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*Let noble thoughts come to us from every side*  
*Rig Veda*

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# ECONOMIC INDICATORS

| ANNUAL INDICATORS  | Units        | 2000-01 | 2001-02 | 2002-03 | 2003-04 | 2004-05  | 2005-06  | 2006-07  | 2007-08  | 2008-09 (Proj.) |
|--|--------------|---------|---------|---------|---------|----------|----------|----------|----------|-----------------|
| Population (as on 1 Oct)                                   | in crores    | 101.9   | 103.8   | 105.5   | 107.2   | 108.9    | 110.6    | 112.2    | 113.8    | 115.4           |
| GDP at current market prices (new series)                  | Rs. crore    | 21,023  | 22,790  | 24,546  | 27,546  | 31,494   | 35,803   | 41,458   | 47,131   |                 |
| GDP: Per Capita (current prices)                           | Rupees       | 20,631  | 21,955  | 23,266  | 25,696  | 28,920   | 32,372   | 36,950   | 41,416   |                 |
| Gross domestic savings (current prices)                    | % of GDPmp   | 23.7    | 23.5    | 26.4    | 29.8    | 31.8     | 34.3     | 34.8     |          |                 |
| Gross domestic capital formation (cur. pr)                 | "            | 24.2    | 24.2    | 25.2    | 26.8    | 31.6     | 34.5     | 36       | 37.5     |                 |
| Central Govt. Gross Fiscal Deficit                         | "            | 5.7     | 6.2     | 5.9     | 4.5     | 4        | 4.1      | 3.4      | 3        |                 |
| <b>Sectoral shares (of GDPfc at current prices)</b>        |              |         |         |         |         |          |          |          |          |                 |
| Agriculture & allied                                       | % of GDPfc   | 23.4    | 23.2    | 20.9    | 21.0    | 19.2     | 18.8     | 18.3     | 17.8     | -               |
| Industry   | "            | 26.2    | 25.3    | 26.5    | 26.2    | 28.2     | 28.8     | 29.3     | 29.4     | -               |
| Services   | "            | 50.5    | 51.5    | 52.7    | 52.8    | 52.6     | 52.4     | 52.4     | 52.8     | -               |
| <b>Prices (Annual Average)</b>                             |              |         |         |         |         |          |          |          |          |                 |
| WPI of All commodities (wt 100.00)                         | Apr 1993=100 | 155.7   | 161.3   | 166.8   | 175.9   | 187.2    | 195.5    | 206.1    | 215.9    | -               |
| CPI-IW General index: India                                | Jul 2001=100 | 95.93   | 100.07  | 104.05  | 108.07  | 112.2    | 117.2    | 125.0    | 132.75   | -               |
| <b>Agriculture: Production</b>                             |              |         |         |         |         |          |          |          |          |                 |
| Foodgrains   | mln. tns.    | 196.8   | 212.9   | 174.8   | 213.2   | 198.4    | 208.6    | 217.3    | 230.7    | 235.2           |
| Cereals  | "            | 185.7   | 199.5   | 163.7   | 198.3   | 185.2    | 195.2    | 203.1    | 215.6    | 220             |
| Rice   | "            | 85.0    | 93.3    | 71.8    | 88.5    | 83.1     | 91.8     | 93.4     | 96.4     | 99              |
| Wheat  | "            | 69.7    | 72.8    | 65.8    | 72.2    | 68.6     | 69.4     | 75.8     | 78.4     | 80              |
| Pulses   | "            | 11.1    | 13.4    | 11.1    | 14.9    | 13.1     | 13.4     | 14.2     | 15.1     | 15              |
| Oilseeds   | "            | 18.4    | 20.7    | 14.8    | 25.2    | 24.4     | 28.0     | 24.3     | 28.8     | 31              |
| Sugar cane   | "            | 296.0   | 297.2   | 287.4   | 233.9   | 237.1    | 281.2    | 355.5    | 340.6    | 314             |
| <b>Industry &amp; Energy</b>                               |              |         |         |         |         |          |          |          |          |                 |
| "Index of industrial production (wt 100) (Annual Average)" | Apr 1993=100 | 162.69  | 166.99  | 176.64  | 188.97  | 204.8    | 221.52   | 247.05   | 268.02   | -               |
|  | % change     | 5.1     | 2.6     | 5.8     | 7.0     | 8.4      | 8.2      | 11.5     | 8.5      | 4.5             |
| Commercial energy production                               | MTOE #       | 230.88  | 237.93  | 246.86  | 259.22  | 272.05   | 283.94   | 298.62   | 309.53   | -               |
| Electricity generation by public utilities                 | bln. kwh     | 501.2   | 517.4   | 532.7   | 565.1   | 594.5    | 623.8    | 662.5    | 704.5    | -               |
| <b>External Transactions</b>                               |              |         |         |         |         |          |          |          |          |                 |
| Exports  | US \$ mln.   | 44,147  | 43,958  | 52,823  | 63,886  | 83,502   | 1,03,075 | 1,26,276 | 1,59,089 | 1,71,000        |
| Imports  | "            | 50,056  | 51,567  | 61,533  | 78,203  | 1,11,472 | 1,49,144 | 1,85,081 | 2,38,605 | 2,75,000        |
| Forex reserves ^   | "            | 39554   | 51049   | 71890   | 107448  | 135571   | 145108   | 191924   | 299147   | -               |
| Foreign direct investments in India (net)                  | "            | 4031    | 6125    | 5036    | 4322    | 5987     | 8901.0   | 21991    | 32327    | -               |
| Portfolio investments in India (net)                       | "            | 2760    | 2021    | 979     | 11356   | 9311     | 12494    | 7004     | 29096    | -               |
| Rupee exchange rate (Annual Average)                       | Rs / USD     | 45.61   | 47.55   | 48.30   | 45.92   | 44.95    | 44.28    | 45.28    | 40.24    | -               |

| Indicators: Monthly                        | Units         | Jul-07    | Aug-07 | Sep-07    | Oct-07 | Nov-07    | Dec-07 | Jan-08    | Feb-08 | Mar-08    | Apr-08 | May-08    | Jun-08 | Jul-08    | Aug-08 | Sep-08    | Oct-08 | Nov-08 | Dec-08 |
|--|---------------|-----------|--------|-----------|--------|-----------|--------|-----------|--------|-----------|--------|-----------|--------|-----------|--------|-----------|--------|--------|--------|
| <b>Prices</b>                              |               |           |        |           |        |           |        |           |        |           |        |           |        |           |        |           |        |        |        |
| "Wholesale price index (All Commodities)"  | 1993-94=100   | 213.6     | 213.8  | 215.1     | 215.2  | 215.9     | 216.4  | 218.2     | 219.9  | 225.5     | 228.5  | 231.1     | 237.4  | 240       | 241.2  | 241.5     | 239    | 234.6  | -      |
|  | % change      | 4.71      | 4.14   | 3.51      | 3.13   | 3.25      | 3.83   | 4.47      | 5.27   | 7.52      | 8.04   | 8.86      | 11.82  | 12.35     | 12.85  | 12.29     | 11.08  | 8.66   | -      |
| <b>Agriculture</b>                         |               |           |        |           |        |           |        |           |        |           |        |           |        |           |        |           |        |        |        |
| Actual rainfall (All-India)                | Millimetres   | 259       | 299    | 194       | 75     | 14        | 16     | 19        | 19     | 32        | 37     | 38        | 159    | 276       | 249    | 175       | 62     | 14     | 22     |
| Dev. from normal rainfall                  | Per cent      | 0         | -2     | 14        | -22    | -49       | 1      | -19       | -14    | 21        | -15    | -31       | 22     | -15       | 2      | 0         | -40    | -54    | 5      |
| Stock of Rice (Central pool)               | mln. tns.     | -         | 6.67   | -         | 10.65  | 10.05     | 11.15  | -         | -      | 13.84     | 12.86  | 12.13     | -      | 9.793     | 8.472  | -         | -      | -      | -      |
| Stock of Wheat (-do-)                      | mln. tns.     | -         | 10.862 | -         | 9.02   | 8.36      | 7.352  | -         | -      | 5.8       | 17.69  | 24.12     | -      | 24.38     | 23.259 | -         | -      | -      | -      |
| <b>Investments (CMIE CapEx database)</b>   |               |           |        |           |        |           |        |           |        |           |        |           |        |           |        |           |        |        |        |
| "Project investments outstanding* (as on)" | Rs. crore     | 14,86,938 |        | 13,82,121 |        | 15,03,040 |        | 19,31,500 |        | 27,61,339 |        | 42,93,108 |        | 61,18,218 |        | 72,20,144 |        |        |        |
|  | project count | 5,805     |        | 6,942     |        | 8,835     |        | 9,434     |        | 9,688     |        | 12,281    |        | 14,501    |        | 15,835    |        |        |        |

Note: (a) % change is year on year (y-o-y) basis; (b) # MTOE: Million Tonnes of Oil Equivalent; (c) ^ Total value of foreign currencies held by Govt. of India (excl. gold & SDRs); (d) \* It is the sum total of the project costs of all the outstanding (Live) capital expenditure projects happening in the country. These projects may be under announced or under-implementation stage.

Source: i3 (i-cube) at Planning Commission, New Delhi, Centre for Monitoring Indian Economy (CMIE)



## About the Issue

‘Consumerism’, importance of consumers in the market, increasing awareness among consumers are some important recent milestones in the development of the consumer movement in our country. India is fast being recognised as a major hub for all businesses and consumer goods. The presence and influence of the market has thus grown dramatically in consumer life.

Guided by Gandhiji’s vision of ‘consumer is king’, many businessmen including the late J.R.D.Tata and the late Jammalal Bajaj helped develop an ethical code for business practice, to build bridges between consumers and businesses. However, the inherent profit motive in mass production and sales also offers the opportunity to many manufacturers and dealers to exploit consumers. Problems of under-weight content, inferior quality and sub-standard quality standards specified by quality-control agencies make consumers get less than the value for their money and suffer losses and inconvenience. Every day, unscrupulous market practices are finding their way into consumer homes, violating consumer rights and jeopardising their safety. The advancement of technology and advent of sophisticated gadgets in the market and aggressive marketing strategy in the era of globalization has not only thrown open a wide choice for the consumers but at the same time also rendered the consumer vulnerable to a plethora of problems. Though various forms of accepted standardized ‘marks’ have been introduced and the public at large is duly informed, it remains to be seen how often even big, accepted brands slip on quality control.



The need for empowerment of consumers as a class cannot be overemphasized and is already well recognized all over the world. The level of awareness of the consumer can be taken as an indicator of the progress of a country. Be it medicines, electronic goods, Fast Moving Consumer Goods or even services rendered – each of these demand that consumers become aware of their rights. In order to safeguard consumer interest, six consumer rights were initially envisioned by consumer rights activists of the West, namely: Right to Safety, Right to Information, Right to Choice, Right to be Heard, Right to Redress and Right to Consumer Education. In time, two more important rights were added viz.: Right to Basic Needs and the Right to a Healthy and Sustained environment. These two rights are very closely linked with the realities of developing countries where environment plays a very important role as a resource and support-structure for the people.

The Rights of Consumers need due protection. In India, this protection is provided through Consumer Courts constituted under the Consumer Protection Act (1986), functioning at national state and district levels. This issue of Yojana puts together write-ups on XIth Plan focus on Consumer Affairs, Consumer Laws, state of consumer courts, problems and challenges in regard of consumer protection, legal and ethical aspects of advertising, consumer redressal system, accountability of service providers, the roadmap ahead along with other regular columns. We hope our Readers will find these both informative and empowering. □

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YE-2/09/3

## Consumer Protection – Framework of the National Policy

*Yashwant Bhawe*



***There is also greater competition in the provision of goods and consumers – both within the country and from imports. All of this augurs well for making the vision of Gandhiji a reality***

**C** O N S U M E R PROTECTION in India has gathered momentum since 1986. This was the year in which the Consumer Protection Act was passed. Quite naturally, this marks a watershed and since then the role of the Government in protecting consumers has been steadily growing.

### **Historical perspective: I – the consumer in Arthashastra**

The code for the consumer movement is as old as trade and commerce itself. It therefore, comes as no surprise that Kautilya, the great thinker and author of Arthashastra has made considerable references to protection of consumers in this book. Kautilya makes references to protection of consumers against malpractices and exploitation by trade and industry. He also writes with great insight on problems of short weight and measures as

well as adulteration. He recognized the need for punishment for these offences. It can thus be seen that problems that we are tackling today existed many centuries back. Not only was it known to exist but be practitioners of public management recognized the need to do something about these problems.

### **Historical perspective: II – the consumer in Gandhiji's eyes**

Gandhiji was not only a great leader but also a forward looking thinker. His empathy with the weak, neglected and marginalized is well known. He very clearly recognized the importance of keeping the consumer in sharp focus while undertaking economic actions. His famous quotation bears repetition :

“A consumer is the most important visitor in our premises. He is not dependent on us, we are dependent on him. He is not an

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The author is Secretary, Department of Consumer Affairs, New Delhi.

interruption to our work; he is the purpose of it. He is not an outsider to our business, he is a part of it. We are not doing him a favour by serving him; he is doing us a favour by giving us an opportunity to do so”

Thus the idea of consumer satisfaction and consumer protection is not new in India and has continuously been recognized as an important issue.

### **International Perspective**

Towards the latter part of the 20th century these ideas grew all over the world. There was the famous speech of John F Kennedy recognizing the four rights of the consumers. Leading thinkers outside Government also picked up the thread. Thus Michael Porter in his book “ The Competitive Advantage of Nations” recognized the role of the consumers in his now famous Diamond Model. It was recognized that countries that have demanding consumers have better quality products. This gives these countries a competitive edge. Thus not only does better quality help the consumers but it also helps the producers. Hence, according to Porter, discerning consumers are one of the necessary ingredients for the competitiveness of nations.

Very often it is argued that the interests of consumers and producers are antithetical. Thus if a consumer gains by some development the producers is believed to have lost. And Vice Versa. Thus the relationship between a consumer and a producer is regarded as a zero sum game. This is simply not correct. As argued so eloquently

by Porter both would benefit by improving the quality of goods and services. Certainly there could be cases where a consumer is simply cheated by a producer or trader – but this is not a sustainable model of growth and development. Only a handful of fly-by-night operators would use such tactics. Serious long term players would need to invest heavily in keeping their flock of consumers happy and satisfied.

### **Consumer entitlement and empowerment**

Increasingly the Indian consumer is offered a variety of product and service offerings. The customer has to choose between the various options before him/her. Competition is expected to drive prices and quality to acceptable levels. However a key element of competition is information. Unless consumers have access to timely and reliable information they will not be able to make the right choices. Consumers being a largely unorganized group the Government has to step in and correct the asymmetry of information that exists in the market. Thus one of the important constituents of our policy is to enable consumers to have access to such information.

The first of the measures that we have been taking is to ensure that the consumer has access to certain basic information about the products he/she is buying. The Standards of Weights and Measures Act, 1976 provides the legal framework for ensuring reliable weighment and measurement of articles sold in the market. The

Legal Metrology Department at the Centre and the states is charged with this responsibility. Only machines that are stamped for accuracy by the department can be used for measurement. In addition under the Packaged Commodities Rules framed under the Act all packaged commodities have to display certain basic information like the quantity, Maximum Retail Price, name and address of the manufacturer/importer, helpline number for complaints/assistance etc. These rules are supplemented by rules framed under other Acts like the Prevention of Food Adulteration Act, Drugs and Cosmetics Act which require additional information like ingredients, expiry or best before dates.

The second part of this aspect of our policy is to lay down standards. This is done by the Bureau of Indian Standards which is a statutory body under the BIS Act 1986. Most of the standards are voluntary but some are mandatory. Articles whose consumption can affect health and safety are considered for being made mandatory. Drinking water and electrical appliances are two such articles which cannot be manufactured without a license from BIS. These articles are then marked with the ISI mark so that consumers know that a certain safety standard has been assured.

Thus with the help of the Legal Metrology Department and the BIS consumers are guided with information about the quality, price, quantity and other crucial

parameters to make informed choices. This would also help to empower the consumer to know his entitlement and take steps to ensure that his rights are protected.

### Consumer Awareness

While the framework given sets out the entitlement of the consumer it is equally important that the consumers is made aware of these rights. A constant awareness campaign is thus absolutely necessary. This is aimed at guiding the consumers on what he/she should expect and what they can do to ensure that their rights are respected.

This has to be complemented by policies that seek to encourage a healthy growth of voluntary consumer organizations. These organizations complement the efforts of the Government by providing guidance and support to the individual consumers who do not have the resources to access all the information that they should rightfully possess.

### Grievance Redressal

Where a consumer does not approve the goods or services offered by a seller he/she would look at other sellers. However in many cases the consumer finds a deficiency after purchase. Or in the offering itself he/she finds a

fundamental defect that violates the law. In such cases there must be a mechanism by which the consumer can get relief. The Consumer Protection Act, 1986 provides the framework for this. Under the Act there are consumer courts at the District, State and National level. The District fora have jurisdiction upto Rs 20 lakhs, the State fora have jurisdiction upto Rs one crore and beyond that cases come to the National Commission. The Act lays down the type of practices against which consumers can seek relief. These courts have played a very important role in ensuring that the rights of the consumers are protected.

