

Legal Provisions for Protection of Consumers' Rights and Control of Deception in Bangladesh- Reasons for Concern

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Consumer deception and its protection is an issue of renewed focus in Bangladesh for many years. This paper aims at highlighting the consumer deception areas and the existing consumer protection systems in our country. It also introduces a holistic approach to the protection of consumer deception. The causes of consumer deception, the ways to reduce consumer deception, and the effectiveness of consumer protection laws in country have also been incorporated in the study. In pursuit of the objectives aimed at by the research, both desk study and survey findings have been tried to be corroborated by going through various published materials and conducting empirical survey. Finally, some suggestions have been placed in order to make the consumer protection laws effective and to mollify consumers sufferings from manifold deception practices by the marketers and sellers.

Key words: Legal provision, Consumer deception, Consumer protection, Holistic approach.

Introduction:

Consumer deception indicates a state of affairs wherein the consumers do not get required goods and services as they pay for

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them. Identifying the areas of consumer deception is important in context of development of consumerism. Consumers have not only the right but also have responsibility to protect themselves from deception instead of leaving them to someone else¹. In many countries of the world consumers are highly honored, taken full care of their rights and also considered the kings of market. But in our country it is quite reverse. A great majority of the consumers in our country are still in the dark about their basic rights and obligations. Due to mass illiteracy, particularly the poor and the disadvantaged section, the consumers are not aware and conscious of their rights and responsibilities; as a result they are being deceived. We have legal framework, institutional bodies for the execution of the laws. But it is unfortunate to say that the law implementing bodies in most of the times do not work for safeguarding the interest of consumers. Again the existing laws need amendment to meet the challenges of present market scenario. A holistic approach, incorporating legal provision, Execution of laws by the institutional bodies, Ethical marketing practices by the marketers, and consciousness of consumers has been suggested in this paper for the effectiveness of consumer protection from deception.

Objectives of the study:

The study has been conducted on the basis of some specific objectives. The objectives of the study are enumerated below:

1. To focus on the consumer protection laws in our country.
2. To identify the areas of consumer deception.
3. To high light the factors influencing consumer deception.
4. To suggest a holistic approach to protect consumers from deception.

Research hypothesis:

The study is conducted on the basis of following hypothesis:

H^a: There is no association between consumer protection and

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present mode of execution of law.

H^b: There is no association between consumer protection and existing legal provision.

H^c: There is no association between consumer protection and Ethical marketing practices.

H^d: There is no association between consumer protection and consumer consciousness.

H^e: There is no association between consumer protection and active role of consumer groups.

Methodology of the study:

The study is the product of two methods, i.e. empirical survey and desk study. Both quantitative and qualitative methods have been used to collect data for the empirical study. Data have been collected randomly from 100 sample respondents of Chittagong metropolitan area.

Desk study has been made through finding out and pursuing various books, journals, web materials and articles from the libraries. Primary data have been collected through the use of structured questionnaire. Before the finalization of the questionnaire a pilot survey was conducted. In the light of the results of pilot survey, questionnaire was modified in order to collect necessary data for the research purpose.

The collected data has been processed and checked for ensuring consistency.

In the process of analysis of collected data, various statistical tools like correlation, Kendall coefficient of concordance, hypothesis testing, averages, percentages, tables, graphs, diagrams were applied in order to make the study worthier, informative and useful. Different software such as SPSS, EXCEL has been used in processing data. The collected data were analyzed and interpreted to prepare report on the research topics.

Literature review:

In the absence of appropriate and adequate protective laws, standards and effective implementation of existing laws consumers in our country are helplessly being deceived, cheated and exploited by some dishonest businessman and vested interest groups². The innocent, simple and illiterate consumers are revolving in a vicious circle of food and commodity adulteration, cheating in weighing and measures, hoarding and artificial price-hike etc. It is also added that in the service sectors, the consumers are deprived of their legitimate services even after paying increased costs. The physicians are not sincere in their duties and responsibilities and do not adhere to minimum ethics in their professional practices. Incidence of death due to wrong treatment or intakes of adulterated and counterfeit drugs are common phenomena in our country.

In the name of open market economy foods and commodities are being imported freely. But how much do we know about the standards and quality of these imported commodities? Are we sure that these imported products have undergone any safety and standards tests by any appropriate authority in the testing laboratories? Consumers Association of Bangladesh (CAB) conducted a survey on packaged biscuits of 66 brands (Both imported & locally produced) made of 33 companies in July 2003. The survey revealed that 76% did not have BSTI certification marks and proper labeling, 86% had no expiry date on the label, in 83% cases weight was not mentioned and in 83% cases the sellers are taking high price.

