



Awareness and applicability of consumer rights a gender based study of Kashmir

Mansoor Ahmad, Mohammad Rafi

Research Scholar, Department of Sociology, University of Kashmir, Hazratbal Srinagar, Jammu & Kashmir, India

Abstract

It is to be argued that much talked about concept of 'consumer protection' centers around the problems of consumers in a world of sellers; this paper highlights the need for consumer protection. The technological developments have multiplied the need of consumers and have changed the tradition that guided our living in the past. 'The Consumer Protection Act, 1986', as one of the examples that is to be treated as a milestone in the history of socio-economic legislation to protect the interests of the consumers in India. Unlike existing laws which are punitive or preventive in nature, the provisions of this Act are compensatory in nature. The Act is also intended to provide simple, speedy and inexpensive redressal to the consumers' grievances, and relief of a specific nature and award of compensation wherever appropriate to the consumer. This paper is based partly on field work conducted in university of Kashmir Srinagar where 100 female respondents were inquired about consumer protection and partly on reading of secondary sources including news papers, journals, reports and books. The paper explores the awareness of women in Kashmir about the consumer protection, the rights given in the consumer protection act and their usage. While concluding the research paper few suggestions are given for better implementation of consumer protection act at ground level.

Keywords: consumer, goods, rights, gender, Consumer Protection Act (CPA), consumer awareness

Introduction

With the advent of the 20th century due to rapid industrialization and multifaceted development in India after the Independence, there appeared a flood of consumer goods and services in the Indian Market, which almost changed the relationship between the consumer and the trader. Technological advancements in the field of media led to flooding of advertisements of goods and services further worsening the otherwise grim situation. Lack of consumer awareness, illiteracy, poverty, etc. further led to the exploitation of consumers. Awareness of consumer rights varies in different regions in the country. It is very poor especially among the population in rural and far-flung areas of the country. Compared to the developed countries, the levels of consumer awareness in such a vast country with a large population like India is much lower. This is rooted in economic inequality, low levels of literacy and ignorance. Because of this, consumers are not able to assert their rights and on many occasions are exploited by the trade and industry and service providers. The rapid industrial development has not only brought new innovations and products into common use but has also affected the mode and outlook of our living. The simple goods which were catering our needs have been replaced by complex and complicated goods. In view of the socio – economic changes which have taken place in the lives of the people it is imperative to build up a strong and broad based consumer movement which may give impetus and bring about socio- legal measures necessary for consumer protection. Protecting and promoting the welfare of consumers has thus become one of the major concerns and consumer protection act 1986 came into existence. Time has come to relook at this act and its operation on the ground.

Whom we call consumer

Consumer is a person who consumes or uses any goods or services. Goods may be consumables like wheat flour, salt, sugar, fruit etc. or durable items like television, refrigerator, toaster, mixer, bicycle etc. Services refer to items like electricity, cooking gas, telephone, transportation, film show etc. Normally, it is the consumption or use of goods and services that makes the person to be called as 'consumer'. But in the eyes of law, both the person who buys any goods or hires any service for consideration (price) and the one who uses such goods and services with the approval of the buyer are termed as consumers. Under the Consumer Protection Act 1986, the word Consumer has been defined separately for the purpose of goods and services:

- a. For the purpose of goods, a consumer means (i) one who buys any goods for consideration; and (ii) any user of such goods other than the person who actually buys it, provided such use is made with the approval of the buyer. (The expression 'consumer' does not include a person who obtains such goods for resale or for any commercial purpose.)
- b. For the purpose of services, a consumer means (i) one who hires any service or services for consideration; and (ii) any beneficiary of such service(s) provided the service is availed with the approval of such person

Concept of consumer protection and its need

Consumer protection means safeguarding the interest and rights of consumers. In other words, it refers to the measures adopted for the protection of consumers from unscrupulous and unethical malpractices by the business and to provide them speedy redressal of their grievances. The most common

business malpractices leading to consumer exploitation are given below:

- Sale of adulterated goods i.e., adding something inferior to the product being sold.
- Sale of spurious goods i.e., selling something of little value instead of the real product.
- Sale of sub-standard goods i.e., sale of goods which do not confirm to prescribed quality standards.
- Sale of duplicate goods.
- Use of false weights and measures leading to underweight.
- Hoarding and black-marketing leading to scarcity and rise in price.
- Charging more than the Maximum Retail Price (MRP) fixed for the product.
- Supply of defective goods.
- Misleading advertisements i.e., advertisements falsely claiming a product or service to be of superior quality, grade or standard
- Supply of inferior services i.e., quality of service lower than the quality agreed upon.