### XI Plan programme

The XI plan has seen a quantum jump in the planned activities of the Department of Consumer Awareness. This can be readily gauged from the table below:

Thus in the first two years of the plan itself we would have spent more than what was spent in the entire X Plan period. In the X plan itself the expenditure was far in excess of what was originally planned. Now in the remaining part of the XI Plan we would be spending , on an average, every year more than what was spent in the entire stepped up X plan period.

|                    | <b>Tenth Plan<br/>(Rs crore)</b> | <b>Eleventh Plan<br/>(Rs crore)</b> |
|--------------------|----------------------------------|-------------------------------------|
| Planned Outlay     | 55                               | 1083                                |
| Revised outlay     | 283.27                           | NA                                  |
| Actual Expenditure | 257.42                           | 268 (EXPECTED<br>UPTO 31/3/09)      |

**The major activities in the XI Plan are the following:**

### CONSUMER ENTITLEMENT AND EMPOWERMENT.

#### Weights and Measures

This part of the department has seen the sharpest increase in the level of activity. From a mere Rs 7.7 crores in the X Plan the outlay has been ramped up to Rs 187 crores in the XI Plan. In the first year of the XI Plan alone an expenditure of Rs 10.25 crores has been incurred and a further Rs 23.4 crores will be spent in 2008-09. The main thrust in this sphere is to modernize the department at the centre and the states. Corresponding investments will also be made in skill upgradation of the personnel. This also proposed to be complemented by a revision in the legal framework and a new Bill – the Legal Metrology Bill, 2008 was introduced in the Rajya Sabha on October 24th, 2008.

#### Standards and testing

The BIS is being strengthened by a scheme for improving the system of National standardization, keeping track of international developments in the fields of standards, better training facilities etc. The total XI plan outlay is Rs 120 crores as against the X Plan outlay of Rs.5.75 crores. Changes are also contemplated in the BIS Act, 1986 which has not been amended since inception. These changes are expected to bring in greater flexibility in adapting to the rapidly changing international environment.

The department also has a testing facility called the National Test House (NTH) which has its headquarters at Kolkata and labs in different parts of the country. These labs are being

modernized at a total cost of Rs 75 crores in the XI Plan – against the outlay of Rs.25 crores in the X Plan.

## **CONSUMER AWARENESS AND GRIEVANCE REDRESSAL**

### **Publicity**

A major thrust is being given to inform consumers about their rights, the way to get their grievances redressed. Going beyond the activities of this department the XI Plan programme will also cover publicity about other departments like housing telecom, education, energy etc. The main theme of this campaign is “Jago Grahak Jago” which has now become widely popular. The total outlay for this activity is Rs 409 crores as against the X plan outlay of Rs 148 crores.

### **Consumer Protection**

Under this component the

various consumer fora would be strengthened by providing buildings, computerization, training. In addition helplines would be set up in the States to guide consumers (there is at present only one National Helpline working at Delhi). The total outlay for these activities is Rs 185 crores against the X Plan outlay of Rs 90 crores. The Plan activities are also proposed to be complemented by amending the Consumer Protection Act. These amendments and plan activities are expected to cut down delays and give the consumer access to much better information

### **Non Plan activities**

These plan activities would be complemented by non plan activities. The major part on this side would be the use of the Consumer

Welfare Fund to support voluntary consumer organizations in activities like comparative testing, awareness generation, research and consumer assistance.

It may thus be seen that in the XI Plan period we have an ambitious programme for expanding and modernizing the institutions of this department. This covers all facets of the policy for consumer protection – entitlement, empowerment and grievance Redressal. With the march of technology it is becoming easier to network and share information. There is also greater competition in the provision of goods and consumers – both within the country and from imports. All of this augurs well for making the vision of Gandhiji a reality. □

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YE-2/09/6

## Evolution of Consumers Laws

*Mahendra K Singh*

*This article is an effort to briefly analyze the development of consumer law in modern India and an attempt is made to discuss the legal framework of the CPA 1986 which led to the evolution of a new legal culture in the country.*

**I**T IS widely being considered that consumers decide on what to be manufactured, what should be the price of products and how should supply chain system be built. But, still "poor" consumers fail to do anything, when cheated. They generally prove themselves as monumental mismatch to mighty and resourceful manufacturer. They are generally cheated almost everywhere and on every day.

However, thanks to the government, there exist consumer laws and special focus on consumer education is given so that people could understand their rights as consumer and how to redress their grievance.

Many a time helpless consumers suffer in silence and don't know what to do. Acquisition of knowledge is an essential for a better quality of life. Even,

Consumer Protection Act, 1986 lay emphasis on consumer education which is one of the basic rights of the consumer.

The purchase of goods and services entitles you to certain rights. Primarily you are entitled to expect a quantity and quality of goods and services as you had asked for when you made the purchase.

Of entire gamut of Laws dealing with the protection of the consumer rights the Consumer Protection Act, (CPA) 1986 is probably the most important and gives you as a consumer the most comprehensive protection against violation of your rights.

The legal system experienced a revolution with the enactment of the CPA, which was specifically designed to protect consumer interests.

The legal system was completely revolutionized during the British

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The author is Principal Correspondent, The Times of India.

period and the modern system was introduced to administer justice. For more than fifty years, the Sale of Goods Act of 1930 [SGA] was the exclusive source of consumer protection. The SGA, which was described by many as "an admirable piece of legislation", provides exceptions to the principle of "let the buyer beware" and the interests of the buyer are sufficiently safeguarded.

The SGA was the exclusive consumer legislation until 1986, with the passage of the CPA, designed to supplement the remedies already provided under the SGA.

Within criminal justice system, the Indian Penal Code 1860 has a number of provisions to deal with crimes against consumers like offenses related to the sale of adulterated food items or drinks, the sale of noxious food or drink, the sale of adulterated drugs and the use of false weights and measures.

Other legislations, aimed at providing consumer protection enacted after independence, are the Prevention of Food Adulteration Act, 1954, the Essential Commodities Act, 1955, and the Standard of Weights and Measures Act of 1976.

Apart from the remedies available under contract and criminal law, consumers have rights under tort law. However, the orthodox legal requirements under the law of torts and contracts and growing feeling for special focus on consumer rights among policy makers forced them to craft "specific" legislation to protect consumers.

The CPA was enacted with the objective of providing "cheap,

simple and quick" justice to the millions of consumers in the country. Consumer experts feel that the CPA was passed with affirmed objectives to ensure justice which is "less formal, involves less paper work, cut delay and less expensive".

"The Act rightly recognizes today's concern for consumer rights like the right to have safe, un-adulterated and defect-free commodities at reasonable prices," said an activist.

The landmark legislation, which commands the consumer's support because of its cost-effectiveness, has been successful in creating a sense of legal awareness among the public and discouraged people to approach traditional courts on consumer issues.

Post-CPA era creates an impression of "judicial populism" in the arena of consumer justice considering the way in which people approaching the consumer fora which are flooded with cases.

The greatness of the CPA lies in its flexible legal framework, wider jurisdiction and inexpensive justice. Consumer groups, the central or any state government are all empowered to lodge complaints under the Act.

The innovativeness of the CPA was the inclusion of both goods and services within its ambit which empowers the consumer to bring suit for defective products as well as for deficiency of services.

Under the CPA, which ensure flexibility in procedural requirements and introduced simple and easy methods of access to justice, the consumer need only

pay a nominal fee and need not send any notices to the opposite party and a simple letter addressed to the consumer forum draws enough attention to initiate legal action.

Another noticeable procedural flexibility is the option the consumer has to engage a lawyer and if consumer prefers, he can represent himself before forum.

The Consumer Disputes Redressal agencies, the National Commission, the State Commission, and the District Forum provided under the Act are working together to ensure timely, cheap and quick justice to consumers which in a way revolutionizing the present legal system.

With easy access to the courts guaranteed by the CPA, consumers now wage legal battles against unscrupulous traders or service providers without any hesitation.

The consumer fora created by the CPA have proven to be effective, disposing of thousands of cases with few legal formalities, and leading the way towards well-founded consumer jurisprudence in India.

The civil justice system is tainted with deficiencies that discourage the consumer from seeking legal recourse. However, the CPA, which provides easy access to justice to million of consumers, has revolutionized legal system as a result of its cost-effective mechanisms and popular support.

In this age of consumers, the regime of consumer law will undoubtedly rule Indian markets

and bestow a new phase on the existing Indian legal structure.

The CPA provides for effective safeguards to consumers against various types of exploitations and unfair dealings, relying on mainly compensatory rather than a punitive or preventive approach. It applies to all goods and services unless specifically exempted and covers the private, public and cooperative sectors and provides for speedy and inexpensive adjudication.

India, home to the majority of the world's consumers, is committed to working for the welfare of consumers through new legal innovations.

Keeping in mind, consumer protection as a matter of great concern, government came out with changes in existing consumer laws, including amendments in CPA aimed at strengthening and widening the ambit of consumer protection, a major step towards empowering citizens.

The new proposal aims to empower you to haul up municipal authorities in consumer courts if they fail to provide an array of services from street lighting and drinking water to drainage and health.

Seeking to expand the reach of the protection promised under the CPA, 1986, the amendments propose to expand the definition of consumer to include such goods and services for which relief could be obtained only in civil courts.

The government is also seeking to enable consumers to sue their service providers for passing on personal information to salespersons. In other words, those

deluged by pesky calls from banks, insurance companies etc will soon have the option of hauling up their service provider for disclosing personal information.

Also, "rights of consumers" are proposed to be prescribed to protect citizens against goods which are hazardous to life and property, and to help them get authentic information on price and quality.

Among other innovative measures, a company cannot insist on being liable to be tried only in a court of its choice and it will allow consumers to decide where they want to seek redress.

**A**n investor will be able to approach a consumer court if the shares he had applied for are not allotted, and money he had paid is not refunded. At present, he has to move a civil court for redress.

The new proposal would make manufacturers liable to be prosecuted for goods which are likely to become hazardous to life and property in future.

The amendments also seek to classify real estate developers as "traders", rendering them liable to be tried in a consumer court.

Overseas agencies operating through e-commerce sites or telemarketing will no longer be able to sell unless they maintain an office or appoint an agent in India. Overseas sellers would have to provide details of their office or agent in the sale offer to allow consumers to file complaints.

E-commerce and service providers will be bound to refund

buyers who did not have the opportunity to inspect the goods prior to purchase within 30 days if the goods and services are found defective.

Remember toy major Leo Mattell being forced to withdraw Barbie dolls from the global market because they were coated with paint containing dangerous levels of lead? The union government is keen to similarly empower consumers against sub-standard goods. In the works are a set of tough laws which will include the critical product liability clause, making erring manufacturers and suppliers liable to pay punitive damages.

The proposals, expected to substantially overhaul existing consumer laws, have recommended mandatory standards for products which impact health and safety of the consumer as well as harm the environment.

These include electrical appliances, electronic, IT and telecom products, medical devices, industrial and fire safety equipment, helmets and material used for food packaging.

Realising that the present mechanism—with the Quality Council of India as the apex body regulating agencies that certify quality—lacks strength, the panel has suggested setting up of a National Quality and Standardisation Authority. It would be empowered to provide voluntary standards for all areas of economic and social activities and mandatory standards for products that impact health, safety and environment.

To further strengthen the consumer protection legislative regime, the government has also suggested setting up of a National Consumer Protection Authority that could fill the lacunae created by the winding up of Monopolies and Restrictive Trade Practices Commission. It would be empowered to look into deceptive practices and misleading advertisements by manufacturers and service providers.

Though the government has shown its inclination to set up a strong consumer protection regime cutting across all production sectors, it has found it difficult to implement similar stringent laws in the limited domain of the processed food sector.

The new Food Safety Act has been in a limbo with the government still working on rules that would bring in standards for packaged food items.

It has sought a National Quality and Standardization Authority which would prepare mandatory and voluntary standards for all goods

Also proposed is a product liability clause, under which manufacturers could be asked to pay huge sums of money for hazardous or sub-standard goods.

The proposal has also reiterated the government's stand to lay down limits for dangerous contaminants like pesticides in raw materials as well as final food products yet again.

But, the attempts to empower the consumer are facing a roadblock from government agencies and

departments — the country's largest service providers which accounts for 70-80% of the market.

The new proposal seeks enactment of a Consumer Products Safety Act under which selling dangerous goods and services will entail criminal or civil liability, aiming at upgrading product and service standards to international levels.

Since it is necessary to pay a fee to qualify as a consumer, the new policy treats even the payment of Re 1 for a service as fee. This gives it teeth as all taxes, user charges and levies will qualify as consumer fees, bringing more government departments, including free health services, under its net.

Officials said stakeholders like state governments, departments of post and telecom, passport offices, municipal services, CGHS and railways are demanding exemption from the Act, fearing they will have to face a barrage of litigation.

The private sector, however, is supporting the policy as it is also the consumer of a huge basket of government services.

The DCA has taken a proactive role in the last two years to formulate a consumer policy which was to be adopted on December 24, National Consumer Rights Day, but we learn there are hurdles in its adoption.

Though, CPA has been a successful piece of legislation in empowering citizen there are some lacuna which has crept in the system. The traditional legal system, in addition to a huge backlog of cases, is experiencing

a litigation explosion in the area of consumer protection. According to reports, the total number of consumer cases pending in different fora was 359,469 cases as of June, 2004.

When consumer courts were first set up more than two decades ago, they were considered a boon for those who had major complaints against any product or services.

But today, consumer courts, which were set up to lighten the judiciary's burden, are themselves plagued by a malady that the latter is suffering from - a large number of pending cases.

And though the law provides for a disposal limit of 90 days, many cases have been dragging on for over five years.

Around 45,798 cases have been filed before the national commission since its inception. At present, 8,884 cases are pending disposal.

The huge backlog of consumer cases before consumer fora is forcing the Indian legal systems to think of "alternatives" for speedy disposal of consumer cases.

The consumer movement has grown by leaps and bounds. Section 20 of the CPA, 1986, provided for a national commission which consisted of a president and four other members.

The government decided to add four more members - two judicial and two administrative - to the apex body dealing with consumer cases. A laudable step, except that even for long time, these posts in the National Consumer Disputes Redressal Commission have not been filled. □

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## The Sonapur Mushroom Story

*Karuna Sarma*



***MDF  
meanwhile  
has built up its  
own mechanism  
to provide the vital  
marketing linkage  
to the Sonapur  
growers to  
sell their produce***

**T**WENTY-FIVE kilometers east of Guwahati, the Assam capital, an interesting economic movement is silently building up. Over 200 marginal farmers are beginning to enhance and nearly double their income with the help of a new activity – mushroom cultivation. And, for several families in this rural area close to a major city, it is also helping them give up production of illicit liquor that had earlier helped them earn a quick buck.

It is an initiative launched by Mushroom Development Foundation (MDF), a Guwahati-based NGO headed by Ashoka fellow Pranjal Barua, which arrived in Sonapur about two years ago with this new idea. Initially the people were hesitant and suspicious. But they began responding after some coaxing and motivational lectures.

Two years down the line, a spirited campaign mounted by MDF has helped convert about

1,000 families living in about 50 villages in and around Sonapur into this new faith called mushroom. While 200 such families are already beginning to earn more through mushrooms, the others have by and large accepted the idea. Barua and his NGO members are happy that even 200 is more than enough.

"Our family income has already gone up by about Rs 2000 per month," claimed Ritamoni Deuri of Jalukbari village, while others like Gojin Teron of Morongabari village, Anamika Boro of Ural village and Pratima Kathar of Morokdola village also relating similar experiences.

Though Sonapur is just about 20 kms east of Guwahati, it is actually a part of the capital of Assam because it comes under Kamrup (Metro) district as well as under the Guwahati City police district. A large number of people from the Sonapur villages commute to Guwahati every day to earn a living, while a good number of government employees and

teachers from the city too travel to Sonapur to work.

"Sonapur is a huge cluster of villages on which Guwahati is heavily dependent. If properly groomed, Sonapur will definitely be able to provide a wide variety of items to the state capital, ranging from mushrooms to skilled manpower," said Biman Patowari, who teaches geography in the Sonapur College. More than 80 per cent of the students in Sonapur College belong to poor and marginal tribal families.

Families, like those of Ritamoni were so long dependent on just whatever they could produce in the small homestead gardens, where betel-nut was obviously a safe and permanent plantation that brought in money in times of crisis. The women and girls do weave, but hardly do their products fetch good price anywhere because of lack of innovation.

MDF meanwhile has built up its own mechanism to provide the vital marketing linkage to the Sonapur growers to sell their produce. "Since Guwahati is a huge market, we collect most of the mushroom produced in the Sonapur villages and sell them in the city," said Pranjal Baruah of the Mushroom Development Foundation.

