

# Consumer Dialogue

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Bi-monthly GRANIRCA E-newsletter

## Proposed Amendments in COPRA, 1986

The government introduced Consumer Protection (Amendment) Bill, 2011 in the Lok Sabha on December 16, 2011 to facilitate quicker disposal of cases and widen and amplify the scope of some of the provisions of the Act.

The enactment of the Consumer Protection Act (COPRA), 1986 was an important milestone in the field of consumer protection. In terms of the Act, consumer disputes redressal agencies have been set up at the 629 district, 35 State and National levels to render simple, inexpensive and speedy justice to consumers in respect of complaints against defective goods, deficient services and unfair/restrictive trade practices.

It has been felt necessary to amend the Act with a view to faster redressal of complaints and rationalise procedure of appointments in consumer disputes redressal agencies.



### HIGHLIGHTS

- On line filing of consumer complaints:** Making provision for registering complaint in electronic form (online complaint filing) – Since the consumer forums are being computerised it is proposed to make provision in the law to permit consumers to file complaints as well as pay fee online, which would make the consumer for a move towards e-governance/time bound redressal.
- Enforcement of orders as a Decree of Civil Court:** Making provision that an order of the District Forum/State Commission/National Commission will be enforced as a decree of a Civil Court. This modification would deter wilful offenders and ensure speedy and proper execution of the order of the consumer forums, so that justice to the aggrieved consumers is not frustrated.
- Payment to be made for non-compliance of the order:** Making provision for payment by every person for not complying with the order of District Forum/State Commission/National Commission of an amount of not less than Rs 500 or 1.5 percent of the value of the amount awarded, whichever is higher, for each day of delay of such non-compliance of the order. This modification is again going to provide tooth to Act and will ensure effective execution of the orders of the consumer forums.
- District Forum to function at any other place besides district headquarter:** Empowering District Consumer Forum to function in any other place apart from district headquarters, in consultation with State Government/State Commission. This provision is considered necessary to allow state governments to provide easy access to consumer forum for consumers staying in rural and remote areas and finds difficulty in reaching to district headquarters.
- Paying reasonable rate of interest:** Conferring powers to the District Forum to issue order to the opposite party to pay reasonable rate of interest on such price or charges as may be decided by the District Forum. This provision would empower the consumer forum to award interest, where the consumer has suffered due to protracted litigation.
- Powers to State Government in selection process:** Empowering state government to refer back to the recommendation of the Selection Committee for making fresh recommendation in order to avoid any delay in the selection process. This would facilitate quicker filling up of posts in the consumer forums.

Though the proposed amendments did not include much on unfair trade practice issues and ensuring effective role of consumer councils as anticipated but still it is for sure that these amendments proposed in the Act will go a long way in speedy redressal of consumer grievances and sturdy protection of consumer rights.



## ACTIVITIES



### Holding Broadband Service Providers to Account

CUTS Centre for Consumer Action, Research & Training (CUTS CART) in partnership with Consumers International (CI) conducted an online survey to campaign for '*Holding broadband service providers to account*' in India.

This campaign of CI was to empower consumer organisations around the world to demand more equitable and accessible broadband service offerings, respecting consumers' rights and broader human rights, as a necessary condition of achieving a socially-inclusive information society.

As per the CI instructions for the campaign partners to complete the task, CUTS conducted an online survey as per questionnaire shared by CI among the broadband consumers. The questionnaire data was analysed and the report was prepared in the format provided by CI.

Few highlights of the findings from the survey were that in big urban areas, the private service providers are capturing the market as compared to remote, rural and small areas. In such areas, government-owned BSNL is popular and providing services as national action plan.

Maximum percentage of the total respondents was found to face slow speed as a major and other problems being poor networking, tariff and billing. Most of the respondents were found satisfied with complaints handling and problem sorting-out system of service providers especially by the private-owned service providers but that was less in case of government-owned service providers.

Most of the respondents were using internet for email, browsing, social networking, online banking, entertainment and multipurpose use. Other concerns raised by respondents were accessibility, affordability, high tariffs, bad quality of service, concern of privacy, high cost of instruments, language problem, hidden charges, lack of proper information etc.



[The telecom news.com](http://The telecom news.com)

## PROJECT UPDATE

### Ministry Reviewed GRANIRCA progress

A meeting was organised by the Ministry of Food, Public Distribution and Civil Supplies of Government of India, at New Delhi on February 10, 2012, where GRANIRCA Project team took part along with senior officials from the Department of Consumer Affairs in the Ministry.

The objective of the meeting was to review the progress of activities under the project during the second year and recommend release of grant for the third year and also to consider redesign, mid-course corrections or reallocate funds within the approved outlay of the project, subject to GFR guidelines, if proposed and required.