CAB conducted another survey in August- September 2002 on 51 brands of Jams and Jelly of 31 companies and it was found that 52% of Jams and Jelly did not have BSTI certification marks, 13.72% did not mention ingredients, 23.52% did not mention date of production and date of expiry and in 54.90% cases retail price

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was not mentioned on the label³.

In the developed countries there are adequate laws to protect the consumers against violation of their rights and interests. There are separate consumer courts in those countries to deal with cases of violation of consumers' rights and interests. Under this law consumer courts were established all over the country to try cases instituted by the consumers for violation of their rights involved in the purchase and use of commodities and services. Instances are there that physicians had to compensate the patients for medical negligence and wrong treatment, trades and businessmen had to redress the grievances of the consumers by replacing or refunding money to the buyers for defective goods and commodities. In Malaysia, Srilanka and even in Nepal consumer protection laws are in prevalence and being effectively implemented for protection of the rights and interests of the consumers of those countries. But unfortunately in Bangladesh we do not have Consumer Protection Law even after prolonged advocacy and lobbying with the government and policy makers during the last one-decade. However, there are some conventional laws in existence in the country, but these laws are so outdated that little or no protection is provided to the consumers. These laws are also inadequate and do not meet the present needs⁴.

The movement of consumer protection evolved gradually with the increase in the consciousness among the consumers. The first phase began in the early 1990's stirred by rising prices. The second phase took place in mid 1930's due to upturn in consumer prices during economic depression. Third movement started in 1960's with the products becoming more complex, hazardous and growing consciousness of consumers. During 1960 an international organizations of consumers union (IOCU) established in Hague by the efforts of many consumer associations of developed countries.

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Late president John F Kennedy of the USA announced “Consumer Bill of Rights” of 1962. It included; the right to safety, the right to be informed, the right to choose, and the right to be heard.

Moreover, existing literature also points out some factors that influenced consumerism movement such as consumers dissatisfaction with product performance, demand for complains handling, unethical business practices etc.⁵ The rise in the number of educated people increases the demand for quality goods along with unadulterated contents and appropriate weights and measures. It is also said that the low level of education and lack of awareness hinders the growth of consumer movement in Bangladesh. Location of residential areas of the customers affect the choice of products in respects of quality, contents etc. in this regard research revealed that there is a possibility of emergence of consumer awareness that lead to consumerism in urban areas where as, in rural areas the possibility is less⁶.

Deceptive advertising, adopting dishonest means in selling, defective packaging, unfair pricing, low service level, hazardous products, seller consumer communication gap, and information shortage are the factors leading to consumer deception⁷. The price hike, adulterated and imitated article of essential goods flooded the market and no protest and agitation from innocent and silent consumers made the situation worsen⁸.

Inspite of having legal provisions consumers, in case of deceptive practices and the supply of defective goods, the expense of litigation, negligence of law enforcing agencies, lack of knowledge about rights and sociological and psychological factors make the legal support ineffective, especially for the severely disadvantaged consumer⁹. The necessary knowledge of the availability of legal remedy should be disseminated so that people become conscious of their rights and feel encouraged¹⁰. To exercise the right of freedom of choice by the consumers, the disclosure of adequate

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information is required¹¹.

Existing laws on Consumer protection in our country:

-5 : legal basis of consumer protection is found in part III in the constitution of Bangladesh, which deals with fundamental principles of the state policy. Article 18 of the constitution provides that “the state shall regard the raising of the level of nutrition and the improvement of the public health as among its primary duties, and in particular shall adopt effective measures to prevent the consumption, except for medical purpose or for such other purposes as may be prescribed by law if alcoholic and other intoxication drinks and of drugs which are injurious for health.” This article obligates upon the state to take measures for protecting consumers from products, processes and services, which can endanger their health and safety. Apart from the constitutional safeguard there are some specific laws regarding consumer protection, but these laws are so outdated that little or no protection is provided to the consumers. These laws are also inadequate, ineffective and do not meet the present needs as most of the laws are based on contemporary issues. An idea can be obtained about these conventional laws from the following elaboration.

(a) Penal Code 1860: Makes some acts of offences, which are injurious to public health and also make provisions for punishments. It declares the adulteration of food and drinks, selling of noxious food and drinks, adulteration of drugs or medical preparation and selling of such adulterated drugs or medical preparations are punishable offences. Moreover, using false trademark and counterfeiting trademark or property mark are described as punishable offences.