The above instances show the exploitation of consumers in the context of goods and services. In a democratic nation like India, should we allow this to happen? So the measures adopted by the government or non-government organizations (NGOs) for safeguarding the interests of the consumers constitute consumer protection.

Consumer protection act, 1986

One of the most important milestones in the area of consumer protection/consumer movement in India has been the enactment of the Consumer Protection Act, 1986. This Act has been necessitated because the well-organized sectors of manufacturers, traders and service providers with the knowledge of market and manipulative skills often attempt to exploit the consumers, in spite of the existence of various provisions of different laws for protecting their interests. Moreover, the increase in population has resulted in enormous pendency and delay in disposal of cases in the civil courts. Hence, the Consumer Protection Act, 1986 was enacted to better protect the interests of consumers. It is one of the most progressive and comprehensive pieces of legislation and is umbrella legislation covering all goods and services. This is indeed a very unique and highly progressive piece of social welfare legislation. The provisions of this Act are intended to provide effective and efficient safeguards to the consumers against various types of exploitations and unfair dealings. Unlike other laws, which are basically punitive or preventive in nature, the provisions of the Act are also compensatory. It is a matter of great satisfaction that we have in our country a Statute which provides more effective protection to the consumers than any corresponding legislation in force in other countries, which are considered to be much more advanced and industrialized. The Consumer Protection Act, this Act is the latest development in safeguarding the economic rights of citizens as consumers. It is based on the principle of self-help i.e. a citizen must help himself to protect his rights as a consumer. This is a welcome legislation and redefines the legal relations between consumers of goods and services and

their manufacturers or sellers. The month of December 1986 can legitimately be considered as the Parliament's session for consumer protection when marathon race of legislative activity was undertaken to protect the interests of consumers. The most important features of the Act, which is certainly an improvement over other consumer protection legislations, are that it is applicable even to public sector enterprise, financial institutions and co-operative societies. Secondly, the Act applies to all types of goods and services and it extends to Government services like railway, postal, telephone, telegram, radio, doordarshan, electricity, banks, insurance, etc. Thus the scope of this piece of legislation is much, broader compared to the earlier ones. The Act establishes two council's viz. the Central Consumer Protection Council and the State Consumer Protection Councils comprising official and non-official members to provide a platform for discussing consumer problems and to advise the concerned Central or State Government on policies and programs to safeguard consumers' interest. They have an advisory role to promote and protect the rights of consumers which consists of the right to be informed about the quality, quantity, potency, purity, standard and price of goods, right to be assured access to a variety of goods at competitive prices; right to be heard at appropriate forums; right to seek redressal against unfair trade practices; and right to consumer education. The Act provides for the establishment of adjudicator bodies at three different levels district, state and national. At the bottom, there is the consumer disputes redressal forum (district forum) in each district to be established by the state government with prior approval of the Central Government. The orders of the district forum and state and national commissions are enforceable by them in the same manner as a decree or order of a court; in case of their failure to enforce the order, the same may be sent to the court of competent jurisdiction for enforcement. An order of the national commission, in exercise of its original jurisdiction, is appealable to the Supreme Court within 30 days of its passing

The Salient Features of the Act are as under

- The Act provides for establishing three-tier consumer dispute redressal machinery at the national, state and district levels.
- It applies to all goods and services.
- It covers all sectors, whether private, public or any person.
- The Act provides for relief of a specific nature and also for compensation to the consumer as appropriate.
- The Act also provides for setting up of Consumer Protection Councils at the Central, State and District levels, which are advisory bodies to promote and protect the rights of the consumers.
- The provisions of the Act are in addition to and not in derogation of the provisions of any other law for the time being in force.

Consumer Rights

The importance of consumer rights lies in their enforceability, which in turn depends largely on level of consumer education and awareness. In other words, it is not enough to have dynamic consumer laws in the country. There must be an

equal thrust on education of all citizens on the consumer rights available to them and the mechanisms through which these rights, if violated can be redressed.