Manoj Kumar Parida, Joint Secretary chaired the meeting. S K Nag, Director; M. Ram Jogesh Under Secretary; and Prema Bhatt, Under Secretary from the department were also present. George Cherian, Director, CUTS along with project staff Arjun Kant Jha, Dharmendra Chaturvedi and Abhimanyu Singh also attended.

### Third Year Research takes off

The subject, 'Plight of Consumers of Power Sector' was chosen for field research for 2012. The purpose is to gauge the level of awareness of consumers in electricity reforms and understand the level of their satisfaction regarding all kinds of electricity services provided to them by service providers. The questionnaire was prepared, printed and sent to partners along with methodology for getting these filled up. Prior to that, the team also conducted the field testing of questionnaire and based on the feedback, it was further revised.

## OTHER CONSUMER RELATED ACTIVITIES

### Telecom Consumer Education Workshops

During the period, CUTS with the support of Telecom Regulatory Authority of India (TRAI) organised two District Level Telecom Consumer Education Workshops at Churu on January 31, 2012; and at Dholpur on February 18, 2012 respectively. In both the workshops, representatives of Aircell, BSNL, MTS, Idea, Vodafone and Airtel were present.

## Commission Punished Insurance Company with a Fine for Wrongly Denial of Medical Reimbursement Claim

Moti Mahajan, a resident of Sector 18, Chandigarh filed this complaint stating that in May 2009, he got a cashless medical insurance policy for himself, his wife Anubha and two children by paying a premium of ₹6,971. The policy was renewed in May 2010.



In December 2010, Anubha Mahajan felt palpitation and was taken to Fortis Hospital, Mohali. Following the advice of doctors, she was rushed to Fortis Delhi for treatment. Her surgery was conducted, and she was discharged on April 14, 2011. As per the policy, Mahajan was not required to pay anything to the hospital for the treatment of his wife, and only had to produce the member identity card given by the company.

Mahajan told the Commission that despite this, he was forced to pay ₹82,840 for the treatment of his wife. Thereafter, he visited the insurance company and submitted all relevant documents for the reimbursement of his claim, but was refused.

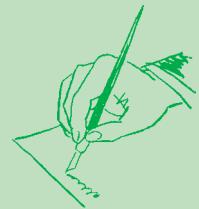
On the other hand, the insurance company in its defence said that it had denied the claim on the ground that the policy holder was suffering from Paroxysmal Supra Ventricular Tachycardia (PSVT, viz. an occasional rapid heart rate) and had hidden this when he took the policy.

After hearing both the parties, the Commission came to the conclusion that since no medical records prove the complainant was suffering from PSVT as a pre-existing disease, there is no evidence to prove that she concealed the fact. After considering the arguments and the evidence submitted by both the parties, the Commission decided the case in favour of the complainant and directed it to compensate the policy holder accordingly.

The Commission levied a fine of ₹25,000 on the insurance company and also directed the company to pay ₹84,166 to the couple as reimbursement of the claim along with ₹10,000 as cost of litigation.

(Info Akosha, 25.01.12)

## IMPORTANT JUDGEMENTS/DECISIONS



## Consumer Forum Asks Airline to Pay Consumer ₹75,000 as Compensation

The Mumbai Consumer Forum directed Kingfisher Airlines to pay ₹75,000 to consumer Sanjay Banga for failing to accommodate his family members on another flight after their flight, for which tickets were booked six months in advance, was cancelled. The Consumer Disputes Redressal Forum found much substance in the allegation levelled by Sanjay Banga that the airline had cancelled several flights during the period in order to compel passengers to purchase new tickets by paying full ticket amount at the eleventh hour, and thus get rid of tickets booked in advance at concessional rates.



In November 2006, the Peddar Road resident Banga booked 15 return tickets, some from Mumbai and remaining from Delhi to Chennai as his family members had decided to visit to Tirupati Balaji during the summer vacation.

The flights were scheduled to leave on May 06, 2007. A week prior to their scheduled trip, however, the airline informed him that two of the flights had been cancelled. Banga then requested the airline to accommodate them on another flight in which seats were available, but the airline turned down his request. Kingfisher Airlines' counsel Shivajirao Masal contended that the airline had the authority to cancel flights because of certain extra-ordinary circumstances.

The bench of Forum President JL Deshpande and Member Deepa Bidnurkar, however, found that there was no evidence suggesting a 'extraordinary' circumstance. The Consumer Forum reduced the compensation taking into consideration that the Bangas later themselves cancelled their trip and were not required to purchase tickets at higher rate.

