Business, government, consumer groups and academic researchers have each developed its own definition of the term. These definitions span

the gamut from challenging society's goals for material goods to reflecting peoples desire for better values. One succinct definition is that "Consumerism is a social movement of citizens and government to enhance the rights and powers of buyers in relation to sellers."

The Consumerism movement dates back to 1906 in the United States, when, *The Jungle* by Upton Sinclair, an exposé on the filth surrounding the Chicago meat-packing industry was published. The book created such a public outcry that Congress was compelled to pass the meat inspection of 1906. The same year the Food and Drug Administration was created as an agency charged with preventing misbranded and adulterated food and drugs in interstate commerce. Later the Federal Trade Commission (FTC) was established in 1914. However, consumer protection was still not given prominence by business or government during this time.

The real impetus for the current consumerism movement came from President John F. Kennedy's speech to Congress in which he identified what has been referred to as the consumer's bill of rights. In 1962, Kennedy presented in a message to Congress the following four fundamental rights:

Right to safety, right to be informed, right to choose and right to be heard. A fifth consumer right not enumerated by Kennedy is the right to clean environment. A sixth and final right is that of consumer privacy.

The right to safety is to be protected against the marketing of goods which are hazardous to health or life.

The right to be informed is to be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling or other practices, and to be given the facts needed to make an informed choice.

The right to choose is to be assured, wherever possible, access to a variety of products and services at competitive prices; and in those industries in which competition is not workable and government regulation is substituted, as assurance of satisfactory quality and service at fair prices.

The right to be heard is to be assured that consumer interest will receive full and sympathetic consideration in the formulation of government policy and fair and expeditious treatment in its administrative tribunals.

The right to a clean environment is to be assured that the environment the consumer lives in is free from pollution.

The sixth and most recent of the rights relates to privacy, information, data banks and similar emerging issues.

In the United States the Consumer Product Safety Commission (CPSC) has collected information about the most hazardous household products. The CPSC discovered that each year an estimated 20 million Americans are injured, with 30,000 of these victims killed and 110,000 permanently disabled, from 10,000 products under the commission's jurisdiction. Among the most hazardous products are sports and recreational equipment, home struc-

tures, home furnishings, housewares and personal items. In Bangladesh we are not even aware of the statistics but can only imagine the harm caused thus far.

The CPSC has the power to set safety standards for products under its control, to recall products from the market and to ban unsafe products. The commission began in 1972 and participated in the recall of over 1200 products in its first five years of operation. In the United States Safety is very much an issue for consumers, business and government. The Tylenol poisoning episode brought to the forefront the need for tamper-proof packages in medical products. Millions of dollars have been spent by producers, to redesign packages, to insure product safety.

This reminds one of the Paracetamol incident in Bangladesh. Although some corrective measures have been taken by some pharmaceutical companies they are yet to implement a standardized tamper-proof seal on their bottles.

Helpless Bangladesh Consumers

Sadly enough, Bangladesh is stepping into the new millennium without having so much as given the matter a second

thought. The consumers are denied of these fundamental rights. Sadler still is that the consumers are not even aware that they can be protected. Such is the price of illiteracy and ignorance on which the concerned authorities are banking.

Dr. Anwar Hossain, Treasurer of Bangladesh Open University, Professor of IBA, Dhaka University and a leading academician who has edited the draft copy of the Consumer Protection Act, 1995 has made some eye opening comments on Consumerism in Bangladesh.

"In Bangladesh the consumerism movement is yet to crystallize as a lobby to be able to protect the interests of the unorganized consumers against the organized business groups some of whom flagrantly violate even the minimum ethical standards. In the absence of protective laws, standards and regular inspections and surveillance from the law enforcing agencies, consumers in Bangladesh completely depend on the mercy of the business houses. The organized cartel, monopoly business houses even the venerated public sectors are no exception to it treating the consumers and cheating them and depriving them from their minimum rights."