"We have set a modest target of producing five kilograms of mushroom from each family. And even if we can increase the monthly income by Rs 3000 of each of the 200 families who have already taken to commercial growing of mushroom, it will be a big contribution," added Baruah. The MDF has taken up an innovative concept of popularizing mushroom among the people who had earlier never tasted it. "We



If properly groomed, Sonapur will definitely be able to provide a wide variety of items to the state capital, ranging from mushrooms to skilled manpower

are using our personal contacts to introduce mushrooms in wedding receptions and other parties, and one out of ten such parties are already beginning to take it," he said.

Within Sonapur, MDF has also taken up an interesting campaign to attract more villagers towards mushroom cultivation. The Sonapur Anchalik Kathfula Krishi Samiti has put up a board in the heart of the Sonapur weekly haat that is held every Saturday, which contains illustrated messages put out through comics and cartoons. "Three of our local boys were sent to Don Bosco Institute in Guwahati for a four-day workshop on cartoons and illustrations, and they are doing this campaign on our behalf," pointed out Prasanna Daimari, Director of the Samiti. And, to drive home the message further, the Samiti has now planned to provide half a kg of mushroom free to a stall where villagers have meals while coming to buy and sell in the weekly haat.

Sonapur being one of the several fringe areas on which Guwahati as a city is heavily dependent, the Mushroom Development Foundation is also looking at taking up a few more schemes for skill development of the local population. "Sonapur can provide a large number of plumbers, mechanics, masons, carpenters and electricians to the city. We are looking for partners to provide such skills to the village youth," said Pranjal Baruah.

Sonapur College too is looking at this aspect. "We are examining the scope for establishing a resource centre that would look into various aspects of the capital city's interdependence on the rural areas situated on its fringes," said Bipul Bora, principal of the college. □

**(Photo Courtesy :  
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## Consumer Courts in the Country

*Pushpa Girimaji*



***For the law to be effective, the process of adjudication has to be quick and the compensation awarded by them, fair and just***

**C**ONSIDERING THAT the Consumer Protection Act came into being in 1986, it is indeed a sad commentary on the functioning of the consumer courts that even after two decades, they have to be reminded about the procedure that they ought not to follow. In fact more than a decade ago, in its order in the case of V.P.Sant VS Delhi Development Authority, the highest consumer court in the country had emphasized the need for consumer courts to follow simple procedure while deciding cases. "The Redressal Agencies constituted under the Consumer Protection Act are not civil courts which are bound by the Code of Civil Procedure...." the apex consumer court had said. It had also reminded the consumer courts that the consumer justice system was meant for ordinary consumers. It was meant to help

consumers fight for their rights without the help of lawyers and the law had therefore prescribed extremely simple procedure.

Again in the case of Shankar Prasad V/s Peerless General Finance Investment Company, it had reiterated this point and said that consumer courts should move away from hyper technicalities while adjudicating on complaints. The advice, it seems, is yet to percolate down to all the consumer courts even two decades after the coming into existence of the Consumer Protection Act.

The consumer justice system, as envisaged under the Consumer Protection Act, was meant to help consumers get redress without the help of lawyers and through simple summary procedure that would facilitate quick disposal of cases. But today, the entire process of adjudication has become so

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The author is a Consumer Rights Columnist.

technical that consumers feel that they cannot fight a case without the help of a lawyer. And that renders the entire system of consumer justice, expensive..

### **Justice delayed is justice denied**

Unlike the civil courts, the consumer courts are quasi judicial bodies that need to follow a simple, summary procedure for quick disposal of complaints. However, repeated adjournments, delays on the part of the state governments in filling up the posts of presidents and members of the courts and unnecessary technicalities have all combined to slow down considerably the process of justice. Delays have in fact taken away the very essence of the law..

Here is a case that illustrates the point. Following loss of yield during the sowing season of 1993 due to defective hybrid cotton seeds sold to them, 130 farmers from Maharashtra filed a class action suit seeking compensation. Eventually they won the case, but it took 14 long years, during which time, ten farmers had died.

Farmers rarely file complaints before the consumer courts. But when they do, such complaints invariably pertain to their very source of livelihood- farming or agriculture- and relate to defective seeds resulting in very low and poor quality yield. In all such cases, it is obvious that farmers need help urgently to overcome the financial crisis caused by the failure of the crop. And if they choose the consumer court over a civil court,

the obvious reason is the hope of getting compensation quickly. But consumer courts have often failed them.

In order to ensure expeditious disposal of complaints, Section 13 (3A) of the CP Act provides for expeditious disposal of the case and stipulates a period of three months where the complaint does not require any analysis or testing of commodities, or else, five months. However, this is a provision that is practiced more in its breach. So also the provision pertaining to adjournments.

Since adjournments were found to be the main cause of delays in consumer courts, the union government amended the Consumer Protection Act in 2003 to eliminate such delays. Accordingly consumer courts are not to give adjournments at all, In exceptional circumstances, where it is given, the court has to record the reasons for it in writing and justify it. But this provision is again flouted constantly.

### **Need for better compensation**

While introducing the Consumer Protection Bill of 1986 in Parliament, the government had explained that the law was compensatory and not penal in character. And this very nature of the law would limit the time taken for settling a dispute, while at the same time promoting a healthy respect for consumers among manufacturers, traders and service providers, the government had said.. In other words, for the law to be effective, the process of

adjudication has to be quick and the compensation awarded by them, fair and just.

However, the computation of damages by these courts in most cases is too conservative and meager to be just and too small to have any salutary effect on the opposite party. In fact the Supreme Court, in the case of Lucknow Development Authority vs MK Gupta had said that the compensation should serve the dual purpose of recompensing the individual while simultaneously bringing about a qualitative change in the attitude of manufacturers and service providers. But for that to happen, compensation should be large enough to make an impact.

Even in cases pertaining to defective goods, the compensation awarded by the courts to consumers is too insignificant to bring about any attitudinal change in the manufacturer or the retailer. Yes, the courts do get them to rectify the defect or replace the product or refund its cost, but the compensation paid towards the harassment undergone by the consumer is often so meager that the complainant is left wondering whether he did the right thing in going to the court.

All this does not mean that the Consumer Protection Act has not served any purpose. The law, providing for a parallel system of consumer justice, is one of the best in the world. It's enactment is a milestone in the history of the Indian consumer movement and it has contributed most significantly to the empowerment of consumers

in the country. ( from the time of their inception till November 21, 2008, the consumer courts at the national, state and the district level have together registered over 31 lakh complaints. Around 356219 cases are pending)

But for the law to be fully effective and serve the purpose for which it was enacted, simple, inexpensive and speedy justice ought to become the raison de'tre of these courts. Or else the consumer will lose faith in the system.

State governments, for example, need to monitor closely the working of these courts to ensure that causes of delay, including delays in appointing members and presidents,

are completely eliminated. As on August 2007, as many as 42 District Forums (out of a total of 608) were not functioning because of delays in such appointments.. Needless to say that such vacancies affect the speedy adjudication of complaints. It would also help the cause of consumers if the law were to prohibit appeals in cases where the value of goods or services being complained against is up to Rs 1 lakh

It is also necessary to sensitize those who sit in judgement in these courts to the plight of consumers in the country and the need for a more just and liberal calculation of compensation that is in tune with the basic concept of consumer protection embodied in the law.

Since adjournments and hyper-technical procedures are also the cause of delays , a close scrutiny of the orders of the consumer courts is necessary to rid the consumer justice system of those prone to violating the provisions of the Consumer Protection Act. Such a review would also help identify those members and presidents with questionable integrity. To put it differently, a regular, independent audit is a must to remove those members and presidents who do not implement the Consumer Protection Act in its letter and spirit.

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YE-2/09/5

## Consumer Participation for Efficient Service Delivery

*Jaipal Singh*



*‘Consumers as managers’ is proving to be a win-win situation for the State as well as the users*

**T**HE GOVERNMENT acts as the manager for delivery of services in certain sectors like drinking water supply, health, education, electricity, municipal services etc. The consumer for these services is community at large. The efficiency of service delivery and consumer satisfaction is largely not evaluated. Social audits and user feedbacks are sometimes discreetly carried out for various services, which throw significant light on improvements required in these services. Engagement of consumers or users for feedback and management are two basic factors which generally lead to efficiency of service delivery in such large scale service delivery mechanism. The Government of Gujarat took up the initiative of decentralised community managed in-village water supply management, wherein a local community institution is developed at the village level for infrastructure development for drinking water service delivery and its operation and

maintenance. The approach was taken up in a mission mode by creating an autonomous institution named Water and Sanitation Management Organisation (WASMO) for taking up social processes at the village level for institution building and its capacity enhancement. This mission mode has now resulted in the State having more than 13,000 village Pani Samitis which are acting as Managers of service delivery at the village level.

Social audit, evaluation studies and users feedback on government managed service delivery bring out several issues such as - inefficient and erratic service delivery, users’ voice generally not being heard or attended until substantial pressure is built, and delays in redressal as the redressal mechanisms are distantly located. The cost of service delivery is generally high, lot of subsidy mechanisms need to be inbuilt and yet, people, especially women and children, generally have to travel a long distance for fetching water, either from the central sources or

The author is Joint Secretary, Water Supply, Government of Gujarat and CEO, Water and Sanitation Management Organisation (WASMO).

from public stand posts. The utility Board or the government department has developed a strong complacency of provider in the entire process.

To address the above issues, the mechanism of community managed system has been adopted for breaking the barriers to get a higher level of user satisfaction and efficient service delivery at the village level. For this purpose, social mobilisation for developing partnership models of management by the user community, has been the key to success. Proactive facilitation of the entire social process, developing the additional infrastructure or renovation and upgradation of systems at the village level, were taken up by developing a strong local institution at the village level with the help of WASMO teams and partner NGOs who communicate continuously and consistently with the village community in this regard. Capitalisation on local leadership and volunteerism could be achieved by conducting regular Gram Sabhas for this purpose. Gram Sabhas have acted as strong tools of social audit

and effective tool for project planning and implementation. The village Pani Samitis formed in Gram Sabhas through consensus, were facilitated by capacity building for planning, implementation and post project operation and maintenance. The water supply schemes so developed for internal distribution have been inclusive with strong mechanisms to address the gender and social dimensions. These Pani Samitis have now started managing their in-village systems for water supply service delivery upto the household level with a strong sense of ownership. They are also testing the quality of water at decentralised levels and because of quality consciousness, chlorination is done regularly at village level. A strong social capital has been developed with micro links at the village level for addressing the service delivery of drinking water and water quality assurance upto the consumers' level.

Community engagement for making people as managers has resulted in efficiency of cost of

delivery, timely and efficient delivery of water upto the consumers' level, efficient service and repairs of water supply systems, efficient utilization of water resource at the village level, measures for sustainability of water resources like developing check dams, ponds etc., for recharging of ground water resources, innovative tariff mechanisms. Tariff recovery mechanisms have been developed by consensus in the Gram Sabha and dual supply mechanism are leading to effectiveness and conservation of water resources. 'Users to pay' principle is now accepted at large for the village level services, with efficient tariff collection. Lot of innovativeness in development of systems and operation and maintenance has evolved at the local level for efficacy. Several villages are even managing the service delivery on 24 x 7 mechanism. Special care for the poor and the underprivileged is taken by resolving in Gram Sabha for differential tariffs and specific components.

Customer interaction for efficient management of service delivery

**Table 1: Tariff mechanism fixed by village level consumers for their in-village water supply**

| S. No. | Village                    | Tariff mechanism  |
|--------|----------------------------|---|
| 1      | Sangammer (Kutch)          | Annual Tariff : Rs. 480 per household<br>Collection : Every month by Youth Group<br>Penal Provision : Rs. 50/- as fine if not deposited by 10th Connection charges : Rs.1,200/-<br>Extra Charges : Rs. 2/- per Sq. Feet for construction for slab house and Rs.1/- per Sq. Feet if slab is not done |
| 2      | Madhapar - Navavas (Kutch) | Half inch connection : Rs. 250/-<br>12 mm connection : Rs. 275/-<br>Commercial : Rs. 6,000/-<br>Construction : Rs. 2/- per foot   |
| 3      | Purasai (Kutch)            | Annual Tariff : Rs. 300 + Rs.24/- per animal<br>For Connection Soak Pit compulsory<br>Non-payment of tariff - Disconnection<br>Accounts put in Gram Sabha every 6 months<br>Scheme Operation - House-wise responsibility on rotation<br>Tariff collection: Every 3 months                           |
| 4      | Manai (Bhavnagar)          | Annual Tariff for House connection Rs.2,500 per household<br>Annual Tariff for stand post Rs. 60 per household  |



**There is a new found faith and respect for the consumer**

**Table 3: Evaluation reflections for Sector Reform Pilot Project villages (833 villages, 3 districts)**

- Contribution was paid by > 87% persons
- Water tax was being paid by > 98.26% persons regularly
- Average tariff per person was Rs.114.27 (Govt. tariff Rs.14 per person)
- Work of the Pani Samitis was appreciated in 99% cases
- Grievance redressal was quick in 99.6% cases
- 41 out of 53 committees had enough funds for O&M of systems
- Force of water supply was good in 52 out of 53 villages.

by the State level agencies for acting as a facilitator can be divided into two categories. (1) Process attributes: These are transaction related characteristics for addressing the procedure and functions for the convenient feedback mechanism with the consumer, frequent proactive interaction, regular follow-up, prompt handling of complaints, strong communication and attempts to remove the barriers and problem solving. (2) Quality attributes: These are for image building and used to describe the conduct between the customer and the organization, which include accessibility, mutual respect, flexibility, reliability, trust worthiness and timeliness for professional attainment by the utility agency or the government department.

As strong micro-links with the consumers have been developed through formation of Pani Samitis, regular feed back and follow-up are the key to success. The data described in Table 2 is an outcome of telephonic feed back taken from all the villages in Kutch district for evaluating the performance of water supply management systems in one of the most water scarce districts and users' satisfaction regarding water supply service delivery. Table 3 depicts the findings of an evaluation study for 833 villages in three districts of Gujarat State.

**Futuristic trends**

The response from the consumers for taking lead in collective action and the large scale engagement of consumers as managers has

broken several myths regarding the capabilities of the rural communities. The success in this regard has encouraged the Government to take consumer participation and local governance a step further by starting interventions like handing over of group water supply schemes to the village level associations and local in-village water supply systems to be managed by local users institutions i.e. Pani Samitis. There is a new found faith and respect for the consumer leading to the development of various mechanisms for policy level interventions like frequent user group meetings for larger water supply schemes, metering, regular proactive follow up for determining the satisfaction for consumers and efficiency of service delivery, water quality testing upto the consumers' level and utilizing computerised monitoring systems for water service delivery on pilot scale. 'Consumers as managers' is proving to be a win-win situation for the State as well as the users. □

(Email : [secy-ca@nic.in](mailto:secy-ca@nic.in))

**Table 2: Telephonic feedback from villages in Kutch**

|                                 |                  |        |
|---------------------------------|------------------|--------|
| Total households                | 1,84,557         |        |
| Water supply at household level | 1,59,502 (86.4%) |        |
| Satisfied with water supply     | Yes 506          | No 51  |
| Tariff Collection mechanisms    | Yes 534          | No 155 |
| Chlorination done regularly     | Yes 555          | No 138 |

## Legal and Ethical Aspects of Advertising

*Sheetal Kapoor*



***The need of the hour is better laws in keeping with the times, corrective advertisements, better self-regulation by industry independent regulator to regulate health and children-related advertisements***

**C**AN WE escape ourselves from advertisements? Consumers are bombarded with more than 1500 commercial messages a day. For most companies, the question is not whether to communicate but rather what to say, how to say it, to whom and how often. To reach target markets and to build brand equity in this cluttered market advertisers sometimes overstep social and legal norms.

Advertisements have become a part and parcel of our lives and even if we try but we cannot avoid them. Advertising reflects contemporary society. The making of an ad copy, its message, its illustrations, the product advertised, the appeal—used all these have a social flavour. Advertising affects society and gets affected by it. It is therefore, necessary to use this weapon with caution to avoid a corrosive effect on social values.

Though advertising seems to be of use to various groups, questions are frequently raised whether it creates class-consciousness, materialism, unnecessary needs and wants and other values which are not universally accepted.

The Constitution of India guarantees freedom of speech. Special restraint is needed in commercial speech including advertising. An advertisement is called deceptive when it misleads people, alters the reality and affects buying behaviour. According to Federal Trade Commission (USA) deception occurs when

- There is misrepresentation, omission, or a practice that is likely to mislead.
- The consumer is acting responsibly in given circumstances
- The practice is material and consumer injury is possible

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The author is Reader, Department of Commerce and Convenor, Consumer Club, Kamala Nehru College, University of Delhi.

because consumers are likely to have chosen differently if there is no deception.