The rights of consumer which are being sought to be promoted and protected through the legislative mandate available under the Consumer Protection Act, 1986 inter- alia include:

- a. **Right to safety:** It is the right of the consumers to be protected against goods and services which are hazardous to health or life. For example, defective vehicles could lead to serious accidents. The same is true of electrical appliances with sub-standard material. Only recently, there were mass protests and boycott of soft drinks due to presence of hazardous pesticides beyond permissible limits. Thus, right to safety is an important right available to the consumer which ensures that the manufacturers shall not produce and sell sub-standard and dangerous products.
- b. **Right to be informed:** the right to be informed is an important component of consumer protection. The consumer must be provided with adequate and accurate information about quality, quantity, purity, standard and the price of the goods and services. Now-a-days the manufacturers provide detailed information about the contents of the product, its quantity, date of manufacturing, date of expiry, maximum retail price, precautions to be taken, etc. on the label and package of the product. Such information helps the consumers in their buying decision and use of the product.
- c. **Right to choose:** the right to choose provides that the consumer must be assured, whenever possible, access to a variety of goods and services at competitive prices. If the market has enough varieties of products at highly competitive prices, the buyers have an opportunity of wide selection. However, in case of monopolies like railways, postal service and electricity supply etc. it implies a right to be assured of satisfactory quality of service at a fair price.
- d. **Right to be heard:** the rights to safety, information and choice will be frivolous without the right to be heard. This right has three interpretations. Broadly speaking, this right means that consumers have a right to be consulted by Government and public bodies when decisions and policies are made affecting consumer interests. Also, consumers have a right to be heard by manufactures, dealers and advertisers about their opinion on production, marketing decisions and any grievances of the consumers. Now-a-days, most of the top manufacturers and firms have set up consumer service cells to attend to consumers' complaints and take appropriate steps for their redressal. Thirdly, consumers have the right to be heard in legal proceedings in law courts dealing with consumer complaints.
- e. **Right to seek redressal:** the consumers have been given the right of redressal of their grievances relating to the performance, grade, quality etc. of the goods and services. If required, the product must be repaired / replaced by the seller/ manufacturer. The Consumer Protection Act has duly provides for a fair settlement of genuine grievances of the consumers. It has also set up a proper mechanism

for their redressal at district, state and national levels.

- f. **Right to consumer education:** It means the right to receive knowledge and skill to become informed consumer. In this direction the consumer associations, educational institutions and the policy makers can play an important part. They are expected to impart information and knowledge about (i) the relevant laws which are aimed at preventing unfair trade practices, (ii) the ways and means which dishonest traders and producers may adopt to deceive the consumers, (iii) insistence on a bill or receipt at the time of purchase, and (iv) the procedure to be followed by consumers while making complaints. Effective consumer education leads to an increased level of consumer awareness and help them to enforce their rights more effectively, and protect themselves against fraudulent, deceitful and grossly misleading advertisement, labeling, etc.

Amendments to the act

Though the overall disposal rate and the performance of the Consumer Fora is considered to be impressive, still, the delay in disposal of cases by the redressal agencies at the District, State and National level including the level of pendency has been a cause of major concern for the Government. Therefore, the Government made comprehensive proposals to further amend the Act and brought the Consumer Protection (Amendment) Act, 2002 (62 of 2002). The amended provisions of the Act were brought into force from 15.3.2003. The provisions of the Amendment Act were mainly aimed at facilitating quicker disposal of complaints, enhancing the capability of redressal agencies, strengthening them with more powers, streamlining the procedures and widening the scope of the Act to make it more functional and effective and also to strengthen Consumer Movement at the grass root level. The amended provisions empower the senior most member to preside over the Bench in case the President is absent due to any reason so that the Forum functions uninterruptedly. Further, Presidents of the National Commission & the State Commissions have been empowered to constitute Benches with one or more Members for their effective functioning. As a sequel to the amendment in the Act, Consumer Protection Rules were amended, new provisions introduced wherever it was considered necessary. Similarly, the Consumer Protection Regulations, 2005 was notified by the NCDRC after getting the approval of the Central Government to supplement the Rules in order to provide a uniform procedure for day to day functioning of the Consumer Fora. The Consumer Protection Act was amended in the years 1991, 1993 and 2002 and proposals to further amend the Act are under consideration. The Consumer Protection Act has been amended thrice during the years 1991, 1993 and in 2002. Further amendments to the Consumer Protection Act, 1986 are presently under consideration. These amendments are aimed at:

- a. Widening the scope and amplifying the provisions of the Act,
- b. Facilitating quicker disposal of complaints and
- c. Rationalising the qualifications and procedure of selection of President and Members of the Consumer Fora.

