

# Aspects of Consumer Protection in Sri Lanka

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Consumer is King" is the normally accepted saying. However John Galbraith the noted economist has mentioned that "It is not the Consumer who is king, but it is the large corporation who is the king in the economy whatever happens is not because the consumer want it that way has simply because large powerful corporations prefer that way".

In a developing country like Sri Lanka where the incidence of poverty and unemployment is very high above John Galbraith holds true and the population faces a large number of problems, which have been accelerated. Hence, consumers have not been able to play a significant role in the development process.

The United Nations have adopted in 1985 a set of guidelines for Consumer Protection (revised) in 1999 which addresses the needs of consumers worldwide and provide a framework for Governments specially those in developing countries strengthen consumer policies and legislation.

It is noteworthy that the Government of Sri Lanka has recognized the need for consumer protection long before the adoption of United Nations guidelines, which cover eight consumer writs namely - basic needs, safety, choice, introduction, consumer education, redressed, representation and healthy environment.

Even before the adoption of the Consumer Protection Act in 1979 the eight basic needs, have been recognised directly or indirectly.

An attempt is made have to discuss some salient aspects of consumer.

## SOME SALIENT ASPECTS

In the present times, increasing trends in globalisation characterise the national economy of most countries, which impinge heavily on the trading systems of developing countries. This development signifies the demolition of restrictive practices, taxes, tariff barriers, duties and other impediments to a lassic-faire dispensation. In a sense, uninhibited liberalisation is bound to result in a "free for all" state of affairs. If production, sale and distribution of goods and services are to be permitted to go unquestioned, and without let and hindrance countries on the bottom of the line will be left behind.

Hence, it is imperative that some form of regulatory measures, which stop short of complete protection, be observed. Viewed in the context of the international economy the parallel is between the local producer and consumer. No developing country can afford to push an economy totally untrammelled by built in safeguards in the laws, regulations of the consumer and undiluted liberty of the producer/seller.

It is well known, making of goods and services is normally conducted in an organised manner in Sri Lanka. However, the local consumer is normally not trained in market affairs and is no match for the businessman who attempts to persuade the consumer to buy goods or services on terms and conditions favourable to them. It is because of this aspect that the consumer needs the protection of the law. In Sri Lanka, Consumer Protection is currently under the supervision of the Department of International Trade (DIT).

It is the policy of the Government of Sri Lanka to provide for better protection of consumers through regulation of trade and prices of goods and services and for the protection of traders and manufacturers against unfair trade practices and restricted trade practices.

The Government of Sri Lanka is also desirous to ensure healthy competition between the traders and manufacturers of goods and services.

In Sri Lanka, there is a fair spread of legislative measures meant to shield the consumer from being exploited by unfair trading practices. The Consumer Protection Act No. 1 of 1979 is the core legislative enactment, which is enforced by the Department of International Trade supplemented by the Fair Trading Commission Act No. 1 of 1987, which is implemented by the latter body.

THE PREAMBLE TO THE CONSUMER PROTECTION ACT NO. 1979 SPECIFIES that it is:

An Act to make provision for the regulation of international trade; for the establishment of fair trade practices; for the amendment of the National Prices Commission Law, No. 42 of 1975; for the repeal of the Licensing of Traders Act, No. 62 of 1961; and for matters connected therewith or incidental thereto.

The fair trading commission act no. 1 of 1987, which came into operation over eight years subsequent to the enactment of Act No. 1 of 1979, stipulates that it is:

An Act to provide for the establishment of a Fair Trading Commission for the control of monopolies, mergers and anti-competitive practices and for the formulation and implementation of a national price policy; for the repeal of the National Prices Commission Law, No. 42, of 1975; and for all matters connected therewith or incidental thereto.

In 1993 with the initiative of Dr. Neelan Tiruchelvam, Director of Law and Society Trust, a study was undertaken by Dr. Saman Kelegama, Director of the Institute of Policy Studies and Mr. Casie Chetty, Attorney-at-Law. They produced a comprehensive report entitled Consumer Protection and Fair Trading in Sri Lanka. They made some useful recommendations.