Deception exists when an advertisement is introduced into the perceptual process of the audience in such a way that the output of that perceptual process differs from the reality of the situation. It includes a misrepresentation, omission or a practice that is likely to mislead.

### **Advertisements directed at children**

Children in India constitute 18.7% of the World kids population and one-third of our country's population is under the age of 15 years. Thus in India, children form a massive 30% of the total population and this segment is growing at a rate of 4% per annum. This means a huge target market of 300 million is available to advertisers and they are already focusing on the kid channels.

A survey by AC Nielsen UTV's research partner showed that an average child watches TV for about three hours on week days and 3.7 hours on weekends, the time spent on television goes up with age, and the preferred language of viewing is Hindi across all age groups. Apart from the programmes children also view a lot of the advertisements.

### **Puffery**

It means the use of harmless superlatives. The advertisers use them to boast of the merits of their products (best, finest, number one, etc.). Even law permits trade puffing or exaggeration. But subjective statements of opinion about a product's quality are so

untrue that it becomes an outright spoof and which is not true. In 1997 MRTP Commission asked Hindustan Lever company to stop its campaign that its Pepsodent toothpaste was 102 per cent better than the Colgate toothpaste. Hindustan Lever was restrained from "referring to any Colgate Toothpaste in any manner, either directly or indirectly, by means of any allusion or hint in its TV commercials or newspaper advertisements or hoardings, by comparison of its New Pepsodent with any product of Colgate in general, and Colgate Dental cream in particular.

Sex appeal is used explicitly to sell all kinds of things. It is used to gain consumer attention. It is used where it is not even appropriate to the product or service being advertised. Women are shown as decorative objects or as sexually provocative figures for advertisements for products and services where women are not required. The corporate sector should be encouraged to eliminate the violation of women's rights online and the internet service providers to undertake efforts to minimize pornography, trafficking and all forms of gender based violence.

### **Bait advertising**

In this a consumer is lured into a retail outlet by an advertisement for a low cost item and then is sold a higher priced version or to be defective. Once the consumer enters the store, he or she is pressured to purchase another more expensive item. On visiting such stores, one finds a handful of outdated products on the discount announced and

other better products as 'fresh stock'.

### **Advertising of harmful products**

Advertising is not restricted to products that are good for people. According to law in India advertisements for cigarettes, liquor, paan masala, products that are harmful to the public continue to find a place despite the ban imposed by the government in private channels, cable, and through the use of surrogates.

### **Legal Aspects of Advertising**

Unfortunately despite several laws meant to protect consumers against such unfair trade practices, false and misleading advertisements continue to exploit the consumer. A number of institutions are involved in regulating advertising. These are:

1. Self regulation by the industry
2. Regulation by the Government

In India the government assumes the role of regulating the business activity by bringing a number of laws, regulations and codes. The following laws have been enacted by the government, which contain provisions that regulate advertising in India.

These laws can be divided into two categories.

#### *Laws having horizontal application on advertising*

- The Consumer Protection Act, 1986.
- The Emblems and Names (Prevention of Improper Use) Act, 1950
- Trade and Merchandise Marks Act, 1958.

- Cable Television Networks (Regulation) Act, 1995
- Indecent Representation of Women (Prohibition) Act, 1986.
- Monopolies and Restrictive Trade Practices Act, 1969.
- Motor Vehicles Act, 1988

*Laws having vertical application on advertising*

- Section 58 Companies Act, 1956
- Drugs and Cosmetics Act, 1940.
- Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954.
- Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.
- Prevention of Food Adulteration Act, 1954/ Food Safety and Standards Act, 2005.
- Prize Chits and Money Circulation Schemes (Banning) Act, 1978.
- Prize Competition Act, 1955
- The Infant Milk Substitute, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 and Amendment Act, 2002.
- Transplantation of Human Organs Act, 1994
- The Young Persons (Harmful Publications) Act, 1956
- The following Regulatory authorities have power to regulate advertising in their respective domain.

1. Insurance Regulatory Development Authority
2. Telecom Regulatory Authority of India
3. Securities and Exchange Board of India
4. Reserve Bank of India
5. Medical Council of India

Unfortunately despite several laws meant to protect consumers against such unfair trade practices, false and misleading advertisements continue to exploit the consumer. Outdated laws, poor enforcement of them are some of the lacunas in order to control advertising. The need of the hour is better laws in keeping with the times, better enforcement, corrective advertisements, better self-regulation by industry independent regulator to regulate health and children –related advertisements. □

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YE-209/4

## A Reflection of the Times – Late Marriages in Kashmir

*Tanveen Kawoosa*



***Elections and the reiteration of faith in the democratic process are no doubt signs of a society in turmoil seeking a solution and demonstrating what they believe is the way forward***

**T**HE MOST enduring and perhaps heartening images of J&K recently has been the upsurge in the democratic process.

Queues of Kashmiri youth, women braving the winter chill to vote for a more responsive, effective governance.

This does not however take away from the fact that the nearly two decades of conflict has taken an unmistakably heavy toll on Kashmiri society. This is not merely in obvious terms like rising violence, lack of security but in more subtle ways. Along with the political implications of the conflict situation, there surely has been a serious impact on the social, emotional, psychological and cultural milieu of Kashmir.

However the emphasis being on outward manifestations of conflict like violence or

its resolution like the recent elections, sociological studies in the conflict zone somehow get relegated to the backburner. The trend of late marriage in Kashmir would have been unthinkable a generation ago. However, with decades of turmoil, attitudes and circumstances have changed. This reflects a society that is moving out of its traditional mores but according to sociologists one which portends social chaos as more and more Kashmiri youth are opting out of an institution which has traditionally define social and gender relations.

Ironically, there is more sponsorship available for doing research programs pertaining to conflict studies, keeping important social issues at bay. Whatever, little research available with us does confirm the fact that the graph of late marriages has shot up, reiterates noted Sociologist Prof B.A Dabla.

There have been some small steps in the direction though. A research study “Late marriages in Kashmir; the problem of ageing bride in Srinagar city”, by Shazada Saleem, scholar in the Department Of Sociology, University of Kashmir, reveals that over the period of two decades there has been increase in the number of late marriages.

According to survey reports, 26% of respondents do not consider marriage as a necessity of life and showed their preference for sexual relationship outside marriage. 30% indicated that with more women were joining the workforce, jobs for men were shrinking as avenues for employment remained static. With more men out of jobs, the likelihood of getting a bride was less. Put in a more simplistic way, an educated working woman is unlikely to marry a man without a job.

There are of course less simplistic factors, a reflection of a society caught in the vortex of economic instability and worse, political uncertainty. According to noted educationist, Prof Madhosh, there is estimated more than three lakh unemployed youth in the state. In the absence of other avenues rising out of an economy that was vibrant, here the only source, limited by its very nature remained government jobs. Lakhs of Kashmiri youth are simply out of the marriage market because they are out of the job market. This goes for both men and women and with the limited source of jobs, the unemployed within the acceptable marriageable

age are out of the reckoning. The hankering after government jobs is one of the underlying causes of the 2006-sex scandal when young women were lured into the flesh trade with the promise of this coveted prize.

While Islam preaches a oneness of humanity and confers equal marital rights between the partners, at a more fundamental level, the Kashmiri society is marked by an inherent divisiveness, a society fractured along the caste and sectarian lines. It is not an exaggeration to say that there are thousands of victims of self created caste systems. In the process of match finding people prioritise castes and sects instead of virtues of the prospective grooms.

A person from ‘lower-caste’ family is almost untouchable for the higher caste family. People refuse to compromise and spend years in searching for matches from the same high caste and high status. Through this time-consuming process, they often cross the marriageable age, maintains renowned social activist and advocate A.R Hanjura.

The practice of ‘Forced marriage’ still prevalent has reverberations of a medieval mindset. It is seen as a ‘punishment’ to an errant boy or girl daring to have a love interest outside his/her ethnic background. This is inextricably linked to suicide and ‘honour violence’ inflicted on women as a rule. It could resorted to for bringing to line a daughter who is bold or liberal an anathema

in Kashmiri society, which remains trapped in a conservative mould..

While no society is perfect, the conflict situation only complicates any issue further. During militancy thousands of young men would have become victims of violence. If that was not tragic enough, the reverberations in society was felt in different ways. The study on late marriages in Kashmir points out that 65% of youth who had attained the age of marriage lost their life in the turmoil. At the other end of the spectrum are women who have lost their husbands, either killed or disappeared live their life as ‘Widows’ or ‘Half-Widows’.

A study conducted by the department of Sociology, University of Kashmir “Women in Conflict” reveals that 85% of widows are of marriageable age, yet only 1% has remarried though most of them wish to start a new life. These are some of the aberrations, a legacy of the conflict which may challenge straight-forward social solutions.

Elections and the reiteration of faith in the democratic process are no doubt signs of a society in turmoil seeking a solution and demonstrating what they believe is the way forward. While this step needs to be applauded, Kashmiri society needs equally to look within, address its social and cultural mores that are detrimental. It needs to then take decisive steps to build a harmonious society. □

*(Charkha Features)*

# "Consumers : Be Alert, Stay Safe"

Consumer G  
2009

January

| Su | Mo | Tu | We | Th | Fr | Sa |
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| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |

To insist on bill for purchases

February

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Check net weight

March

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| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
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World Consumer Rights Day

April

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| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 |    |    |

Don't be fooled by misleading advertisements

May

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| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |

Be Alert; Stay Safe

June

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| 14 | 15 | 16 | 17 | 18 | 19 | 20 |
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Check expiry date



15th March World Consumer Rights Day

Consumers can also call  
National Consumer Helpline No. (1800-11-4000 Toll Free)  
(From BSNL/MTNL lines)

011-27662955,56,57,58 (Normal Call Charges Apply)  
(9.30 am to 5.30 pm - Monday to Saturday)

# Stay Safe"



er Guide  
09



**July**

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**Buy ISI marked products.**

**August**

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**Get advice through National Consumer Help Line**

**September**

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**Bargain on MRP**

**October**

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**Look for Hallmark on Jewellery**

**November**

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| 29 | 30 |    |    |    |    |    |

**Get addresses of Consumer Forum at [www.medicare.in](http://www.medicare.in)**

**December**

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| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | 31 |    |    |

**National Consumer Day**

**24th December National Consumer Day**

**GH in Red, RH in Blue**



Issued in public interest by  
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YE-2/09/2 (DCA-10/12)

## Consumer Redressal System in India

*Bupinder Zutshi*



***In spite of being given the best consumer rights they are made as mute spectators in the face of several unethical practices inflicted on the consumers by the unbridled free-market forces***

**C**ONSUMERISM IS likely to dominate in the Indian market for a long time to come due to the economic reforms ushered in and the several agreements signed under the World Trade Organisation. With the globalization process, personal relations between the buyer and the seller no more exist now. This also ushers a transition from a predominantly "sellers market" to a "buyers market". The producers/ sellers are becoming stronger, organized and profit-oriented, whereas the buyers are still weak and unorganized. In the age of revolutionized information technology and with the emergence of e-commerce related innovations the consumers are further deprived to a great extent due to increasing use of deceptive methods and promotional tactics of selling products and/or excessive hype of products and services. As a result buyer is being misled, duped and

deceived day in and day out. The choice exercised by the consumer is being influenced by the pricing, promotion, packaging and level of consumer awareness, as well as the intensity of consumer movements.

To offset the deceptive practices of pricing, promotion and promoting shoddy and unsafe products, role of regulatory authority with specific powers cannot be under estimated. Similarly Consumer awareness will be critical to protect consumers from the onslaught of "Excessive Consumerism" under the spell of globalization of free-market syndrome. According to Consumers International, (an organization that links, supports and represents consumer groups around the world), consumers have a responsibility to use their power in the marketplace to "drive out abuses, encourage ethical practices and support sustainable consumption and production". This, they believe, will help achieve good governance,

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fair and effective markets and protection for the environment. Aware, active and concerned consumers are an important part of a civil society to pave the way for creating ethical marketing of products and consumer-oriented services. Though consumers cannot vote, their decisions about what to buy, when to buy and what not to buy are a way of expressing their views on a range of consumer issues, including global and ethical ones.

India has a vast magnitude of middle class population in the world and is the second fastest growing economy after China with an 8% plus average GDP growth rate for the last few years. To tap this huge market large number of national and international marketing companies are operating in the financial, insurance and banking, consumer and durables goods and services related to information and communication sectors. Most of these companies are highly successful in terms of profitability, sales revenue line and even market share and growth rates. Some of the relevant issues concerning the consumers are:

*Deceptive practices of Marketing* - Deceptive practices fall into three groups; pricing, promotion, and packaging.

*High Prices* - High prices amount to profiteering and exploitation of the consumer. This is due to high cost of distribution, high cost of advertising and promotion costs and excessive mark-ups.

*High Cost of Distribution* - Consumers pay for excessive distribution costs if there are too

many intermediaries, inefficiency and duplication of services.

*Shoddy or unsafe Products* - Many a times the product offering lacks the requisite quality and performs less than the promise with poor service as well.

*Product Safety* - This concerns the production of flawed products due to company indifference, increased product complexity, and poor quality control. Most companies are wary of producing poor quality products in the backdrop of rising consumerism.

*Harmful and Low benefit Products* - Producing harmful products like tobacco based Gutka, cigarettes, alcoholic drinks and genetically developed products are a concern just as promoting products that lack nutritional value like noodles, potato chips, Chocolates and even junk food like the fast food.

*Planned Obsolescence* - Some producers follow a program of planned obsolescence, causing products to become obsolete before they actually need a replacement.

*Poor service to the Disadvantaged* - It has been observed that the disadvantaged consumers are often victims of poor service. The urban poor end up buying inferior goods at higher prices from retail outlets. In rural areas there are even spurious products which are passed off as original by retailers. The poor, elderly, ethnic and religious minorities, and other weaker sections and classes of society are often exploited by charging higher interests, premiums, collaterals by Banks, Insurers, Consumer lenders and others.

The choice exercised by the consumer is being influenced by the level of consumer awareness and market strategies adopted by sellers. Hence need was felt to protect consumers from excessive consumerism legally so that they can be protected. Accepting consumer welfare as the responsibility of the government, Consumer Protection Act, 1986, was introduced to protect consumers legally from fraud and deceit during the process of consumerism. A separate Department of Consumer Affairs was also created in the Central and State Governments to exclusively focus on ensuring the rights of consumers as enshrined in the Consumer Protection Act, 1986.

This Act has been regarded as the most progressive, comprehensive and unique piece of legislation. The Act was described as one "which has set in motion a revolution in the fields of consumer rights, the parallel of which has not been seen anywhere else in the world." But its implementation requires awareness among consumers and effective, inexpensive and speedy disposal of cases. The special feature of this Act is to provide speedy and inexpensive redressal to the grievance of the consumer and provide him relief of a specific nature and award compensation wherever appropriate. The aim of the Act is also to ensure the rights of the consumer, viz. the right of choice, safety, information, redressal, public hearing and consumer education.

### **Consumer Protection Act, 1986**

The Act aims to ensure right standards for the goods and services for which one makes

a payment. The Act defines the consumer as one “who purchases goods and services for his/her use. The user of such goods and service with the permission of the buyer is also a consumer. However, a person is not a consumer if he purchases goods and services for resale purpose”. Hence the Act covers all “products and services”. The products are those which are manufactured or produced and sold to consumers through wholesalers and retailers. The services are of the nature of transport, telephones, electricity, constructions, banking, insurance, medical treatment, education etc. The services also include those services provided by professionals such as doctors, engineers, architects, lawyers etc.

The Act postulates establishment of Central Consumer Protection Council and the State Consumer Protection Councils for the purpose of spreading consumer awareness. Central Council is headed by Minister-in-charge of the Consumer Affairs in the Central Government and in the State it is the Minister-in-charge of the Consumer Affairs in the State Government who heads the State Council. A separate Department of Consumer Affairs was also created in the Central and State Governments to exclusively focus on ensuring the rights of consumers as enshrined in the Act.

This Act has been regarded as the most progressive, comprehensive and unique piece of legislation. The stakeholders who have to protect and implement the Act are, voluntary non-government consumer organizations, the government, the regulatory authorities for goods and services in a competitive

economy, the consumer courts, organizations representing trade, industry and service providers, the law-makers and those in charge of implementation of the laws and rules.

### **Consumer Redressal Forums**

To provide cheap, speedy and simple redressal to consumer disputes, quasi-judicial machinery is set up at each District, State and National levels called District Forums, State Consumer Disputes Redressal Commission and National Consumer Disputes Redressal Commission respectively. There are 604 District Forums, 35 State Commissions at states and Union territories and a apex body of National Consumer Disputes Redressal Commission (NCDRC) having its office at Janpath Bhawan, A Wing, 5th Floor, Janpath, New Delhi. The National Commission was constituted in 1988. It is headed by Sitting Retired Judge of Supreme Court and other members chosen by Government in consultation with its Chairperson. At least one Member should be a Woman. Similarly, while State Commission is headed by a sitting retired High Court Judge and at least 3 Members, one of them should be a woman. Similarly, District Consumer Forum is headed by District Court Judge and at least 3 other members and one of them should be a woman.