Jurisdiction of consumer courts

The judicial system set up under the Consumer Protection Act, 1986, consists of consumer courts at the district level, state level and national level. These are known as District Forum, State Consumer Disputes Redressal Commission (State commission) and National Consumer Disputes Redressal Commission (National Commission). Any individual consumer or association of consumers can lodge a complaint in writing with the District, State or National level forum, depending on the value goods and claim for compensation, if any.

The district forum has the jurisdiction to deal with all complaints where the value of the goods or services or the compensation claimed does not exceed Rs 20 lakhs. The State Commissions are empowered to deal with cases where the value or amount involved exceed Rs 20 lakh but does not exceed Rs One Crore. The State commissions also deal with appeals the against orders of the District Forum. The National commission has the jurisdiction to take up all claims and grievances exceeding the value of Rs. One crore. It has also appellate jurisdiction, that is, power to deal with appeals against orders passed by State Commissions. An aggrieved party can appeal to the Supreme Court against the orders of the National Commission.

Procedure for redressal of consumer grievances

Consumer complaints can be filed by an individual consumer or association of consumers. The complaint may be filed before the District Forum for the district where the cause of action has arisen or where the opposite party resides, or before the State Commission notified by the State Government or the union territory, or it can be filed before the National Commission at New Delhi. There is a nominal fees charged for filing a complaint. The complaint may be filed by the complainant or his/her authorized agent in person, or it may be sent by post. Five copies of the complaint are generally required to be filed along with the following information.

1. Name, description and address of the complainant;
2. Name, description and address of the opposite party or parties, as the case may be;
3. Facts relating to the complaint and when and where it arose;
4. Documents, if any, in support of the allegations contained in the complaint (like cash memo, receipt, etc.
5. The nature of relief which the complainant is seeking. The complaint should be signed by the complainant or his/her authorized agent.

It has to be addressed to the president of the District Forum or State Commission or National Commission. A complaint is required to be filed within a period of two years from the date on which the cause of action arose. If there is delay and it is excused by the concerned Forum/Commission, the reason must be on record.

Complaints are expected to be decided, as far as possible, within three months from the date of notice received by the opposite parties. For those complaints which require laboratory analysis or testing of products, the period is extended to five months. Depending on the nature of complaint and relief sought by the consumer and facts of the case, the redressed Forum/Commission may order one or more

of the following reliefs:

- a. Removal of defect in goods/deficiency in services.
- b. Replacement of the goods/restoration of the service.
- c. Refund of the price paid for goods or excess charge paid for service.
- d. Compensation for loss or injury suffered.

The Jammu and Kashmir Consumer Protection Act 1987

The Jammu and Kashmir Consumer Protection Act 1987 was enacted in J&K to provide for better protection of the interests of Consumers. It was enacted one year later to Indian enactment in 1986 owing to its disputed nature between India and Pakistan recognized by United Nations. It was enacted to promote and protect the rights and interests of Consumers by providing them speedy and simple Redressal of their grievances. Thus quasi judicial machinery came into existence in the State with the enactment of this Act. This Machinery observes the principal nature justice with the intention to provide a time frame to file reply, expediting the hearing of matters and avoiding unnecessary adjournments. Initially one State Consumer Disputes Redressal Commission at State level and two Division Consumer Forums at two divisions of the State viz Jammu/Kashmir level were established. The State Commission comprises of one president and two members. The president happens to be a person of the rank of a High Court Judge. Whereas the members shall be persons of ability, integrity and having adequate knowledge of Law. The State Commission can entertain any complaints coming within the preview of its pecuniary jurisdiction and can entertain an appeal against the orders of Divisional Forums. The two Divisional Forums viz Jammu/Kashmir comprised of one president who happens to be the rank of the District and Sessions Judge and two members who are persons of ability, integrity with adequate knowledge of Law. The Divisional Forums can entertain complaints where the value of goods/services or compensations comes within preview of its pecuniary jurisdiction. The Jammu and Kashmir Consumer Protection Act 1987 was amended in the year 2002 paving way for the establishment of District Consumer court in each District of the State. With the coming into force of J&K Consumer Protection (amendment) Act 2002, the two Divisional Consumer Forums at Divisional level in the State has ceased to exist and in their place District Consumer Courts have been established under SRO 361 dated:-30-12-2011 in each District of the State headed by the President, who happens to be the District and Sessions Judge concerned and two members. The Consumer Protection Act 1987 provides for establishment of Consumer Protection Councils a State and District levels respectively. The objects of these Councils are to promote and protect the rights of the Consumers. These include rights to be protected against marketing of Goods which are hazardous to life and property, rights to be informed about the quality, quantity, potency, purity, Standards and price of goods protecting the consumers against unfair trade practices, right to assured to a variety of goods, right to be hazard that consumers will receive due consideration etc. The State has constituted State Councils as well as District Councils. The State Councils is headed by Minister In charge of the Department of Food and Civil Supplies who shall be its chairman and such number of other