(b) The sale of goods Act 1930: It is a comprehensive law of consumer's rights and defines some conception of consumer rights e.g. contract, condition and warranties, transfer of property title of property, rights & duties of buyers and sellers, right of unpaid sellers against the goods stoppage in transit etc. The most important principal enunciated in the act is Caveat Emptor principle (Let the buyer beware). The rule is as much a cornerstone of the law of consumer protection in the subcontinent for a long time that of England.

(c) The Trademark Act 1940: It provides that every manufactured commodity should have trademark so that consumers may choose and differentiate one commodity from other commodities.

(d) The control of Essential Commodity Act 1956: It empowers the government to declare some commodities to be essential from time to time and to control production, distribution, preservation, use and business of these commodities. It also lays down provision for license and permit system for the control of certain commodities, for compelling the hoarders of essential commodities.

(e) The price and distribution of Essential Commodities Ordinance 1970: It was enacted for ensuring correct price and distribution of essential commodities so that the importers, producers and business may not earned illegal profits. According to this law the price of commodities should be attached to them and the legal list of price should be hanged in an open place and receipt of sale of goods must be delivered to the purchaser.

(f) The drug (control) ordinance 1982: It was promulgated with a view to controlling manufacture, import and distribution of 1707 medicines were prohibited and registration or license with regard to them stood cancelled. It made provisions for punishment for

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drugs, for sale of medicine or import or sale of pharmaceutical material at a higher price for illegal advertisement and claims.

(g) The Breast-Milk Substitute (Regulation of Marketing) ordinance 1984: It was enacted with a view to promoting breast feeding by regulating the marketing of breast-milk substitute through following the general principles of the international code of marketing 1981.

(h) The Tobacco Goods Marketing (Control) Act 1988: It was passed in order to control and discourage the use of tobacco. It always down provision that advertisement displaying tobacco gods must contain the warning notes of "Smoking is injurious to heath".

(i) The Bangladesh Pure Food Ordinance, 1959: This is an ordinance to provide better control of the manufacture and sale of food for human consumption. Now, this Ordinance is under revision as 'The Bangladesh Pure Food (Amendment) Act, 2004. Under this Act, it has been proposed to constitute a National Food Safety Council 'headed by the Ministry of Health and Family Welfare as well as to establish Food Courts.

(j) The Bangladesh Pure Food Rules, 1967: In this Rule, there are generic standards for 107 food products. Now, this 'Rules' is under revision.

(k) The Special Power Act, 1974 (Act No XIV of 1974-as modified up to the 31st July, 1978): An Act to provide special measures for the prevention of certain prejudicial activities, for more speedy trial and effective punishment of certain grave offences.

(l) The Food Grain Supply (Prevention of Prejudicial activity) Ordinance, 1956 (Ord. xxvi of 1979): This ordinance provides special measures for prevention of prejudicial activity relating to the storage, movement, transshipment, supply and distribution of food grains. It provides basis for the protection of false statement

or information.

(m) The Bangladesh Standards and Testing Institution Ordinance, 1985: This ordinance seeks to establish an Institution for standardization, testing, metrology, quality control, grading and marking of goods. Within the framework of this ordinance, Government has established the Bangladesh Standards and Testing Institution (BSTI). One important task is to certify the quality of commodities, materials, whether for local consumption, exports and import. The Ordinance has been amended as The Bangladesh Standards and Testing Institution (Amendment) Act, 2003. Currently, BSTI is developing a 'Policy on Labeling'. BSTI is the Codex Focal Point for Bangladesh.

(n) The Radiation Protection Act, 1987: Under this Act, the Institute of Food and Radiation Biology (IFRB) of Bangladesh Atomic Energy Commission is primarily involved in food radiation research and development in the country.

(o) The Iodine Deficiency Disorders Prevention Act, 1989: The Government has enacted "The Iodine Deficiency Disorders Prevention Act, 1989 for universal salt iodization & banned non-iodized salt from market, aimed at virtual elimination of IDD from the country.

(p) The Essential Commodity Act, 1990: The purpose of administering this act is to stable, maintain or increase supply of essential commodities including foodstuffs. The mandate of Essential Commodity Act also includes broad spectrum of activities like storage, transport, distribution, disposal, acquisition, use or consumption of any essential commodity.