### **Redressal Mechanism**

A written complaint, as amended by Consumer Protection (Amendment) Act, 2002, can be filed before the District Consumer Forum (value up to Rupees twenty lakhs), State Commission (value

up to Rupees One crore), National Commission (value above Rupees One crore) in relation to a product or in respect of a service, but does not include rendering of any service free of cost or under a contract of personal service. Proceedings are summary in nature and endeavour is made to grant relief to the parties in the quickest possible time keeping in mind the spirit of the Act which provides for disposal of the cases within possible time schedule prescribed under the Act, preferable within 90-150 days. If a consumer is not satisfied by the decision of the District Forum, he can challenge the same before the State Commission and against the order of the State Commission a consumer can come to the National Commission.

In order to attain the objects of the Consumer Protection Act, the National Commission has also been conferred with the powers of administrative control over all the State Commissions by calling for periodical returns regarding the institution, disposal and pendency of cases. National Commission is empowered to issue instructions regarding adoption of uniform procedure in the hearing of the matters; supply of prior service of copies of documents produced by one party to the opposite parties; speedy grant of copies of documents; and generally over-seeing the functioning of the State Commissions or the District Forums to ensure that the objects and purposes of the Act are best served without in any way interfering with their quasi-judicial freedom. □

*(E-mail : bzutshi@gmail.com)*

## Responsibility of Service Providers

*Sapna Chadah*



***It is true  
that the  
improvements  
in service  
delivery  
sector will no  
doubt have direct  
impact on the  
quality of  
better life***

**A**CCOUNTABILITY IS one of the dominant requirements of the good governance movement in modern times. It means holding individuals and organizations responsible for performance measured as objectively as possible. It is an obligation of the persons in power to explain publically, how they are fulfilling the responsibilities vested in them, which affect the public in their day-to-day life. The actions of these wielders of power are required to be citizen friendly, just, fair, responsive, effective, ethical, reasonable and for progress of the society. The concept of public accountability applies equally to all levels of government, its systems and sub-systems. To make these bodies publically responsible and accountable is an important aspect of public governance in modern times. The need of accountability stems from the ideal that the institutions of public governance are the repositories of public power and public power in turn is the trust or faith of the people. Therefore, public purpose requires, public interest needs and public good demands that exercise of public power must be subjected to the

benefit of the society as a whole. There is yet another dominant reason for enhancing accountability in public domain that power without liability of accountability is tyranny. It may also be added that public power is always linked with responsibility. Power without responsibility is against the norms of democracy, the rule of law ideals and the norms of civilized society.

At national level the government is responsible for its policies, programmes and actions. However, at the local level, the focus of accountability shifts to specific public services and their delivery to the people. The enlarging horizon of kinds of services and its increasing complexity has overloaded the government which has made the task of ensuring accountability much more difficult. The increasing pressure and weakening accountability has given rise to downsizing of the government or what we call as the right sizing or reinventing government.

So far as accountability through legislations is concerned, there are very few such laws, which have provisions to fix the accountability of these public service providers to their customers, clients or consumers. Merely to have such legislation won't

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be sufficient, the information about such laws should be disseminated amongst the people through systematic efforts and campaigns through media, newspapers and other means, which will educate and create awareness amongst the general public on these matters.

### **Service under the Consumer Protection Act**

The expression service has been defined in the Act. Service means service of any description which is made available to potential user and includes but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service. The definition of service, as stated above, may be divided in three parts: (i) inclusive (ii) illustrative and (iii) exclusionary. The deficiency in service is one of the grounds for filing complaint under the Act and at present majority of complaints before these adjudicatory bodies relate to the deficiency in service of various service providers. The term 'deficiency' has also been defined in Section 2(1)(g) of the Act. It means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.

### **Banking Services**

Deficiency in banking service may arise when there is a case of defective draft, failure to honour its guarantee, refusal to honour draft, cancellation of credit card and similar situations.

### **Railway Services**

The railway is the biggest service provider for transporting people and goods. It is one of the

sectors in which the government has complete monopoly. The services provided by the railways in case of deficiencies are also agitated before consumer forums.

### **Electricity Services**

Privatization of electricity services has been introduced but it is the State Electricity Boards, which are mainly responsible for the generation, transmission, supply and distribution of power. The quasi-judicial bodies under the CPA have come to the rescue of the harassed electricity consumers in a number of complaints. Both urban and rural consumers have been benefited by the provisions of the CPA. The SEBs have been taken to task and to a great extent public accountability has been established amongst the officials of these bodies through the provisions of the CPA.

Similarly, deficiencies of other services viz. transport, housing, insurance, educational institutions etc. may well be brought within the CPA and responsibility of the providers' of services may be fixed by the consumer adjudicatory authorities.

### **Personal Accountability of the wrongdoer**

Who should pay the amount of compensation determined by the Commission for harassment and agony, the statutory authority or should it be realized from those who were responsible for it? The Supreme Court in Lucknow Development Authority v M. K. Gupta held that "Public administration, no doubt involves a vast amount of administrative discretion which shields the action of administrative authority. But where it is found that exercise of discretion was malafide and the complainant is entitled to compensation for mental and physical harassment then the officer can no more claim to be under protective cover. When a citizen seeks to recover compensation from a public authority in respect injuries suffered by him for capricious exercise of power and the National Commission finds it duly proved then it has a statutory obligation to award the same. It was

never more necessary than today when even social obligations are regulated by grant of statutory powers. The test of permissive form of grant is over. It is now imperative and implicit in the exercise of power that it should be for the sake of society. When the court directs payment of damages or compensation against the State the ultimate sufferer is the common man. It is the tax payers' money which is paid for inaction of those who are entrusted under the Act to discharge their duties in accordance with law. It is, therefore, necessary that the Commission when it is satisfied that a complainant is entitled to compensation for harassment or mental agony or oppression, which finding of course should be recorded carefully on material and convincing circumstances and not lightly, then it should further direct the department concerned to pay the amount to the complainant from the public fund immediately but to recover the same from those who are found responsible for such unpardonable behaviour by dividing it proportionately where there are more than one functionaries."

Foregoing discussion on the contributions of the Consumer Protection Law and its operations in relation to fixing the responsibility of service providers to their consumers reveal that through efficient and effective implementation of the consumer law the quality of services affecting the consumers' rights and interests may be improved to a considerable extent. In this way, the concern of the good governance movement in enhancing the responsibility of public service providers can be guaranteed. It is true that the improvements in service delivery sector will no doubt have direct impact on the quality of better life. This may in turn result in emergence of the better society for tomorrow. A society which is responsible, caring and responsive will certainly be considered a better place to live in. Therefore, the need of accountability of service providers, be they in public sector, private sector or co-operative sector, should not be overemphasized. □

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### The Tale of Two Companies

*K V Bhanu Murthy*

**T**HE FIRST story is about one US based Company – Merck and its attitude and ethics with respect to a dreadful disease called River Blindness. River blindness is a disease caused by black fly, which is the carrier of the disease. It afflicts more than 20 million poor people living near the river banks of Africa and Latin America. A tiny worm injected by the fly, passes through the skin and causes microfilaria which eventually blinds the victims. Spraying pesticides only leads to immunity in the carrier – the black fly. This has severely affected the livelihood and earnings of these communities who have had to migrate.

Ivermectin, a low cost, safe and simple cure initially developed for animals. It was found that the same drug may prove to be efficacious for treating river blindness amongst humans. In 1979, Dr. P. Roy Vagelos, Chairman, Merck, encouraged the development of a human version of

this drug. The cost of developing this drug was more than \$ 100 million. The company would not be able to recover the development cost. If there were side effects, the animal version having a market of \$ 300 million, would be at stake.

The idea was to sell the drug at a very cheap price because the poor could not afford it otherwise. But then the cheap drug may be smuggled into the black market and sold to veterinary hospitals. On account of the development of the new drug, general sales would be adversely affected. There was a possibility of competitors entering the market if the drug was sold a generic drug and not as a patented drug. A government order had put a cap on medical reimbursement which implied that generic drugs would replace patented drugs which were Merck’s main source of income.

Under such adverse circumstances, Merck faced the dilemma of whether to take the risk

of releasing the drug or not. After 7 years of research, at enormous cost, the human version was developed. A single pill, taken once a year, would permanently cure the disease. However, there were no distributors willing to distribute the medicine, meant to protect 85 million people because they gain only if the medicine is expensive. They get a percentage cut.

With the help of WHO and certain governments and voluntary organizations, in 1996, a committee was formed, which undertook the task of distribution. Merck decided to give the drug to potential victims “free of cost!!!” Dr. Roy, when questioned about this decision, simply said, “People in the third world will remember Merck”. He also expected that in the long-run the company would gain in reputation. This was expected because they were doing things that society expected of them.

The main conflict is whether a company should develop a

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medicine at a high cost and patent it or whether it should stick to the basic medicine and sell it cheap. The former strategy would help it to earn huge profits while the later would help it achieve its basic objective of providing cheap health care which is the expectation of society.

### **The Second Story**

The tale of the second company is actually that of two similar companies. One is Abbott Laboratories (USA); and the other is of Roche the Swiss drug giant. Abbott Laboratories (USA) manufactures an AIDS medicine called Norvir. In December 2003 the company boosted its price by 400 percent from \$1.71 per day to \$8.57 per day. Shares of Illinois-based Abbott rose \$1.07 to \$40.62 on the New York Stock Exchange. So the relationship between the social responsibility of providing cheap medicines and market value of the firm is obviously negative. When the drug company gains people stand to lose.

Similarly, in 2003 a new drug for AIDS was introduced with a price tag for the drug which was about \$20,000 a year. Fuzeon's breakthrough status earned it fast-track treatment by the Food and Drug Administration. That is almost triple the cost of the most expensive treatment that was then available. The manufacturer was the Swiss drug giant Roche. So a medicine which is supposed to save lives would actually kill by its price!!

AIDS activists applaud Fuzeon's development but say it won't do much good if patients can't afford it. Government-funded insurance or health service providers cover only a portion of the cost for AIDS

drugs. "We don't think we can add Fuzeon (to our drug list) without cutting something else. We are excited about the drug, but we aren't sure we can afford it," said Michael Montgomery, who used to oversee California's government-funded AIDS Drug Assistance Program.

Roche's chairman and chief executive, Franz Humer, said it is natural for the company to make money on a drug it took time and expertise to develop. Humer said Fuzeon's price simply reflects the \$600 million cost of development, as well as the cost of manufacturing and research for other AIDS medicines. The manufacturing process for Fuzeon is very complicated, requiring 44 ingredients, about three times the norm. There are 106 steps involved, more than four times the average. AIDS activists insist the elaborate process still doesn't justify the price. Franz Humer said "We need to make a decent rate of return on our innovations. This is a major breakthrough therapy," he said in an interview. "I can't imagine a society that doesn't want that innovation to continue."

Surely patients not only "want" it, in fact, they need it. But the question is can they afford it? If patients cannot afford to buy it how can the innovation reach society? If 12,000 people were to take Fuzeon at \$20,000, Roche would reap about \$240 million in revenues. That would grow to about \$480 million by 2005 if manufacturing capabilities expand as hoped and twice that figure by 2010.

Analysts say Fuzeon's pricing suggests Roche could turn a profit in three years. The industry average for a new drug is 16 years, although some blockbusters make money in

five to 10 years. This means that Roche is profiting on others misery. The supernormal profit is 3 to 5 times other companies.

### **Business Ethics and Corporate Responsibility**

The ethical issue is as to how the gains from innovation should reach the society. If the innovator has an undue advantage then the society at large loses. If the society only gains then it deters innovation. The innovator does not have any incentive. This is an apparent conflict. The conflict is between the interest of the individual and society. There are clear moral standards laid down for such situations. Philosophers like J. Bentham and J.S. Mill have prescribed the tenet- "Greatest happiness for maximum number of people."

Therefore, corporate social responsibility has a well established basis in ethics. These two cases show how two different companies have adopted two different strategies to deal with the markets that they faced. These strategies arise out of their respective business philosophies.

Which are the two Companies in our story? The names do not matter. It may be Abbott or Merck. One is an ethical and responsible company and the other is unethical and irresponsible. Corporate Responsibility and business ethics are integrally linked. Corporate Responsibility is something that the society dictates. It is not determined by Business Philosophy and much less business strategy. If companies ignore business ethics and seek CSR as a means of raising profit they are doing wrong. □

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## Consumer Protection in the TELECOM Industry

*Jaivir Singh*



*This success has lessons for other regulators, ranging from those involved in the regulation of financial markets to those associated with energy regulation*

**A** WELL developed telecom sector is important for a country's growth – especially if it is structured to maximise consumer welfare it can be a powerful mechanism to multiply opportunities for the citizens of a country. Over the post-liberalization phase the Indian state has opened up telecom services to private companies as well as putting in place a series of regulatory institutions to oversee the sector. This regulation is governed by the Telecom Regulatory Authority of India Act (TRAI Act), which supports the Telecom Regulatory Authority (TRAI) – the executive wing of the regulatory apparatus and Telecom Disputes Settlement and Appellate Tribunal (TDSAT) – which is the judicial wing of the regulatory mechanism. As per the key intentions stated in the preamble to the TRAI Act, the regulation aspires to protect the

interests of service providers as well as consumers of the telecom sector. In addition to this, telecom consumers are also covered by Consumer Protection Act 1986 (CPA) which is applicable to all consumers in India. Both these laws, TRAI Act and CPA, are important for the enhancement of consumer welfare, albeit in different ways that are complementary to each other.

Upon closer look, particularly from the experiences reported from field studies, lead one to conclude that the impact of CPA on the functioning of the telecom services needs to be a lot more substantial than has been the case. Field based research in Chennai, Bangalore as well as in the National Capital Region at the District Forum level, indicates that the bulk of cases (pending as well as fresh complaints) in many District Forums pertain to Telecom services. It appears

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thus that the sheer volume of consumer cases related to telecom is quite substantial, many of them pending for a long duration. While consumer courts were initially set up to provide quick redress to consumers, various sources indicate that by now they are quite as clogged as the rest of the Indian legal system. While the speed of receiving redress is an endemic problem, it is important to emphasise another dimension of the cases that have been studied, namely that the range of value of the claims made by litigants spans very high figures often ranging from Rs two lakhs to Rs ten lakhs. However the awards of compensation are typically only a few thousand rupees. The impact of this regime is that in relation to the individual consumer there is only a token redress (consumers end up feeling a minor sense of victory at having received some little justice) and from the viewpoint of the service provider the amount of compensation paid out is not a sufficient deterrent for them to mend their ways. A moment's reflection will make clear that a rational service provider is happy to pay the token compensation rather than invest in providing diligent quality service to telecom consumers – if there is a discipline they would understand it would be the natural ebb and flow of the market on hand rather than the legal regime under which they function. However we have noted that the service providers are very concerned about the legal regime in spite of individually low values of compensation – they typically have very good legal teams to

back them up. Upon speaking to some of these lawyers and joining it up with the insight that we have pointed out earlier, that a good bulk of recent consumer court cases pertaining to telecom services, the sheer volume of cases makes it worthwhile for service providers to channel resources to maintain legal teams. However even this bulk is not a sufficient deterrent to service providers to improve their services because it is far cheaper for them to pay up the sum of token compensations. While 'compensation' as the remedy to deficiencies in service is in itself clearly an appropriate remedy, it is evident that the valuation of this compensation has to be more 'correct' if the consumer protection law is to act as a device to really help the telecom consumer in India.

### **Telecom Regulation**

Lack of information is particularly problematic, once it is realised that telecom services are expanding rapidly to include many people who are quite illiterate but are forced by either trends or an actual need to purchase telecom services. Though many schemes are offered – and indeed many schemes would be offered by price discriminating service providers, the majority of consumers are unable to discern the terms and conditions of the offer. These large numbers give rise to issues involving regulatory and consumer concerns. It has been widely understood by economists that there is substantial market failure in the provision of relevant information to consumers. The demand for

information on products and services is a derived demand – derived from the demand for the product or service. However there is under provision of information in the free market because sellers have an incentive to supply less than optimal levels of information – obviously for strategic reasons but also on account of positive externalities that would accrue to competitors as information is disseminated. The public good element to information requires that some 'public' body act to augment the quality and levels of information – consumer bodies in particular are invaluable in this regard. However, though such bodies may aspire to be very diligent in their desire to support consumers, they suffer from many problems which include the lack of resources to band together to govern the flow of information covering a consumer base that is increasingly becoming very large. In addition to this telecom technology is changing all the time and up to date information needs to be delivered to the consumer. In this regard the regulator who is in touch with all the information that is being generated by the industry is in a very good position to disseminate this information guided no doubt by the concerns that get expressed through consumer groups. However, information itself can be so voluminous, mere dissemination is not sufficient – it has to be done in a format that is intelligible to the average consumer.