official/non-official representing such interests as may be prescribed. The District Councils consists of Deputy Commissioner of the District and such number of other official/non-official representing such interest as may be prescribed.

Objectives of present study

1. To find the awareness about consumer protection act 1987 among females in Kashmir.
2. To find the awareness of females in Kashmir about consumer rights enshrined in the consumer protection act 1987.
3. To find the usage of consumer rights by the females in Kashmir.

Methodology

To know the ground operation and awareness about Consumer Protection Act among the women in Kashmir, a fieldwork was taken to obtain the facts by using interview schedule. The researcher interacted with 100 women respondents and inquired about different aspects of consumer protection, like Awareness about consumer protection, consumer rights and consumer court etc.

The information concerned regarding the research study would be supplemented with the secondary data gathered from books, research papers, journals and other related material available on the subject.

Major findings of the study

Consumerism is a social and economic command that is based on the systematic formation of a desire to buy goods and services in better amounts. Women play an essential role to functioning in their family. Women who are working outside of home face the added problem of time constraints. Certain purchases may be made to save time and energy when women are squeezed between work and family responsibilities. The females need to aware of the consumer rights. Safe and fair financial services is important for consumers especially in

women consumers, in some situations they may be offered substandard products, overpriced, unsafe or worthless by the product manufacturers. Several products which are offered not even registered with standards and quality in the market. Not only the legislation but its effective implementation is very important. If consumer courts would be operational in every province, it would bother one to file a case against any manufacturer, protection of consumers from various unfair trade practices. The worst affected victims of these commercial organizations need to be protected and the consumer is protected through consumer protection. The exploitation of the consumers by manufactures and businessmen by producing sub standard goods, malpractices, cheating and hiking of price etc. necessitated the researcher to conduct this study in order to find out the awareness among females about consumer rights.

To know the ground operation and awareness about Consumer protection Act (CPA) among the women in Kashmir a fieldwork was taken to obtain the facts. The researcher interacted with 100 women respondents and inquired about different aspects of consumer protection. The areas about consumer protection which were inquired by the researcher are tabulated below with number and percentage of respondent;

Table 1

Do you know anything about consumer protection?	No. of Respondents	Percentage
Yes	15	15%
No	85	85%
Total	100	100

From the above table it is evident that only 15% women are aware about consumer protection. It showed that even educated women of Kashmir are not aware about consumer protection.

Table 2

Do you know about consumer rights given in the consumer protection act?	No. of Respondents	Percentage
Yes	8	53.3%
No	7	46.7%
Total	15	100

Out of 15 women respondents just 8 (53.3%) were aware about the consumer rights enshrined in Consumer Protection

act 1987 and rest were not familiar with the Consumer rights provided by Consumer Protection act.

Table 3

Is some awareness provided about CPA by state authorities?	No. of Respondents	Percentage
Yes	15	15%
No	85	85%
Total	100	100

State govt. has miserably failed in educating people especially women about consumer rights as is evident from the table above. Mere percentage of 15 was aware about the awareness

programs organized by state authorities. This clearly shows concerned authorities at govt. or state level are not interested to aware consumers of their legal rights.