(Hindustan Times, 06.02.12)

## Discom to Pay Compensation for Inflated Bill

BSES Yamuna Power Ltd has been asked by New Delhi Consumer Forum to pay Rs 10,000 to one of its customers as compensation for "harassing" her by sending an inflated bill and then disconnecting her electricity supply for not paying it.

The Forum said that the "arbitrary and illegal" act of the discom of sending an inflated bill of over ₹81,000 to the complainant, Zarina Khatoon, amounts to "deficiency" of service and "illegal trade practice."

(Press Trust of India, 08.02.12)



## Frivolous Consumer Cases on the Rise and Need to be Curbed

**O**ne of the drawbacks or misuse of COPRA, 1986 has been to ‘teach a lesson’ to the supplier of goods or the service provider by consumers, which now has become a normal feature after the COPRA came into existence. If a gadget does not work and can be repaired, even then the consumer wants the supplier to replace it. Consumers file complaints claiming huge amounts of compensation with the nearest District Consumer Forum.

To put an end to the tendency of filing frivolous and vexatious litigation, Section 26 was inserted in the COPRA in 1993, which provides for a maximum penalty up to ₹10,000 on complainants, if their complaints are baseless or bogus. This provision too has not worked well because not only the penalty amount is incommensurate with the harassment meted out to the defendant but also it takes years to arrive at that finding. It is now being advocated that the penalty amount be raised to ₹1 lakh.

For instance, Suresh Narayan Kumar filed a case against Bihar State Financial Corporation refusing to give him financial assistance. The National Consumer Disputes Redressal Commission, while holding that banks and financial institutions are not bound to disburse loans to everyone, dismissed the complaint and directed the complainant to pay ₹10,000 as penalty.

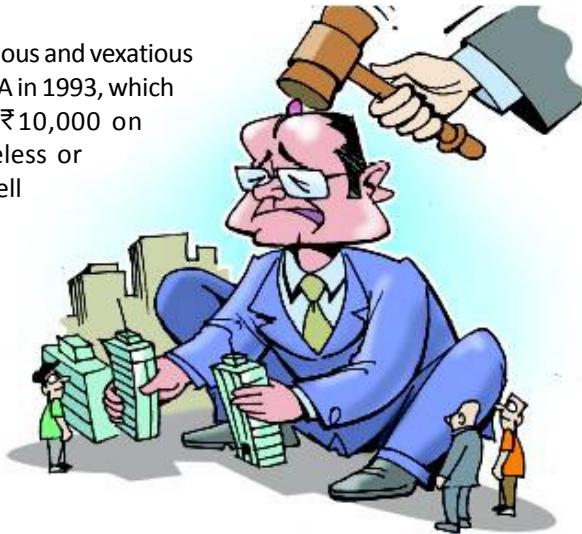
In another case, viz. Brij Mohan Kher vs. Dr. N H Banke, the National Commission, while directing the complainant to pay ₹10,000 each to the two respondent doctors, went on to observe that “to put an end to the menace of filing vexations complaints, the forums should be empowered to award much higher costs”. Consumer fora have now found a way to impose deterrent costs not under Section 26 but resorting to the general provision of imposing costs of litigation, pecuniary or penal.

In a recent case decided by the apex National Consumer Disputes Redressal Commission on January 06, 2012 (Dwarka Dheesh Investments vs. N.K. Bhatia & Anr. 2012 CPR 305) N K Bhatia gave two cheques to Dwarka Dheesh Investments for amounts of ₹60,000 and ₹50,000 to purchase 1,000 shares of Hotel Leela and 400 shares of NTPC respectively. He did another transaction with them and sent shares worth ₹2,17,210 for sale. The total proceeds of these two transactions amounting to ₹3,27,210 were not given to Bhatia despite his repeated demands.

He filed a complaint with Delhi District Consumer Forum, which directed the company to pay the aforesaid amount to the complainant with compensation of ₹5000. Its appeal to the State Commission was also rejected. The investment company filed a revision petition before the apex National Commission.

Rejecting the same by its aforementioned judgment, the Commission observed that the revision petition filed by the company was “most bogus and frivolous and has been filed just to waste the time of this Commission”. The Commission directed it to deposit in addition ₹25,000 as costs.

[www.indiatoday.in](http://www.indiatoday.in), 26.0.12)



### GRANIRCA Upcoming Activities

- Data feeding from survey being done under research
- District Partner’s Orientation at Jaipur on March 15, 2012
- Celebration of World Consumer Rights Day at Jaipur on March 16, 2012 on the subject **“Our money, our rights: Campaigning for a ‘real choice’ in financial services”**
- Public Interface Meetings, Phase I of year three initially in 11 districts during April 05-30, 2012



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