In this context, the regulatory agency TRAI has attempted to

standardise terms and conditions. In a letter dated 23rd May 2006 to all Telecom service providers directions have been given to them to provide transparency of tariffs so that consumers can make an informed choice. Particularly prominent among these directions is the requirement that all service providers advertise their tariffs in a specified format. The information is required to widely advertise tariffs at all levels of interaction - upon sale in retail shops, on the web and even to existing consumers particularly if some changes are engineered in the tariff structure. The requirement imposed by TRAI that information to the telecom consumer is presented in a standard format which makes the information simple and very importantly comparable across different service providers is of paramount importance.

### **Network Effects**

The term 'network' here refers to the fact that the good (or service) produced for consumption by network industries is composed of complementary components. The definitive aspect of network industries is the fact that the inherently complementary nature of the goods generate increasing returns to scale in consumption, or to put it in another way - a market exhibits network effects (externalities) when the value to a buyer of an extra unit is higher as more units are sold, everything else being equal. By analogy the notion of a network can be extended to a number of other instances – the internet, transport

services, postal services, financial services to name a few, not to forget the most obvious instance of computer operating system such as Windows.

The contrast with traditional non-network industries is obvious, in traditional industries the willingness to pay for the last unit of good decreases with number of units sold, reflecting the standard law of demand. It is of course not the case that the law of demand is not applicable to network goods, it continues to do so if one disregards the effects of the expansion of sales on complementary goods. But if one takes into account the fact that the sale of a network good results in the expansion of the sales of complementary goods, then the value of the last unit increases and, if this effect is strong enough, it can overwhelm the downward sloping demand curve to give rise to a positive relationship between value and sales (at least over a range). This could potentially be explosive but for the fact that the demand curve is inherently downward sloping and as larger and larger numbers join into a network, beyond a point, network effects reduce.

The theory of network effects is still incipient but research is slowly generating a variety of insights, some with important policy consequences. Among other things, it is the case that the presence of network effects implies that not only does perfect competition in network industries not lead to efficiency, but also while a monopolistic market structure maximises social surplus

it does not maximise consumer surplus. It is clearly impossible here to present the nuances of these and other interesting results at length, though it may be useful to emphasise at least one crucial point that should guide regulatory policy in network industries.

Since pushing for perfect competition or free entry of firms is insufficient to improve welfare, attention has to be focussed elsewhere to enhance consumer welfare or surplus.

In this context it needs to be pointed out that in India, TRAI's emphasis on solving interconnectivity problems without allowing firms to pass the burden to consumers is quite laudable and has generated some of the lowest telecom tariffs in the world. While this may mean that telecom services (particularly cell phones) can be erratic, it has to be balanced against the kind of high prices and foreclosure characterising the American telecom market. This success has lessons for other regulators, ranging from those involved in the regulation of financial markets to those associated with energy regulation. Instead of focussing only on issues such as entry, it is crucial, particularly from the viewpoint of consumer welfare, to look into smooth flow of the network goods and composing norms and standards that ensure computability of complementary goods as they transform, flowing upstream to downstream. □

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# Carefully D



# Drive, Reach Alive

- ◆ Avoid over-speeding
- ◆ Do not mix drinking and driving
- ◆ Always wear helmet
- ◆ Do not use cell phone while driving
- ◆ Always park your vehicle in the parking zone
- ◆ Maintain lane discipline



*Issued in the Public Interest*

**Ministry of Shipping, Road Transport and Highways**  
Government of India

davp 37101/13/0026/0809

YE-2/09/7

# DO YOU KNOW ?

## Some Facts for Consumers

### Before taking admission in any educational institute

- Verify its affiliation to a recognized university or recognition by any other body established under law like UGC, AICTE etc.
- Verify if it has adequate qualified full time faculty.
- When educational institutions fail to provide service as promised at the time of seeking admission, consumer courts can provide succor to the students. This can happen only if the student has made sure that the institution she/he is seeking admission to has reorganization and proper affiliation.
- Imparting education by an educational institution falls within the ambit of 'services' as defined in the 'Consumer Protection Act'. Once a student hires or pays for the services of an educational institution she/he automatically becomes a consumer, as defined in the act, and any misrepresentation by the service provider is tantamount to unfair trade practice.
- The student should check the accreditation of the institution she/he intends to join, from the State Govt., UGC or AICTE.

### Banking

***Be aware of rights while dealing with Banks and Credit Card companies.***

***Put your signature in the assigned space immediately on the receipt of credit card***

- The Banking Ombudsman has offices covering pan India whose addresses can be obtained from National Consumer Helpline by calling:
- Toll Free number: 1800-11-4000 [ from MTNL & BSNL lines (9.30 to 5.30 pm)].
- NCH operates by giving advice on the 3 tier redressal system operational in the Banking industry i.e.

**Tier 1:** As per RBI guidelines each bank is required to appoint nodal officers for redressal (details available at NCH).

**Tier 2:** Banking Ombudsman; Reserve Bank of India

**Tier 3:** And finally if all else fails the Consumer Forum is available to the consumer as the last resort.

### Tips for Bank Customers

- While depositing any cheque in the bank you can insist on abstention of a duly signed / stamped receipt.
- Details of name, account number, branch, bank name can be written by the depositor on the reverse of the cheque deposited, to prevent misappropriation.

### Tips to Credit Card Holders

- All terms/conditions/account opening from copies must be kept in custody so that these can become ready referrals at any stage.
- Make sure that the charges/ interest/penal clause are

mentioned clearly in the terms/ conditions/sanction letter given to you by the company.

Beware of Recovery Agents of Banks/Financial Companies or any Service Provider or any other organization intimating you directly or by giving threatening calls on telephone by posing as Police Officer of any other department such as MCD, Custom or Excise etc. for recovery of any outstanding payments. Contact : Anti Threat by Recovery Agents Cell (Crime Branch) Ph.: 011-26184455 Fax: 011-26178123 E-mail-acp-aec-dl@nic.in or Call toll free-1090

### Medical Services

***When in doubt ask for RMP doctors registration number***

### For patients:

- Be sure the doctor is duly qualified, is registered with the Medical Council of India or other registration bodies for indigenous systems of medicine like Ayurveda, Homeopathy or Unani and is not a quack doctor.
- Always get the prescription on a letterhead.
- Purchase the medicine from qualified and licensed chemist.

### Rights of patients :

- Right to a copy of prescription
- Right to a copy of test reports
- Right to a copy of discharge certificate

If the patient avails of any free

medical services she/he is not covered under Consumer Protection Act. However, if she/he pays any fee for any services availed she/he can claim compensation for any deficiency in medical service.

**Keep medicines in a dry, cool place, away from direct sunlight.**

- Consumer has a Right to Correct Quantity of petrol

**When in doubt :**

**Ask for a certified 5 litre can at the petrol pump for the right quality of petrol**

**Petrol/ Cooking Gas**

- Ensure you get the right petrol quantity.
- Weight the gas cylinder at the time of delivery. In case of short weight or water inside the cylinder you have the right to complain.
- You can also complain against unfair trade practices by the petrol pump or the LPG distributor to designated company officials.
- Find LPG gas cylinder expiry / test date

Are you aware that there is an expiry date for LPG cylinders that are used in India to supply gas used in our household for cooking?

For instance, every cylinder carries some numbers inscribed at its top. For example, if it carries the number D06, the LPG cylinder life expires by Dec of 2006



Similarly, if the number is D13 it allows the cylinder to be in use until Dec 2013.

**ISI and Agmark**

*ISI and Agmark is put on a product after independent procedures to verify minimum quality standards*

**Look for standard marks like ISI or Agmark. They come with third party quality assurance**

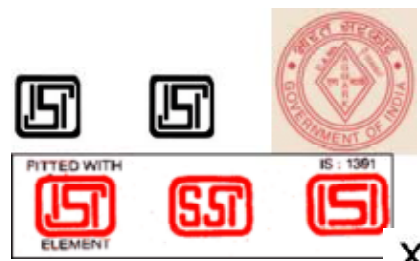
- While the shopping, always check for the M.R.P., Trademark, Name and Address of the Manufacturer, Expiry Date and Net Contents.
- Consumer should buy only ISI marked goods because they guarantee safety of life. Agmark is for Agricultural products like atta, dal etc.
- Consumer should not go for looks alone, but should recognize the right ISI mark and ensure it's not a clone.

**CHECK FOR ISI MARK WHEN YOU BUY ANY ELECTRICAL APPLIANCE**

Code No. ←-----is:.....



License No. ←-----CM /L-----



- check the verification certificate of weights and measures

If this is on level, the shop-keeper's on the level

By interchanging the weight with the purchased goods, from the weight pan on the goods pan and goods pan to weight pan respectively, you can ensure that you get the correct weight of your purchase.

**Get a fair deal!**

- Prohibition on use of stickers for alteration of labels.
- In case of complaints write to:

Director : Weights & Measures,  
Ministry of consumer affairs,  
Food & Public Distribution,  
Krishi Bhawan,  
New Delhi-110001

**Balances and Weights**

- Any balance and scale made of wood and using string to suspend the pans is illegal.
- For sale of waste paper check that the buyer's weights and stamped up to date and he uses a metal beam scale with pointer linked by unruled chains to metal pans.
- On electronic weighing instruments the verification seal is on a plate fixed to it.
- Weight of tray not to be included with veg/fruit bought.

- Insist on taking a bill for all purchases

**Food Products Order** – 1955, promulgated under section 3 of the Essential Commodities Act – 1955, aims at regulating sanitary and hygienic conditions in manufacture of fruit and vegetable products. It is mandatory for all manufacturers of fruit and vegetable products to obtain license under this Order to ensure good quality products, manufactured under hygienic conditions. The Food Products Order lays down the minimum requirements for:

1. Sanitary and hygienic conditions of premises, surroundings and personnel.
2. Water to be used for processing.
3. Machinery an equipment.
4. Product standards.

Besides this, maximum limits of preservatives, additives and contaminants have also been specified for various products.

- Tips for Buying
- Name and trade name of the food articles.
- Name and address of the manufacturer/ packer.
- Date and year of manufacture.
- Batch number.
- Net weight or volume of the product.
- **Look for the Hallmark while buying gold jewellery**

*Design of Hallmark on Gold Jewellery*

BIS Hallmark



Purity/Fineness

|     |                           |
|-----|---------------------------|
| 958 | Corresponding to 23 Carat |
| 916 | Corresponding to 22 Carat |
| 875 | Corresponding to 21 Carat |
| 750 | Corresponding to 18 Carat |
| 585 | Corresponding to 14 Carat |
| 375 | Corresponding to 9 Carat  |

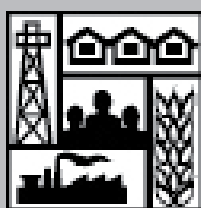


A (Hallmark) seal, ensure purity of gold



Look for BIS Hallmark through a magnifying glass before buying gold jewellery.

**Be Sure, Buy pure. Hallmark Jewellery doesn't cost more.**



# YOJANA

**Next Issue**

**on**

**State of Economy**

**March '09**

**T**he March issue brings to you an indepth analysis of the various sectors of the economy by experts. The issue carries write-ups on the economic overview of 2008; Prospects of emerging Economies; Gender and Child Budgeting and other sectors like railways, agriculture, health and rural sector.

## Market and the Rural Consumer

*Suresh Misra*



***As the largest consumer base is in the rural areas, protecting the rural consumer has to be a priority in any strategy to protect the consumers***

**R**URAL CONSUMERS have acquired importance as India is now seeing a dramatic shift towards prosperity in rural households. Rural India with its traditional perceptions has grown up over the years, not only in terms of income but also in terms of thinking. The purchasing power in rural India is on steady rise and it has resulted in the growth of the rural markets. The market has been growing at 3-4 per cent per annum adding more than one million consumers every year. According to a study by the National Council for Applied Economic Research, (NCAER), there are as many middle incomes and above households in the rural areas as there are in the urban areas. Moreover there are almost twice as many lower middle income households in the rural areas as in the urban areas. At the highest income level there are 2.3 million urban households

against 1.6 million households in rural areas. As per the NCAER projections, the number of middle income and high income households in rural India was expected to grow from 80 million to 111 million by 2007.

Gone are the days when the rural consumer went to the nearby city to buy branded products and services. The rural consumer is growing and the global players in the market are trying to grasp the market share –whether it is into FMCGs (Fast Moving Consumer Goods) sector or retail sector. Some FMCG products like toothpaste, hair oil and other like shampoos have done much better in rural areas than in the urban and the semi urban areas. The estimated annual business from rural markets is around 1, 23000 crores, comprising 65000 crores of FMCG, Rs. 5000 crores of durables, Rs.45000 crores of agricultural inputs including tractors

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and Rs.8000 crores of two wheeler and four wheelers. Similarly the retail sector has a huge potential for growth and the opportunities in retail sector is expected to touch \$43 billion by the year 2010.

### **Growth of rural markets**

In recent years rural markets have acquired significance in countries like India and China as the overall growth of the economy has resulted into substantial increase in the purchasing power of the rural community. On account of globalization and liberalization the rural areas are consuming a large quantity of industrial and urban manufactured products.

Rural market has witnessed a high demand both for products and services. For several product categories, rural markets account for well over 60 per cent of the national demand. It is the rural segment of the market that contributes more profit than its urban counterparts. The general impression is that only agricultural inputs like seeds, fertilizers, pesticides, cattle feeds and agricultural machinery have a potential for growth in the rural market. However there is a growing market for consumer goods now. It has been estimated that the rural market is growing at the rate of five times its urban counterpart.

More over the rural market is getting an importance because of the saturation of the urban market. Due to competition in the urban markets, the market is more or so saturated as most of the capacity of the purchasers has been targeted by the marketers. The marketers are looking for

extending their product categories to an unexplored market i.e., the rural market. The rural market has been growing steadily since the 1980's and is now bigger than the urban market for both FMCG's and consumer durables. An analysis of the NSS data reveals that 75 percent of the expenditure on manufactured goods is accounted by rural India

### **Myths about Rural Consumers**

It is common for us to think of rural India as one aggregate mass of people that behaves in the same way. The concept of homogeneity of rural consumer has posed a serious problem in formulating appropriate strategies to protect the rural consumers. Now this notion needs to be changed. Rural India should be understood from the different economic and socio-cultural segments that thrive in it. Unlike the urban ones who are individualistic, rural consumers tend to make decisions as a community. Communities of youth, women and professions are important influences of particular buying decisions. The rural consumer is not illiterate when it comes to his needs and buying decisions. He exhibits a strong visual literacy and associates with brands through their "visual touch".

Another myth is that the rural women do not play a role in decision making. However empowerment of the women is also having its impact. Women in rural India have come to enjoy increasing economic power and are a major influence in the purchase of household articles particularly FMCG brands. They

are perceived as the custodian of the family's health and hygiene.

There is also a perception that the rural consumer is only price-conscious, not quality conscious. But there is a cost value perception in upper class rural consumers. Another myth is that they aren't loyal to brands. To them, logos and symbols represent a brand, which gives rise to so many fakes. The biggest market for fakes is the rural markets.

### **Exploitation of Rural Consumers**

With the growth in rural markets and due to poor knowledge about their rights and also the lack of skills to take a rational decision based on information about the product or services, the rural consumer in India is exploited in many ways. The rural consumer has been made to endure sub standard products and services, adulterated foods, short weights and measures, spurious and hazardous drugs, exorbitant process, endemic shortages leading to black marketing and profiteering, unfulfilled manufacturing guarantees and host of other ills. The rural consumers who generally depend on weekly markets to purchase essential things are often cheated due to lack of choice.

The rural consumers in India are generally ignorant and they are also unorganized. Thus, they are exploited by the manufacturers, traders and the service providers in different ways. The rural consumers are not only scattered but also diverse and heterogeneous. As a result of globalization and liberalization the rural market

in India is the largest potential market in the world. Thus there are vast opportunities for rural marketing. The manufacturers and the traders take advantage of the condition of the rural consumers. It has been observed that the condition of the rural consumers is deplorable because they are largely exploited in the rural markets on account of lack of competition among the sellers. The rural consumers face various problems like adulteration, short weighing and measuring, lack of safety and quality control in appliances and equipments, electrical and mechanical, unfair warranties and guarantees, imitation, sales gimmicks and unreasonable pricing.

### **Fake Brands and Spurious Products**

One of the major problems being faced by the rural consumers is that of fake brands and spurious products. The brand image of the successful FMCG majors has been imitated by some of the small regional companies. These fake brands have been sold mostly in rural areas. Fake products are of two types – one counterfeit products and two; pass-off products. Counterfeit products are fake products that bear identical name of a product/ packaging/graphics/colour scheme and even same name and address

as the genuine manufacturer. Some one produces these to look exactly like real products other than the legal owner of the real product, trademarks and product packaging. Sometimes it becomes difficult to tell which the real product is.