Table 4

Are you satisfied with information given by the state authorities about CPA?	No. of Respondents	Percentage
Yes	15	15%
No	85	85%
Total	100	100

As is evident from the table 4, majority of respondents (85%) were not satisfied with the state authorities as far as information regarding CPA is concerned. There is dire need of mass campaign related to the consumer rights at local as well

as at state level. It also indicated consumers are denying of their basic rights by not providing them relevant information about their rights as consumers.

Table 5

Have you ever been deceived by the seller or any service provider?	No. of Respondents	Percentage
Yes	29	29%
No.	71	71%
Total	100	100

Out of total sample 29% respondents were deceived by the seller or any service provider. Majority were not deceived most of them were unaware about their consumer rights. May

be they were deceived by seller or service provider but due to lack of knowledge about consumer rights they are not aware of that.

Table 6

If yes have you moved to consumer court?	No. of Respondents	Percentage
Yes	04	13.8%
NO	25	86.2%
Total	29	100

Those respondents who were deceived by the seller or service provider were further asked whether they moved to consumer court and only 13.8% revealed that they moved to consumer

court. Majority of 86.2% were reluctant to go to the consumer court because of various reasons given in below table 7.

Table 7

When received Why you don't go to consumer court?	No. of Respondents	Percentage
Being women it is not looked good in our culture to be involved in court cases	19	76%
It is lengthy process costs much than we actually have lost.	06	24%
Total	25	100

In Kashmir the court going is not seen as a welcome gesture but is detested one for men. being a conservative society it is too difficult for a women to be seen around the court, which has been inferred from the table 7 above. 76% of respondents revealed that women who get involved in court cases is looked down in our society, it is considered against the cultural ethos of our society. And 24% respondents opined involving in court cases is lengthy process.

for their grievances.

The summary of overall findings of the study as under

- Awareness of females about the consumer protection is very low (15%) and hence are less educated about their consumer rights.
- Out of 15% who know about consumer protection only 53.3% of women are aware about their consumer rights.
- The state government has failed to educate the masses in the Kashmir valley and especially female who are not satisfied (85%) with govt. awareness programmes and mechanism.
- Females who are aware about consumer rights are hindered by their culture to move to consumer courts as the Kashmiri culture on whole doesn't like to be involved in court cases.
- The speed of solving the cases is very slow which too creates a negative attitude among the females to move for consumer courts.
- Females of Kashmir are less interested to get involved

Table 8

After moving to court, Do you have the justice?	No. of respondents	Percentage
Yes	1	25%
No	3	75%
Total	4	100

After moving to court, spending lot of money and time only 25% of respondents were able to get justice. This indicates the pace of consumer courts to deliver justice. This is one of the major reasons people prefer to avoid going consumer courts

any case to be solved by court and they trust more on shopkeeper, seller or service provider.

Conclusion and Suggestions

The efficient and effective programme of Consumer Protection is of special significance to all of us because we all are consumers. Even a manufacturer or provider of a service is a consumer of some other goods or services. If both the producers/ providers and consumers realize the need for co-existence, adulterated products, spurious goods and other deficiencies in services would become a thing of the past. The active involvement and participation from all quarters i.e. the central and state governments, the educational Institutions, the NGO's, the print and electronic media and the adoption and observance of a voluntary code of conduct by the trade and industry and the citizen's charter by the service providers is necessary to see that the consumers get their due. The need of the hour is for total commitment to the consumer cause and social responsiveness to consumer needs. This should, however, proceed in a harmonious manner so that our society becomes a better place for all of us to live in.

Suggestions

- A campaign should be set in motion to involve each and every consumer for making them more conscious and aware of their right and responsibilities.
- Educate consumers to develop an understanding about their responsibilities as consumers.
- Government should make and implement rules of punishment more harsh so that manufacturer and shopkeeper think twice before adopting fraudulent practices
- Consumer should organize together to develop the strength and influence to promote and protect their own interest.
- Redress procedure should be made more logical, easy enough to be understood by a large number of consumers. Further procedures shall so designed as to have easy handling and quick disposal of cases.
- Government and other consumer agencies should make efforts in the direction of propaganda and publicity of district forum, state and national judiciary established for consumer protection so as to make more and more consumer aware about machinery for their greater involvement and to seek justice in case of grievances.
- Seminars and workshops should be conducted in universities, colleges and schools in order to make awareness about consumer rights and consumer protection Act. to make it more successful.

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