(q) Fish and Fish product (Inspection and Quality Control) Rules, 1997: This section of the Fish and Fish products (Inspection and Control) Ordinance 1983 (Ord. xx of 1983) and in conjunction with fish and fish products Inspection and Quality Rules 1989, and other related provisions made there under, the Government has

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made the Rules: Fish and Fish product (Inspection and Quality Control) Rules, 1997. These Rules are basically meant to develop quality improvement to promote export of trade. The quality control of fish and fish products in the country has earned good reputation of the importing countries.

(r) Other Laws and Regulations:

In addition, a number of other Laws and Regulations are existed in the country to ensure the safe and quality food viz. The Animal Slaughter (Restriction) and Meat Control (Amendment) Ordinance, 1983 (it is under revision); The Pesticide Ordinance, 1971 & the Pesticides Rules, 1985; Destructive Insects and Pests Rules (Plant Quarantine), 1966, amended up to 1989; Agricultural Products Market Act, 1950 (revised in 1985); Fish Protection and Conservation Act, 1950 (amended in 1995); Marine Fisheries Ordinance 1983 and Rules, 1983; Procurement Specifications, Ministry of Food, Rice Mill Control Order etc. To protect the consumers rights and privileges a new Act i.e. Consumers' Protection Act, 2004 is to be passed soon. There are also a number of policies i.e. Bangladesh Food and Nutrition Policy, 1997 and National Plan of Action on Nutrition, National Agricultural Policy, 1999; Integrated Pest Management Policy, 2002 etc are linked with the country's food safety and quality control¹².

The most interesting features of these laws are that aggrieved consumers cannot sue the violators themselves. It is only the designated government officials empowered under these laws, who can initiate and sue the violators. Besides, provision of penalty or punishment is so negligible that nobody cares to abide by the rules under these laws and as such there is no effective implementation of the laws. As a result the consumers in Bangladesh are completely dependent upon the mercy of the business houses, the professionals and the vested interest group¹³.

Considering these issues a research gap has been observed by the

researchers regarding consumer deception and consumer protection laws in our country, which has driven the researcher's motive to conduct a study on the subjected field.

Findings and analysis:

Areas of consumer deception

Consumer deception occurs when the consumers are not served fairly i.e. the consumers are not served as per commitment or do not given due benefit against the consideration (cost). Consumers in our country are deceived in numerous ways like Deceptive packaging, deceptive advertising, excess price charging, adulteration of goods, shortage in weight, misleading information, Misbranding, absence of consumer safety etc. Against this backdrop, the data and information have been shown in table 1—

Areas of consumer deception and their percentages

Areas of consumer deception	Number of samples	Frequency in percentage
Adulteration	73	73
Shortage in weights and measures	62	62
Fraudulence on sold products	53	53
Quoting highly inconsistent price	67	67
Deception in advertisement	71	71
Deceptive packaging	61	61
Misbranding	49	49
False information regarding country of origin	46	46
Lack of post-purchase services	54	54
Counterfeiting in dating	49	49

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Exaggeration	51	51
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Table-1: Source: *Field Survey*

It is evident from table-1 that most of the sample respondents (73%) have identified adulteration as an area of deception. In this regard mobile court operation may play a significant role against food adulteration. Parallel to it the lawmakers need to keep keen attention that as per existing law, the provision for penalty and punishment is nominal and insignificant. False information regarding country of origin has got less importance and identified by 46% of the respondent's as an area of deception. It is further asserted that the other areas of deception are shortage in weights and measures, fraudulence on sold products, quoting inconsistent price, deception in advertisement, deceptive packaging, misbranding, poor sales service, lack of service, counterfeiting in dating and exaggeration which have been identified by 62, 53, 67, 71, 61, 49, 54, 49, and 51% sample respondents respectively. In such a situation in order to reduce the intensity of consumer deception a joint effort of Govt., Ngo's, media publics, law enforcing agencies, consumer groups, and the marketers is needed to create awareness among the consumers about various types of deceptive practices of gray marketers.