As regards safety he elaborates - "From the case of Paracetamol syrup to edible oil all point out to the helplessness of the consumers and absence of adequate safety rules and their enforcement. The food and drug manufacturers in Bangladesh and even the apartment sellers are spotted to have compromised with the basic safety standards practiced in the developed countries. Unsafe toys, electrical gadgets, machineries are marketed with little hesitation, despite the fact that these items may maim or even kill the children. Consumers in the USA, UK, France, Italy, Germany, etc., can sue the seller and producer directly for the damages caused by defective products. Court practices in those countries even allow the consumer to sue any person who has taken part in the distribution chain. This is a very important instrument for safeguarding and protecting the interest of the consumer."

Early Breakthrough
Looking back to 1995, when the Consumer movement made a remarkable breakthrough in Bangladesh by bringing in some of the most vocal national leaders from various political backgrounds to present their views, one can argue that the law makers are fully aware of the need to

formulate such laws. Consumer Association of Bangladesh (CAB) with assistance from the Delegation of European Union organized a seminar on "Consumer protection: a comparative review between Bangladesh and European Union" held at the National Press Club, Dhaka on 30 May, 1995.

The seminar was addressed among others by the then Finance Minister M. Saifur Rahman, Begum Farida Rahman MP, Rashed Khan Menon MP, Head of EC Delegation in Bangladesh Ambassador Michael Drury, Director General of NGO Affairs Bureau Mr. Abdul Mannan and Dr. Zafarullah Chowdhury of Ganoshastho Kendra. Dr. Anwar Hossain read out the keynote paper at the seminar with President of CAB Borhan Ahmed in the chair.

Saifur Rahman called for protection of consumers' interest at all stages as it was the fundamental and democratic rights of people as a whole. "Consumers' voice is always unheard and they are not given a proper and fair treatment," he stated at the seminar as reported in the special issue of Consumer Voice, July 1995.

A most remarkable incident where consumers rights are infringed was stated by Begum Farida Rahman MP.

"In Bangladesh, there are transactions of three crores taka in medicine per annum. But we often see that there is no information on the label pasted around the bottle or packet about the ingredients of the particular medicine. I have been suffering from high blood pressure. There is a medicine named 'Tenormin' to protect against blood pressure. This medicine is prepared in Bangladesh but doesn't work. The same type of medicine from outside costs Taka 8. The domestic one costs Taka 4. I have taken the Bangladesh one for a long time but became skeptical as it failed to keep my blood pressure normal. So I sent a sample for a test and it was found to contain only 40% of the necessary active ingredient."

Reflecting on the cosmetic products she stated - "there is no comparison of adulteration in the cosmetics production in our country. All are Zinzira product. Sometimes there are foreign containers but inside there are the products of Zinzira. Naturally the women use powders and other cosmetics more than the men. But due to the adulteration most of the women are attacked with skin diseases. I have some marks of reactions on my body after using the domestic cosmetics."

Mr. Abdul Mannan said that the Government doesn't do anything alone for the consumers on giving them information. The press in Bangladesh is so strong that they can play a great role in this regard. "The press can raise public awareness against advertisements that are vulgar and slangs. We can create a consumer movement to get a better item in right price. It is possible to get the better goods if the consumers become conscious and united."

Dr. Zafarullah Chowdhury of Gonoshastha Kendra questioned the language of the TV commercial which says that within eight weeks your complexion will be fairer and clearer. There are no steps to prevent this type of ads. So far I know the Bangladeshi saree never fades away," he quipped from the numerous commercials of sarees advertised on the Bangladesh Television.

Rashed Khan Menon took a slice out of the open market economy. "Foreign products get into our country in this way. But there is no scope to prove the quality of these foreign products. We have enough sugar in our godowns but tons of sugar are coming from India. If we have right and strong policy, then the Indian sugar won't be able to enter."

World Consumer Rights Day 1995 was observed on 15 March 1995 and CAB organized a discussion meeting at the National Press Club.

The then Deputy Speaker Humayun Khan Pannu, chief guest at the seminar, blamed legal procedures and the snail's pace in cases of legal matters for the apathy among the people in taking refuge of the law. Samad Azad said that consumers were being deprived of their rights and there should be an end to this. On the same occasion Awami League leader Begum Matia Chowdhury (then an opposition MP) held inefficiency and corruption in the public sector and lack of accountability in the private sector responsible for the sufferings of the consumers. Former Commerce Secretary, Mofazzal Karim, admitted that the free market policy created a free for all market in the country and increased the sufferings of the people.