Pass-off products uses similar sounding or is similar in spelling. They use similar type of packaging or color or design. They come out with the motive to mislead and cheating ordinary consumers who are uneducated or in a hurry in purchasing products. A study conducted by AC Nelson, a leading research agency reveals that FMCG industry loses around 2500 crores annually to counterfeits and pass-off products. It is also estimated that top brands in India are estimated to lose up to 30 percent of their business to fake products. Besides the loss of revenue, the trading companies also face the loss of damage to brand image and brand loyalty to consumers. Apart from the loss of revenue and brand image fake products cause immense damage to consumer's health.

Another interesting point is that FMCG counterfeit products only come in the smallest size of packing. In the rural segment where fake products thrive, the consumer's low purchasing power makes sachets and smaller packs

popular. It is in the case of these small packs that consumers are duped more easily as the quantity is not large enough for the buyer to discern its quality.

### **Need for Education and Empowerment**

In the emerging scenario it is necessary to protect the rural consumers by educating them about their rights and empowering them to make decisions based on information about the goods and services. Awareness has to be created among the rural consumers. So far the consumer movement has largely been confined to the urban centers, and with the expanding rural markets now the focus has to shift to protect the rural consumer.

However the task is gigantic and therefore it is time to involve the PRI's Panchayati Raj Institutions to reach the rural consumers. The meetings of the Gram sabha's can be utilized as a forum to educate the consumers about their rights and obligations and enhance their knowledge about fake and spurious products. An integrated approach is needed to empower the rural consumers. As the largest consumer base is in the rural areas, protecting the rural consumer has to be a priority in any strategy to protect the consumers. □

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## **NATIONAL CONSUMER DAY**

**D**ecember 24th is observed as National Consumer Day every year. It was on this day in 1986 that the Consumer Protection Act, received the assent of the President of India. The observance of National Consumer Day is in addition to the celebration of World Consumer Rights Day on March 15 every year.

## The Future Consumer Dilemmas

*Roopa Vajpeyi*



***Coping with  
major  
problems  
facing the  
society  
requires  
commitment,  
money, and  
often  
sacrifice***

**W**HAT IS consumerism, where did it all begin, how did it spread its tentacles, everywhere, so rapidly, and where exactly is it headed?

These are difficult questions at a time when the scope of consumerism is acquiring such uncontrollable proportions and sprouting ever new dimensions. Consumers need to identify and emphasize market and societal problems that underlie the recent upsurge in consumerism. An analysis of causal factors can provide the basis for projections of the future of consumerism. The answer might just lie in persuading consumers to be citizens first, and consumers thereafter.

On the part of consumers it needs a better grasp of host of international issues, and the impact that consumerism has on their own and their communities' day to day life. It is important that they take charge of the world that they, and especially their children, will inhabit in future. First and foremost how they will shop and what will they buy, so as to sustain their quality of

life that is inclusive of the needs of the environment. The consumers in the future will have to map their own needs carefully and align them to different consumption patterns because increasingly, the markets as well as their lives will be dependant upon bio-technologies and genomedicines. Nanoarchitecture will work with technology to find most effective ways to cut down the ecological footprint of consumers. City planners will look at the need to follow the lead of Nature through biomimicry and follow Nature for habitat technology of the future to create 'living' structures that operate like natural organisms. These nature-inspired cityscapes will be ever-evolving ecosystems.

As processes of urbanization swallow up all vestiges of agrarian and rural landscapes, this will become a top priority for a sustainable future for consumers.

Today, human habitat and transportation needs are heavily dependent on the international grid of energy and water. Energy crisis, clean water shortage, global

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warming and environmental pollution are worldwide problems, which current consumption choices have created. These choices now have to be unlearned and a more responsible and a proactive profile of consumers constructed, for a sustainable future

Future consumers will have to make sense of varied phenomena such as increasingly subliminal advertising, social networks, free-economy and technological as well as scientific advances, because the "haves" of the future will be controlled by digital economies and "have nots", will be those who are forced to stay offline. We will also witness the rise of 'consumanism' to counter citizen-centric priorities; and the rise of brandocracies, over and above the current sway of bureaucracies. Increasingly the companies, brands and corporations will have to submit to rating according to their ethical, social and environmental credentials rather than their abilities to generate profits. A radically different world from our own awaits future consumers, where they will require different tools and techniques to work, enjoy leisure time and find success and happiness.

Arthur Clarke, the renowned author, noted: "this is the first generation that thought much about the future, which is a bit ironic, since they may not have one". According to him the views of young people, whether about the present or future, are important because their perceptions will shape the future, or the world they will inhabit, the lifestyles and values they will adopt and the ways in which they will shop. By understanding the behaviour of tomorrow's consumers, green options need to be looked at and developed so that these become available to them. It's not about dealing with dead data. In a provocative and insightful view of

how emerging lifestyles and cultural changes are likely to impact on future consumers, a safe and healthy lifestyle can be provided for future consumers, by today's consumers, policy makers and markets. Any serious plans for 'greening' the future require all stake-holders to rebuild a sustainable relationship with environmental resources so that not only are the needs of the present met but also those of the future generations.

It is becoming increasingly clear that 'Green' lifestyles must combine an access to traditional or cultural knowledge, an understanding of current issues, and use of science and technology. Besides which the core proposition of the product, service and experience these create will simultaneously have to protect the environment and benefit the consumer.

**T**he 'delinking' of consumers from environmental resources, which is the hallmark of a market economy must be understood by consumers and actively resisted. In the Indian scenario future planning must provide for Environmental solutions, which transfer Power, give control and create wealth for the consumer/user.

A sustainable and green form of consumerism also must restore and endorse community living because Sustainability depends on preserving 'certain aspects' of nature, or cultural beliefs and rituals shared by people.

These belong to all and therefore not to any one person in particular. For the Indian consumers, Nature and culture have been a 'shared experience' in the past. In the fast urbanizing Indian cities these are increasingly being wrested from communities and continuously eroded. This is responsible for massive changes that are happening to the environment, animal and

human rights and the health and safety of our populations, both urban and rural.

Sacralizing 'certain spaces' was one such strategy that Indians have used to demarcate boundaries and to protect nature, tradition and culture, as well as to limit human tinkering with any, or all three. Thus we have 'sacred' rivers /mountains, trees, animals or sacred groves for preserving biodiversity etc.

For example take the modern approach comprising of patenting or the copyrights. These were never a part of the traditional Indian knowledge base, which circulated freely and transference of experiential knowledge took effortless and seamless routes into our collective subconscious. This is fast changing, in an increasingly competitive market scenario, and rules and regulations are being built into copyrights and patents, which are dismantling the 'community base' of cultural and traditional knowledge about environmental resources. Rapidly Industrialization processes are threatening the commonly shared spaces of nature. Even before consumers become aware, the biotechnology industry is poised to take control of the 'common pool' of genes. Already genetically modified food products are surreptitiously entering consumer homes via marketed and packaged foods.

Each attempt at limiting any of the 'community spaces' has to be met with resistance from consumers, or their health and the safety of environmental resources may be jeopardized irrevocably. The persistent market techniques to isolate consumers and individualize their every need should be systematically rejected by consumers. Satyagraha or consumer lobbying are the routes that have been identified in India and in the west to combat and control the power that markets seek to exert over consumer lives.

Similarly, the question of gender relations is in immediate need of serious consideration, but not fully explored. The relevance of gender to consumerism becomes significant in contemporary society where women are increasingly economically self-sufficient. This is especially relevant where "Western" civilization and the culture of consumerism, have effectively invaded non-Western societies. Consumerism seeks to segment and target specific consumer groups with the help of aggressive, as well as, subtle advertising techniques.

Media is the vehicle that extends the outreach of consumerism and its strategies to most consumers.

How might we shop in the future? What is the difference between organic food and Fair Trade? What is the real price of cheap goods? How consumerism contributes to global warming or what are the ways of producing food and goods that use less energy. How does repairing, reusing, and recycling, as well as buying less, help save the planet. Consumer education must address all these issues to inform, guide and empower consumers. Consumers, especially the young consumers must not be allowed to believe that ours are non-meliorist times. Or that consumers are helpless entities unable to protect themselves or get redress for their grievances.

Coping with major problems facing the society requires commitment, money, and often sacrifice.

Ongoing and regular polling to assess the perceptions and aspirations of high school and college age students in regard to their future as consumers in a rapidly globalizing world, could provide answers or at least indicators for tackling the future. Close attention needs to be paid to the results of the

questionnaires to correctly assess young consumer perceptions about the future of their own communities as well as the world in general.

An ongoing programme, introduced through the 'informal stream' of school and college curricula can be re-enforced at every stage of a student's life, from primary to middle, through secondary and into undergraduate courses. Consumer Clubs, currently functional in many schools across the country, need an ongoing support - structure to keep teachers and students pro-actively involved. This can be easily addressed through structured teacher-training programmes as well as student oriented creative programmes like the street play or 'Nukkad Nataks'.

**O**ur education system should train young people to think about the future, and working on alternative scenarios in regard to major issues for the coming years and then getting involved in the processes to change and to move forward. Thinking about and planning for the future should imbue young people with a sense of responsibility, confidence and assurance that there will be a future.

Fortunately, we still have viable choices - but procrastination must not be allowed to be an option. We need to act and act now!

In his book, 'Consumerism and the New Poor' Zygmunt Bauman delineates a shift from a society of producers to a society of consumers in modern times. Central to Bauman's analysis is the notion that today's societies are integrated around consumption rather than production. 'Freedom' in consumerist cultures means freedom to choose, (one of the 8 consumer rights), and the freedom to satisfy individual desires and define as well as construct consumer identity under the sway of the

market. This must change and it will, if support to non-profit NGOs, working on consumer issues is stepped up and sustained. This will help bring about systemic changes in consumer behaviour through, guidance, exposure and constructive support for consumers with the help of newsletters, journals, online information base and streamlining of redress mechanism. There has to be an information base, which inspires consumer confidence.

Bauman further proposes that the move from the society of producers to the society of consumers have left the poor of this world without a 'useful function'. This is specifically applicable to the Indian rural consumers, migrating to urban areas, where they are converted from skilled artisans to 'unskilled labour' creating major upheavals. According to Max Weber these 'traditional workers' - working on the principle of 'as and when', and just long enough to meet their immediate and limited needs find it extremely difficult to fit into factory routines. 'Traditional workers do not understand the working for work's sake principle. These traditional workers when forced to become consumers are thus 'traditional consumers'. They buy things not because they are aggressively marketed and / or enticingly on offer, but only because s/he needs them. This though is fast changing under the unrelenting pressure of urban consumer markets and their strategies to convert 'citizens into 'consumers'.

These new categories of consumers need specific solutions, guidance and direction for their absorption into the future plans.

Nature, women, the youth and the rural populations, all need to be accommodated in any planning ahead for a sustainable, healthy and meaningful life for India's 'tomorrow' consumers. □

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## Diffusing Prosperity Despite Remaining Poor



*He draws some solace from the fact that getting inspired by him, many farmers have performed selections from his varieties and evolved their own*

**C**ONSIDERING THE fact that a particular variety is sold in half a dozen states in the country and has diffused over a million hectares in these states (or may be more), it would be natural to assume that its developer is prosperous. But at 68, Dadaji Ramaji Khobragade, a farmer from village Nanded in Naghbid in Chandrapur district of Maharashtra who selected and bred the new variety of paddy called HMT still toils in his 3.5 acres of farm daily to earn the bread and butter for his family of six.

Dadaji Ramaji Khobragade selected and bred the HMT rice variety from the conventional 'Patel 3', a popular variety developed by Dr. J. P. Patel, JNKV Agriculture University, Jabalpur. He succeeded after five years of continuous study and research on his small farm without any support from the scientific community. The developed variety has an average

yield of 40 – 45 quintals per hectare with short grains, high rice recovery (80 %), better aroma and cooking quality in comparison with the parent ones. Most remarkable feature of the variety is the thinness of grain. It has been included as a standard reference for thinness by Protection of Plant Variety and Farmers' Right Authority (PPVFRA).

In National Innovation Foundation's (NIF's) Third National Competition in 2005 he was given a National Award for his efforts in developing this variety. NIF has also filed an application under PPVFRA 2001 to register his variety. Under the Joint Implementation Committee (JIC) of Council for Scientific and Industrial Research (CSIR) and NIF, an innovation fellowship has been granted (@ Rs. 10,000 pm) to continue his agricultural experimentations.



Most farmers in the Vidharbha region now grow HMT variety as it fetches them a better price

He grew up in a small forest village called Nanded in Naghbid taluka of Chandrapur district in Maharashtra. He left school after the 3<sup>rd</sup> standard due to adverse economic conditions to help his father in the farm. Presently, he is the only earning member of his family, which comprises his son (who does not earn due to his ill health), his daughter-in-law and three grandchildren. He owned three acres, which he had to sell to provide treatment to his son. Later he bought 2 acres and got 1.5 acres from his son's father in law.

### Evolution of the new variety

In 1983 Dadaji Khobragade noticed three yellow seeded paddy spikes commonly called as 'lomb' in 1.12 acres field, planted with the Patel 3 variety of paddy. He picked these three spikes, brought them home and stored them in a plastic bag. The next year he sowed the seeds of this yellow variety separately in the middle of his field. Observing the high yield of

this variety, he preserved the seeds. The following year he cultivated the seeds separately and got nearly ten kilograms of husked rice. On cooking the seeds he found them to be tastier than the Patel variety.

Later in 1988 he sowed four kg of seeds in an area of 10 ft X 10 ft and produced 400 - 450 kg of rice. The next year 100 - 150 kg seeds were sown from which he obtained 50 bags of paddy. He sold the seeds (40 bags) to many farmers including some in the village. Bhimrao Shinde, a large land owner in Nanded, bought 150 kilograms of seeds and sowed it in four acres of land. He obtained 90 bags of yield and sold the same along with what Dada Khobragade had produced to a trader from Talodi. The trader asked him about the name, but not knowing anything else to say, he suggested HMT since he was wearing HMT watch that day. Ever since, the name HMT has stuck.

Dadaji contacted the paddy research centre regarding this

variety, but they refused to recognize his farm research, as it was not based on scientific research techniques. But in 1993, the Gram Panchayat of Nanded passed a resolution in their meeting to recognize the work done by the farmer and acknowledged him as a Paddy variety developer. He received public recognition for the first time by Vilasrao Mutyan, the then MP (1993) of Chimera constituency, who felicitated him on the occasion of the inauguration of a statue of Indira Gandhi at Nanded in 1994. He was also felicitated by the BDO, Naghbid on the occasion Krishi Melawa (Agro meet) in 1994. After publication of his work in newspapers, a letter from the Collector, Chandrapur to Punjabrao Krishi Vidhyapith (Agricultural University, Akola) lead to him to get recognition by Dr. Moghe and then Directorate of Research, PKV, Akola.

### A bitter experience

In 1994 Khobragade was approached by the Sindewahi Rice Station, a part of Punjabrao Krishi Vidyapith. It took five kilograms of seeds of the new variety under the pretext of experimenting. But in 1998 they released a new variety named PKV HMT. They claimed that Khobragade's variety was 'impure' and that they purified the local HMT and released it under its new avatar called PKV HMT. To Khobragade there was (and still is) no apparent difference between his and theirs. A recent research study by Riya Sinha (2008) with the help of Dr Agrawal at CCMB, Hyderabad has established without any ambiguity that PKV HMT

and HMT are one and the same variety.

This classic case of formal science refusing to acknowledge the achievements of the informal was published in The Hindu newspaper. According to the report, Mr. A.D. Bhombe - Assistant Professor Botany at the Punjabrao Deshmukh College of Agriculture at Nagpur who was earlier a senior rice breeder at the Sindewahi rice station – clarified that the original selection of HMT was made by the farmer. But he went on to explain, “We felt that this HMT was a mixture and it needed to be purified. The seeds were collected from this farmer and we purified it. Farmers cannot maintain individual plant selections over the years. In the farmer’s method, there is some chance of natural crossing.”

After NIF’s recognition in 2005, another report in Indian Express newspaper quoted PKV’s Vice-Chancellor Mr. Sharad Nimbalkar mentioning, “We only say we have characterised, purified and improvised the breed so that it doesn’t get mixed with any impurity in the natural course. And we should appreciate that it is scientifically necessary to do so.” He went on to add that the PKV would felicitate Dadaji, “Nobody can take it away from Dadaji...I will immediately send him the authentication papers for the award,”. Three years on and the papers are still nowhere to be seen.

Several journalists wrote about his travails and pleaded for better recognition to him. Meena Menon, a journalist

from Mumbai wrote to NIF highlighting the saga of struggle that Dadaji Ramaji had gone through to get due recognition from the formal system for such a useful research. Vikalpa, a NGO from Nagpur wrote to NIF in December 2002 enclosing detailed information about the research by Dadaji Ramaji providing entire chronological details from 1983 till 2001.

The benefits of his research were usurped by private sector companies, allegedly with the help of agricultural scientists working in an agricultural university. He regrets that local agricultural university took the credit merely for purifying the seeds and did not give him the due attribution. Even several seed companies based in Nagpur and Chandrapur made millions from his seeds but never considered sharing even a small part of their profit with Dadaji Ramaji.