**COMMISSION FOR CONSUMER AFFAIRS AND FAIR TRADING (CCSFT)**

The authors of this report have dealt with the salient aspects of Consumer Protection and Competition Policy (focusing principally on the latter), and have suggested measures that could be adopted by the State to remedy the shortcomings in the prevailing law. It has been recommended that an entirely new body named the Commission for Consumer Affairs

and Fair Trading (CCSFT) should be established combining the functions of the present Department of International Trade and the Fair Trading Commission. Such an agency should have only investigative powers and thus the creation of a Competition Tribunal is suggested. Other innovations recommended are the establishment of a Public Enterprises Monitoring Sections under the aegis of the CCAFT and prove an asset in its functions and the realisation of its intended objectives.

**1. Absence of an Effective Federation of Consumer Associations**

There are about 4000 voluntary consumer associations in Sri Lanka (this figure refers to the year 1987) that functions with the objective of highlighting various complaints of the consumers the Director Internal Trade TI. Only a few are functioning effectively. Recently, steps were taken to bring them under one umbrella.

2. Hence, it was suggested that a Federation of Consumer Associations should be established as a more organised body and it should mobilize more funds in order to conduct an effective campaign among consumers. Moreover, it should have representation in the Ministry of Trade and the new CCAFT.

**The Federation of Consumer Associations of Sri Lanka (FOCAS)**

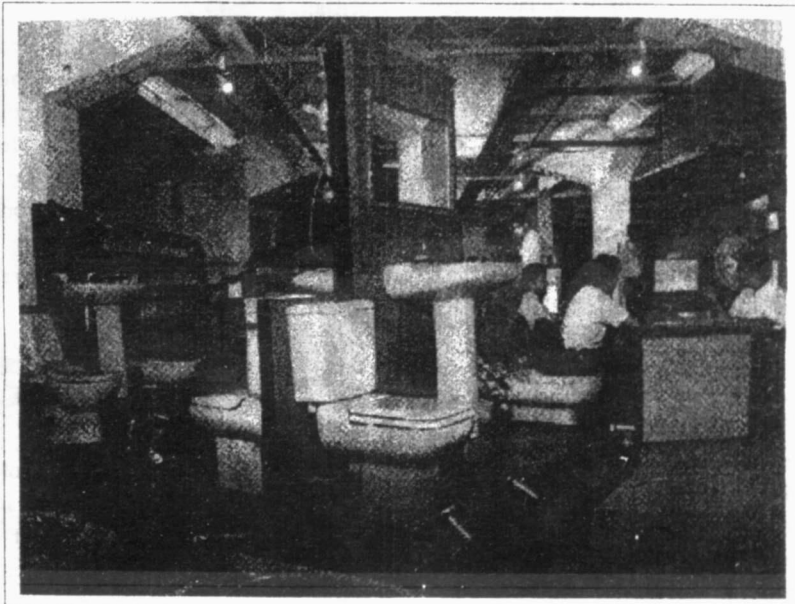
It is against this background that a non-government agency was established as the Federation of Consumer Association of Sri Lanka (FOCAS) in 1996. It binds together about 4,000 voluntary consumers operating in most parts of the country of which about 250 are registered under the Department of Internal Trade.

The Federation was established to be an independent voluntary organisation to represent the consumers through their societies. The Executive Committee is elected from the district units and societies. It is the umbrella organisation registered as Voluntary Social Service/Non-Government Organisation under the NGO National Secretariat Ministry of Social Services Sri Lanka. The Registration Number of FOCAS is L28304.