Furthermore, a national

The Rights of Consumers

The right to safety is to be protected against the marketing of goods which are hazardous to health or life.

The right to be informed is to be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling or other practices, and to be given the facts needed to make an informed choice.

The right to choose is to be assured, wherever possible, access to a variety of products and services at competitive prices; and in those industries in which competition is not workable and government regulation is substituted, as assurance of satisfactory quality and service at fair prices.

The right to be heard is to be assured that consumer interest will receive full and sympathetic consideration in the formulation of government policy and fair and expeditious treatment in its administrative tribunals.

The right to a clean environment is to be assured that the environment the consumer lives in is free from pollution.

The sixth and most recent of the rights relates to privacy, information, data banks and similar emerging issues.



Justice: Can the law protect consumers?

workshop on Consumer Rights organized by Health for All for the first time in June 1995. At the workshop, the then State Minister for Planning, Dr. Abdul Moyeen Khan, said, "Irrespective of party and group affiliation, every politician and professional should take part to formulate a pro-people consumers protection law in the country."

Body to Protect Consumers

The draft copy of the Consumer Protection Act advocates the establishment of the National Consumer Protection Council. It suggests the council to be headed by the Commerce Minister as the Chairman and nine other official or non official members. The objective of the National Council is to promote and to protect the rights of the consumers.

The draft copy of the Consumer Protection Act also suggests the establishment of Consumer Disputes Redressal Agencies. It suggests the formation of a National Disputes Redressal Commission as well as District Commission to be established in each district by the Government of Bangladesh by notification.

Each district Commission is to be presided by a District Judge and two other members.

The appointments are to be made by the President of the National Commission (Chairman), Secretaries of the Ministries of Commerce and Law (Members).

Each member of the District Commission shall hold office for a term of five years upto the age of sixty five years.

The District Commission shall have the jurisdiction to entertain complaints where the value of the goods or services and the compensation if any does not exceed Taka Twenty Five Lacs.

Economic Implications

This author spoke to Dr. Mahub-ul Islam, an Economist and Associate Professor at St. Francis College in Pennsylvania, USA (currently in Bangladesh on his sabbatical) regarding the foreseeable economic implications of the Consumer Protection Act.

He said the effect will be both on the producer and the consumer. By maintaining the required standards the producer will be able to establish an expanded market. The producers will be divided into two groups. The first - genuine producers

and suppliers who maintain safety requirements and uphold the consumer rights who will in turn find expanded market for their product. Consequently, they will have the opportunity to expand their business resulting in higher quality product, more employment and social reputation.

The second group of producers who are not maintaining the required standards will be under pressure and thus will either modify their products or leave the market, he explained. The net gain of employment and production is ambiguous. However, there will be higher quality products in the market.

He further added, "bad producer drives the good producer out of the market due to the lack of Consumer Protection Act and implementation by the government. Therefore, once enacted the tables will be turned and it will be an incentive for the quality producer to be in business or expand the business. Consumers in the lower income bracket may suffer in the short run since they have to pay a little extra for the quality product in the absence of substandard low price products."

Speaking on a macro level, he stated that it was consistent with the philosophy of open market economy. Almost all the developed countries who advocate open market policy have their own standard and agencies to implement product quality and safety. It will guarantee the trade marks of foreign products instead of using their name and copying their brand name in the local market. Bangladesh will no longer be a dumping ground from the international producers who do not maintain the quality of their products and try to sell substandard and expired products. We may expect more reliable consumer friendly environment of open economy like most of the developed countries.

Elaborating on the effect on price of the products he stated, "most likely the average price will increase due to higher cost of production in consistency with specifications advocated by the Act itself."

"However, increased product price can be considered the price a society must pay to create a hospitable, sustainable and just society. The social benefits are well worth the cost to maintain and implement the Act itself towards developing a civil society," he concluded.

Shahadat Hossain, a former journalist with The Daily Star, is currently a business executive and freelance writer.



Cheated: Fake brands sold as genuine stuff