Factors influencing consumer deception:

A number of factors that influence consumer deception like- Illiteracy, non-conversance with existing laws, indifference of the law enforcing agencies, lack of consumer consciousness, absence of consumer legislation, absence of consumer interest groups, absence of social accountability, absence of marketing audit etc¹⁴. Deceptive advertising, adopting dishonest means in selling, defective packaging, unfair pricing, impersonal selling, low service level, hazardous products, inflated economy, unpacked-cum-defective goods, absence of competition, seller-consumer

communication gap, technological complexity, and information shortages are the factors leading to consumer deception¹⁵. Researchers also refers to illiteracy, increased tolerance by customers, limited consumer interest groups and customer legislations as factors responsible for customer exploitation¹⁶. In this connection the collected data has been depicted in table-2

Ri	190	432	404	390	451	478	489	753
Rank	1	4	3	2	5	6	7	8
\bar{Ri}	1.9	4.32	4.04	3.9	4.51	4.78	4.89	7.53
Ri^2	36100	186624	163216	152100	203401	228484	239121	567009

Table-2:

Here Ri = Sum of the ranks assigned by the respondents.

\bar{Ri} = Average of ranks

Application of Kendell Co-efficient of Concordance (W):

$$W = \frac{12\sum Ri^2 - 3K^2 N (N+1)^2}{K^2 N (N^2 - 1)} \quad (1)$$

Here, W=the degree of agreement among the respondents in ranking 8 factors

N = Numbers of factors

K= Number of respondents

$\sum Ri^2$ =the sum of the squared sums of ranks of each of the N factors

Therefore, $\sum Ri^2 = 190^2 + \dots + 753^2 = 645097$

From the equation (1) we get,

$$= \frac{1872660}{5040000}$$

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$$= .0372 \text{ (Observed value)}$$

Here, it needs to calculate the observed value of chi-square (χ^2) at N-1 degrees of freedom. The Equation of chi-square is,

$$\chi^2 = K (N-1) W \text{ (2)}$$

-6 So, $\chi^2 = 100 (8-1) \times 0.372$
 $= 260.4$

The critical value of the chi-square at 7 degrees of freedom and at 0.05 level of significance is 14.1. But our observed value of χ^2 is 260.4. So we are confident that the survey among the 100 respondents is significant that proves that the respondents have opined consciously and consistently.

$$r = KW-1/K-1 = 100(0.372)-1/100-1$$

$$= 36.2-1/100-1$$

$$= .366$$

The value of average positive correlation shows that the average inter-respondents agreement concerning factors influencing consumer deception in Bangladesh is .366 or 36.6%. It means that the variables are positively correlated.

Shows the Factors and Ranks Assigned

Rank assigned	Factors
1	Illiteracy
4	Non-Conversance with laws
3	Inefficiency of law enforcing agencies
2	Ineffectiveness of laws
5	Lack of consciousness regarding consumer rights
6	Absence of consumer rights

7	Absence of ethical and social accountability among marketers
8	Increased tolerance of customers

Table: 3, Source: *Field Survey*

How to reduce deception and to revive consumer protection:

In third world countries where there is a continuous struggle to make a trade-off between ends and scarce means, consumer deception is a common phenomena. But by the joint effort and participation of multifarious bodies in the society it is possible to protect and reduce consumer deception. A perusal of existing literature highlights that by strengthening and modifying the existing laws, creating consumer awareness, increasing literacy, mobile court, marketing inspection, flashing market report in the media, monitoring the role of government agencies, empowering the consumer organizations consumer deception can be abased to a considerable extent¹⁷. Based on the existing literature a holistic approach to consumer protection has been suggested and this holistic model has been established by the empirical survey. From the surveyed data the null hypotheses have been proved rejected and alternative hypotheses have been established through correlation coefficient analysis between consumer protection and the variables of holistic model.

The parameters used for measuring consumer protection are;

1. I get the right to safety while I purchase a product.
2. I get the right to be informed while I purchase a product.
3. I get the right to choose while I purchase a product.
4. I get the right to be heard while I purchase a product.

The parameters under holistic model have been measured in the following way;

1. The existing laws are effective to protect consumers.
2. The present modes of execution of laws are effective to protect consumers.
3. The consumer groups play effective role to protect

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- consumers.
- 4. The Marketers are ethical in their activities to protect consumers.
- 5. The consumers are conscious to protect their rights.

The data are collected by using Likert type 5 point scale. 1= strongly agree, 2= agree, 3= no response, 4= disagree, 5= strongly disagree. Data thus collected are tested for validity measurement and validity coefficient $\alpha = .65$

In this way the parameters for holistic approach are tested and the correlation coefficient between consumer protection and the variables under holistic approach has been calculated by using SPSS. The results are shown by the following diagram.