**3. Objectives of the FOCAS**

Focus is now empowered to be the voice of the consumer societies with the following objectives in its constitution:

- a) to promote and advise consumer association in Sri Lanka that are members of the FOCAS;
- b) to educate consumers on the basic consumer rights of access to safe food, water and durable consumer goods and services;
- c) to improve the quality and standard of goods and services available to consumers and ensure that the standards are acceptable;
- d) to encourage State Institutions and Non-Governmental Organisations (NGOs) further the interest of consumers and consumer associations;
- e) to provide possible solutions to consumers and problems;
- f) to collect and disseminate information relating to consumer laws and practices;



- g) to assist independent consumer associations and NGOs working on consumer issues in promoting consumer interests in national and regional for a;
- h) to act as a forum for the exchange of information and publications;
- i) to publish information on subject concerned with the interests of the consumers;
- j) to give assistance to the development programmes on consumer education;
- k) to help consumer associations to acquire skills on performing their all as consumer "watchdogs";
- l) to disseminate information to the consumer through the publications and media; organising workshops, seminars, conferences, exhibitions, screening of films and such other activities;
- m) to undertake research on consumer needs, protection and make recommendations to the authorities.

### Activities of FOCAS

During the last four years, FOCAS has been active –

- I) it serves as the advisory body to the Ministry of Internal and International Trade,
- II) FOCAS represents the consumer at the National Food Committee and National Codex Committee under the Ministry of Health,
- III) FOCAS represents the Elderly as consumers in the National Committee on Elders – Ministry of Social Services and UNDP,
- IV) organised high-level seminars and workshops in association with the Society for International Development (SID) Human Resources Development Council (HRSD) and the National Institute in Social Development (NISD),
- V) represented consumers at Asian Pacific regional semi-

- VI) promote awareness programmes and training workshops in Colombo and the Districts,
- VII) organised the annual World Consumer Day (15<sup>th</sup> March) celebrations and rally in association with the Sri Lanka Housewives Association and Department of Internal Trade during the last four years,
- VIII) published newsletter and other documents,
- IX) take part in media programmes.

### Consumer Protection Authority

It is to provide for the establishment of the Consumer Protection Authority; for the promotion of effective competition and protection of consumers; for the regulation of international trade; for the establishment of a Consumer Protection Council; for the repeal of the Consumer Protection Act No. 1 of 1979, the Fair Trading Commission Act No. 1 of 1987, the Control of Prices Act No. 29 of 1950; and for all matters connected therewith or incidental thereto.

This proposed bill has been accepted by the Cabinet of Ministers and it was referred to the Ministry of Justice before being introduced in Parliament in June 2001. It is now referred to a Select Committee of Parliament.

### Functions of the Consumers Protection Act –

- (a) control of eliminate:
  - I. restrictive agreements among enterprises;
  - II. arrangements amongst enterprises with regard to prices;
  - III. acquisition or abuse of a dominant position with regard to domestic trade or economic development within the market or in a substantial part of the market; or
  - IV. any restraint of competition adversely affecting domestic or international trade or economic development.

- (b) investigate or inquire into monopolies, mergers and anti-competitive practices and abuse of a dominant position;
- (c) maintain and promote effective competition between persons supplying goods and services;
- (d) promote the interests of consumers, purchasers and other of goods and services in respect of the price, availability and quality of such goods and services and the variety supplied;
- (e) carry out investigations and inquiries in relation to any matter specified in this Act;
- (f) promote competitive prices in markets where competition is less than effective;
- (g) undertake studies, publish reports and provide information to the public relating to market conditions and consumer affairs;
- (h) undertake public sector and private sector efficiency studies;
- (i) promote consumer education with regard to good health, safety and security of consumers;
- (j) promote the change of information relating to market conditions and consumer affairs and other institutions; and
- (k) do all such other acts as may be necessary for the effective discharge of the function of the Authority.

It is hoped that the establishment of the Consumers Protection Authority will usher a new era for consumer protection with proper coordination of activities and peoples participation.

Peoples participation of course has to be effectively organised by the Federation of Consumers Associations (FOCAs) which has to be strengthened at the head office as well as at the level of affiliates, which have to be activated with financial, and human resources.