### **An indomitable spirit**

But undeterred by his experiences with the government establishments, research stations and the private companies, Dadaji Ramaji does what he enjoys most; to continue in his father’s footsteps. His father had a habit of selecting and breeding crops, which young Dadaji had often observed and later picked up. His father used to take the grains in his hand and grind them between his palms like an expert and observe the number of broken grains to judge the quality. The young boy was so enamoured with the idea of cultivating new varieties that he became obsessed with it. He would even carefully pack the new variety in polyethylene bags and show it to his friends.

Pursuing this passion, Khobragade has selected and bred seven more varieties of paddy in the last twenty years namely Chanaur, Nanded 92, Nanded Hira, DRK, Vijay Nanded, Dipak Ratna and DRK2 apart from HMT. The average yield of all the new varieties is about 15-16 quintals per acre. Out of these eight varieties, Vijay Nanded yielding 25 bags/ acre and HMT yielding 20 bags/ acre have been commercially successful. Just as in childhood, he proudly displays each variety he has carefully framed and labelled. When asked about his ambition he mentions sharing his ideas with other farmers and feels, “If other agriculturists follow my way of working in the field, it would result in higher yielding varieties and better prices for the crop.” He draws some solace from the fact that getting inspired by him, many farmers have performed selections from his varieties and evolved their own notable among them are Jai Shree Ram and Alif Laila.

Most of the farmers in the Vidharbha region now grow HMT variety as it fetches them a better price and has helped them improve their economic situation. His variety is now being marketed in Andhra Pradesh, Gujarat, Chattisgarh, Madhya Pradesh and Maharashtra. But the pain on his face is visible, wondering about his own situation, he remarks, “Their thatched roofs transformed into tiled roofs...” and pauses to force us to think that if such is the behaviour of the market and the indifference of the state, how can the culture of innovation be nurtured in the country? □

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## IN THE NEWS

### CABINET CLEARS PROPOSAL TO SET UP NIA

The Union Cabinet approved amendments to the law to provide for a tough legal measure and the setting up of a National Investigating Agency to combat terror. The Cabinet, gave its approval to the proposal to amend the Unlawful Activities (Prevention) Act, 1967 and the setting up of the NIA. The Cabinet also approved a proposal for amendment to the Central Industrial Security Force Act.

The cabinet discussion came in the wake of the Mumbai terror attacks after which the government has expressed its determination to put in place a tough legal framework to combat the menace. Prime Minister Manmohan Singh and Home Minister P. Chidambaram have told Parliament that the government would set up a National Investigating Agency that will probe terror cases at the federal level. Since law and order is a state

subject, the proposed amendment may give the Centre overriding powers over the state in case of terrorist attacks, like the Mumbai mayhem. The amendments to the Unlawful Activities (Prevention) Act are understood to be aimed at making detention provisions more stringent by providing for up to 180 days against 90 days at present.

*(Courtesy : The Kashmir Times)*

### GRAM NYAYALAYA BILL

The Rajya Sabha passed the Gram Nyayalaya Bill 2008 aimed at providing inexpensive justice to people in rural areas on their doorstep.

The Bill also provides for first class judicial magistrates dispensing justice.

Law Minister Hansraj Bhardwaj has said that he had sought the help of Prime Minister Manmohan Singh to send at least 3000 judges who will be the judicial magistrate first class

(JMFC) to the courts. They will be called 'Nyaya Adhikaris'.

They are strict judicial officers. They will be drawing the same salary deriving the same powers as the first class magistrates working under the High Courts.

The Gram Nyayalayas, for which the Centre will bear the full cost on capital account, are being described as a revolutionary step. These courts will sit at the district headquarters and in taluks. They will go in a bus or jeep to the village, work there

and dispose of the cases. The cost of litigation would be borne by the state and not by the litigant.

Mr. Bhardwaj also said Rs. 6.4 lakh would be the recurring expenditure including salary of the staff, per annum while total capital expenditure would be met by the Centre.

He also said tribal areas had not been covered and a mobile court would be set up at the block level.

*(Courtesy : The Hindu)*

### BILL ON EDUCATION

Children from even the poorest families can hope to study in good schools with the government introducing a bill in Rajya Sabha for free and compulsory elementary education with a provision that schools will have to keep aside 25% seats in class 1 for such students. The bill seeks to provide for free and

compulsory education to children between 6-14 years. According to the 'Right of Children to Free and Compulsory Education Bill, 2008', every school will have to earmark at least 25% seats in class 1 for free and compulsory elementary education. The bill seeks to do away with the practice of schools taking capitation fees before admission

and subjecting the child or parents to any screening procedure. The bill seeks to ban tuitions and ensure that no child is subjected to physical punishment or mental harassment. Warning that violators would be liable to disciplinary action. □

*(Courtesy : The Times of India)*





## Electricity Service Sector

*M A Azeez*

***Judicious use  
of electricity  
will effect  
in saving of  
scarce funds,  
fuels and  
create better  
living conditions  
on Earth***

**E**LECTRICITY SERVICE is one of key constituent of the Service Sectors and is declared as an essential service by the Government. As per the Constitution of India, Electricity is concurrent subject of Center and States.

Each State in India, till recently, had the Electricity Service Sector, comprised of vertically integrated State Electricity Boards, who were solely in charge of Generation, Transmission, Distribution of electricity including Tariff fixation, Operation, Maintenance and all functions of the sector. Consumer in a particular State, had no option but to agree to the terms and conditions and tariff structure imposed on him. Since consumer rights exist only in competitive market, there was no consumer choice in such monopoly electricity market.

The Power Sector Reforms which commenced in 1990s, amended suitably the earlier

existing Electricity Act 1948, to accommodate the desired reforms, till a new act is approved by the Parliament. With those amendments and need for reforms in the Power Sector, some of the States have unbundled the monolith State Electricity Boards in to separate Generation, Transmission and Distribution companies.

### **Electricity Act –2003**

The Govt. of India notified Electricity Act 2003, which primarily seeks to promote competition, protect interest of consumers while supplying electricity to all areas, rationalize electricity tariff, ensure transparent policies regarding subsidies and provide an enabling regulatory environment. An important aspect of the Act is, focusing on establishment of State Electricity Regulatory Commissions (SERCs), who are mandated to set retail tariff, establish related performance standards in supply

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and efficient of electricity, promote competition, create environment for private sector participation and evolve policies and procedures for environmental regulations. The consumer who pays for electricity consumption and service charges, has right and demands uninterrupted quality supply and efficient service mechanisms.

### **Role of State Electricity Regulatory Commissions (SERCs)**

#### ***Quality Of Service***

Most of the SERCs have framed regulations laying down Quality of Service Standards (QoS) to be maintained by the distribution Licensees and penalties and compensation to be levied on them for failure to adhere to these standards.

#### ***Consumers' Right to Information***

Consequent on the promulgation of the Right to Information Act, a consumer has now right to demand such information from the relevant SERC, which in turn has to get it from the Licensee and supply it to the applicant. SERCs are framing appropriate regulations, in line with the RTI Act, making it obligatory for the distribution Licensee to share the above type of information with the consumers.

#### ***Tariff Determination and Tariff Issues***

For consumers to play their rightful role as vital stakeholders in the electricity service industry, it is essential to create a level playing field by empowering them with relevant information on the licensees' entire range of operations. This role can be played by the SERCs who should share

the information they have on the licensees' operations without compromising their role as Neutral Umpires.

#### ***Need to Strengthen and Improve the Performance of SERCs***

SERCs have widely disseminate to the consumers and the wider public their charter of duties and responsibilities including their duty of consumer protection and their character as autonomous and impartial bodies. SERCs' personnel for consumer interface have to be strengthened, both in terms of manpower and training and should disseminate regulations, codes and procedures on new connections, metering and billing, disconnection, consumer rights, guaranteed standards of performance, etc.

Consumer education should be actively promoted by the SERCs through seminars for representative bodies of consumers, public notices and sponsored articles in vernacular newspapers, flyers and inserts in newspapers, interactive programmes on radio and TV and audio-visual notices on TV. An imaginative policy for consumer education should be framed and backed up with sufficient funds.

#### ***Consumer Grievances Reddressal Forums and Ombudsman***

The Electricity Regulatory Commissions of the States, where the Distribution of Electricity is either by Private or Government controlled Service Provider; have been mandated to constitute Consumer Grievances Reddressal Forums and Electricity Ombudsman to function under their control, for impartial and speedy

redressal of consumer grievances, which otherwise were not to the satisfaction of the consumers, when communicated by the Service Provider.

### **Consumers' Responsibilities**

#### ***Reliable Power Supply***

- In a stable electricity distribution system, a weak link can lead to disruption of supply and may even collapse the network. Mostly the weak link I caused by over loading. The main reason for overloading of distribution system, which leads to unscheduled disruption, is not always due to power shortages or under / low frequency, but also due to over consumption / drawal of power.
- Over loading / drawal can be explained as follows. A consumer has electric connection for say 5 KW. Over the years, usually he acquires additional gadgets. But he does not get his sanctioned load increased / enhanced from 5 KW to 7 or 10 KW. Such an attitude prevails with almost all consumers. Large number of consumers adopting to such attitude, puts a huge strain on the existing network, leading to trippings and outages. This is not only a safety hazard, but also contrary to the rules-inviting penalties and fines.
- The network is designed and periodically upgraded on the basis of Load Forecasts made on the declaration made by the consumer about his load (quantity of power required). The declaration made by the consumers, about required

load and more importantly about enhancement of load with passage of time, is crucial to maintain the distribution network in healthy condition and ensure the consumer gets quality power at home and office. Thus the onus of reliable, safe and uninterrupted power supply is as much the responsibilities of DISCOMS as it of the consumers.

- Ideally, Connected Load should be equal to Sanctioned Load and maximum demand in a month should not exceed Sanctioned Load. A consumer, whenever applies for a new connection, should ask for correct sanctioned load, and whenever new gadgets are added, he should get the sanctioned load enhanced.

Electricity is a basic necessity. Generation, Transmission,

and Distribution of electricity, requires huge investments. Over 70% electricity generated, is through Thermal Plants, which use scarce coal. They create Pollution and lead to Global Warming. Judicious use of electricity will effect in saving of scarce funds, fuels and create better living conditions on Earth. □

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## Awareness and Protection of Consumer Rights

*M C Paul*

***This single pro-active action on their part will definitely minimize the consumers' woes in the market and thereby help protect the consumer rights***

**T**HIS SUBJECT is not an easy one in the emerging Indian situation where free-markets are allowed to operate in almost all the areas of our socio-economic life. As we know India was always an economy with scarcity and slow growth rate before the privatization and globalization process started in 1991. Earlier, the issue of consumer rights was only either incidental and/or localized, and these issues related to consumer safeguarding were dealt through different specific laws and regulations through specific bodies/ Acts like Essential Commodities Act, 1955 etc. The exclusive law for protection of consumer rights enacted in Indian Parliament is really unique in many ways. This Act came into force in 1986 at the behest of UN. Probably the need for this was not felt earlier when our economy was on slow-growth mode with perennial scarcity of goods due to several reasons including ever rising population/consumers. Moreover,

probably again, the consumers in general, living under the scarce circumstances never thought it so important to pursue or legally protect themselves. So whatever was made available in the markets under the government controlled regulatory authorities was accepted without fuss with exceptions here and there. Moreover, the marketers in general, I suppose, were not that dishonest and money-minded as it is now in the changing situations. They had certain ethical values to practice under social control. The overall situation in a way controlled the conditions though in a limited way for the benefit of people unlike now in an open free-market economy under the dictation of globalization and privatization forces and that too without much stringent control and regulations. As said, in the scarcity-ridden crisis economy probably the need for consumer protection was not felt as acutely as it is now. But unfortunately the slow pace of awareness creation and pro-active

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strategies are not helping us as desired.

Under the prevailing circumstances, it may not be out of place to mention, that for many consumers the protection of consumer rights is not very important issue so they welcome the emerging market and, accept and consume whatever is made available without much critical understanding, of course with exceptions. Thus millions are not even truly aware of what the consumer rights are including the highly educated persons. My recent study conducted in NCR shows the mix scenario.

Non-active consumers and the consumers who are not aware do help defeat the purpose of this revolutionary Act to safeguard their rights against many violations of the market shirks who is more organized than the consumers. It is in this context that the role of democratic welfare government becomes central. It has tremendous role to play proactively on the ground to protect these rights of consumers. But mostly rhetoric and/or lip service cannot bring much change on the ground. And it is not much seen in reality as the rampant violations in the market places are the order of the day.

In a way the marketers are having the last laugh by seeing the precarious situation in which the consumers are placed in the era of globalization and privatization of business and marketing. In developed countries the markets are more regulated and under tighter control in regards to quality, be it in the case of goods or

services. It may be noted that it is not that we do not have rules and regulations but these are scarcely enforced due to several systemic weaknesses and/or limitations or poor governance. So this deficiency on the part of the regulators become the license for the business to efficiently and effectively utilize the situation to have leverage to do all the wrongs and market injustices, and get out of it ordinarily. Otherwise how come even the basic consumer goods like milk, vegetables, cereals, pulses, oil, etc. are made available in different markets with questionable quality, purity, safety etc. even if promised on the contrary by the marketer shows it all. This ground reality can be checked and it is not difficult to find for any discernable customer and for millions of consumers compromise is the only solution under the prevailing market circumstances. But it should have been otherwise as winning the trust of consumers is a very important consideration and that too, in the emerging market scenario to stand in the competition. In this context I remember what John K. Galbraith had once said: "The notion of consumer has a sovereign influence in the market economy will serve only those who believe in fairy tales." In another place he said: "It is not the consumer who is the king in the economy. Whatever happens is not because the consumer wants it but because large and powerful corporations prefer it that way." How true are these two extraordinary statements under the prevailing Indian global market economy.

In fact again in the era of globalization even the branded companies, with exceptions apart, do not always follow the trade practices which their companies following in parent countries. This is an irony. We find them lackadaisical in this context to follow properly the rule books and/or business ethics. With the liberalization of Banking and Insurance sectors many private Insurance and Bankers companies are allowed to operate in India, but their track record gives rise to suspicion in the minds of the consumers. All these market situations are tarnishing the image of Brand India in many ways than one unless appropriate measures are taken urgently.

What is required is stringent enforcement of rules to control the violations with the help of consumer organizations and the broader civil society as it is happening in developed market economies because when markets open up, of course companies may become more competitive but they also need to be more responsive to consumers. Thanks to globalization and privatization that newer consumer goods and services are produced and marketed with competitive aggressiveness to allure the consumers even by misleading and false advertisement and often by not much caring to respect the cultural sensitivities and values of the land while blindly running after profits.

But in India the regulatory system is not in tandem with the rampant consumer rights violations perpetrated both by the organized and unorganized

sectors of the economy, often in the name of brand marketing. For them business is marketing, often at the cost of consumers and thereby create market anarchy, if I can say so. Probably socially committed lawyers or consumer organizations may come forward to the souls of these victims of market injustice in right earnest Under the garb of business and marketing many swindlers are found to be operating to exploit the unsuspecting consumers. All these are happening with the help of expanding multi-media-based advertisement sector. Many over-night operators or floaters of business with a catchy brand name and firms, giving ads in the media, are exploiting the millions of consumers in India. Some of them might got caught but these are tips of the iceberg only.

Truly creating awareness is a gigantic affair and protection of consumer rights is also a Herculean task under the emerging circumstances in India. This is true even for the smart and aware consumers. We may not find a single

consumer in India who has gone to the market and never experienced the violation of consumer rights which are enacted for them by the Parliament of India. But those who ever try to hook the culprit may get disheartened by the long-drawn and/or delay in justice delivery system. This put even the up-right consumers may helpless unlike others who either do not know their rights or the rest become fatalistic in attitudes and/or non-persistent in approach and action-strategies to take on head-long the business violations in true spirit. Therefore, they mostly cannot go far except may be releasing circumstantial frustration discussing with friend circle or in drawing room conversation. All these are very much known to the organized business and marketers. Government needs to shirk the lip-service action-orientations in regards to the protection of consumer rights. Mere periodical release of advertisement: Jago Grahak Jago slogan by spending million-dollars and making weak efforts to make producers,

manufacturers or range of other intermediaries to Jago to respect actively and protect strongly the consumer rights will not go a long way. In fact, under the prevailing circumstances the latter is having a last laugh at the cost of consumers' helplessness and/or inaction. Like the pro-active consumers of western developed countries we need to organize with a strong sense of commitment and true spirit to force both the government and the business class as a whole to follow ethical trade practices. This single pro-active action on their part will definitely minimize the consumers' woes in the market and thereby help protect the consumer rights. Otherwise the revolutionary Consumer Protection Act, 1986, one of the most progressive, comprehensive and unique pieces of legislation enacted in Indian Parliament for better protection of consumer interests and rights will serve no purpose and it will be only defeated by the free-marketers without restrictions and control. □