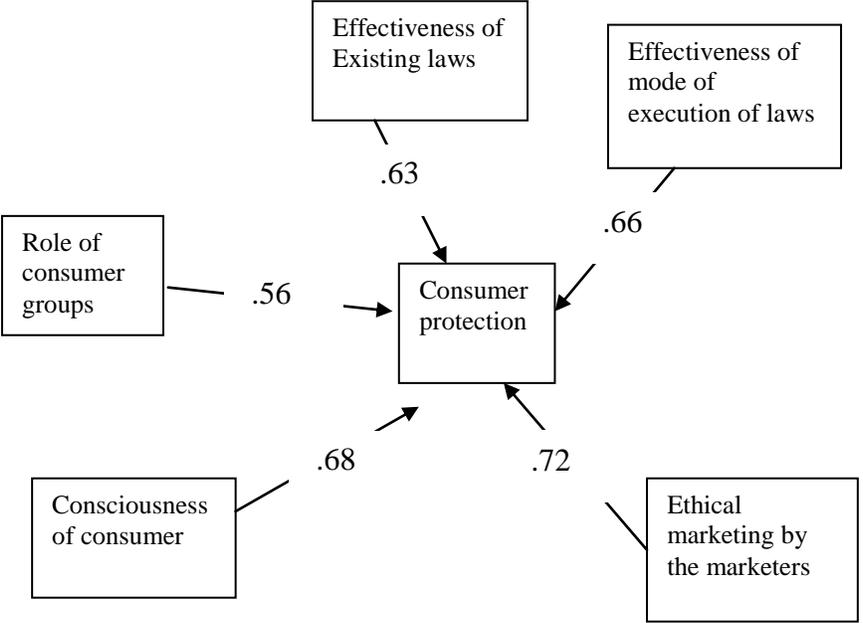


Figure:1 (Holistic approach for consumer protection).

The correlation coefficient from figure:1 shows that at 5% level of significance there is a high degree of association between

consumer protection and the variables of holistic approach for consumer protection. This sort of higher association proves that our null hypothesis H^a , H^b , H^c , H^d and H^e are rejected and alternative hypothesis shall be established.

Consumer’s perception about effectiveness of consumer protection laws:

It is not enough to have laws rather the important matter is whether the laws are effective or not and the laws are implemented properly or not. It is proved from the correlation coefficient that there is an association between consumer protection and effectiveness of law and their execution. However, as our paper lays emphasis on legal aspect of consumer protection, a further test has been carried out through chi-square test to cross validate the relationship between consumer protection and effectiveness of law as well as their execution based on the collected data which is shown in table:4 and table:5.

		Effectiveness of laws		
		High	Low	Total
Consumer	High	25	19	44
Protection	Low	18	38	56
	Total	43	57	100

Table-4. Source field survey

$\chi^2 = 5.97$, and significant at 5% level of significance.

Execution of laws			
	High	Low	Total
	28	20	48
	17	35	52

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Consumer Protection	High	45	55	100
	Low			

Total

Table-5. Source field survey

$\chi^2 = 6.62$, and significant at 5% level of significance.

The test result from table: 4 and 5 suggest that at 5% level of significance, there is a strong association between effectiveness of law & proper execution of consumer protection laws with consumer protection. Therefore, it can be pointed that the policy makers should put due attention on the proper execution of law, and amendment of law as per the demand of time for increasing the effectiveness of consumer protection laws.

Concluding Remarks:

Consumer protection is an issue of social and economic interest. It needs to have a concurrent focus in order to safeguard the consumers from deception. We have the legal framework and also have the institutional arrangement for implementing the protective measures. But unfortunately in most of the cases we observe ineffective and inactive role of the concerned bodies. Moreover, the laxity of patronization to the consumer association is also observed from the part of govt. and non govt. agencies. It needs to have proper nurture, coordination and multi-stake holder participation for effective consumer protection. A number of suggestions may be recommended in order to reduce consumer deception and to revive consumer protection including a reengineering in the legal framework.

- 1) Modification of existing laws
- 2) Strict enforcement of laws by the law enforcing agencies and ensuring their accountability.
- 3) Increasing consciousness among consumers regarding

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consumer rights

- 4) More active role to be played by BSTI
- 5) Empowering the consumer rights to take legal steps against deception.
- 6) Marketing audit should be conducted properly after a certain interval of time and marketing monitoring cell should be established.
- 7) Each and every complaint should be entertained properly.
- 8) Consumer's awareness and attitude of movement should be upheld.
- 9) Patronizing the consumers association to play their role more effectively.
- 10) To motivate the sellers to be ethical in business affairs for long run sustainability of organization.

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