

Consumer Dialogue

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Bi-monthly GRANIRCA E-newsletter

Law to Control Misleading Ads Coming Soon

'A fairness cream claims that this will make you fair and will make you a super star...'

'A deo can get you girls...'

'A shampoo can get you long shiny hairs...'

'Loan in few minutes (conditions apply)...'

'Invest with us and get returns of double the amount of investments...'

These are classic examples of misleading advertisements. And when such products are endorsed by celebrities, the reach and acceptance of such products are huge. There is a need to put a control on such advertisements for the interest of consumers with stringent laws and deterrent punishments.

This was discussed at a one-day workshop organised at Consumer Education and Research Centre (CERC), Ahmedabad with the support of the Ministry of Consumer Affairs, Food and Public Distribution, Government of India.

The Union Ministry of Consumer Affairs is all set to make stringent laws to put a control on advertisements which misguide the masses through incorrect facts and hypothetical conditions.

Rajiv Agarwal, Secretary, Ministry of Consumers Affairs, Government of India said that the Ministry is planning to form stringent laws on the issue. "Through such workshops we seek help from the experts from all spheres of life such as lawyers, industrialists, professionals from advertising agencies, bureaucrats and personnel of the media to guide and help us to frame strict laws for the benefit of the consumers," Agrawal added.

Justice MB Shah, former Judge, Supreme Court and former President, National Consumer Disputes Redressal Commission (NCDRC) highlighted major issues faced by the buyers and also tactics adopted by the advertisers. He opined that aggressive marketing has now become the order of the day. It is very difficult to find out if any claim made in any advertisement is true. So the onus of proving the claim should be put on the advertiser only.



During the debate, experts voted for making Advertising Standards Council of India (ASCI), which is a self-regulatory voluntary organisation of the advertising industry, more effective. It was suggested that it should be strengthened with a legislation to add deterrent effect and give more teeth to it; at present it is just a toothless tiger.

Arvind Sharma, Vice Chairman, ASCI, as well as, Chairman and CEO, Leo Burnett, South Asia stated that framing clear and definite laws, which can have a universal applicability

even after 50 years, as the process of making and amending laws in time is very lengthy and time consuming process in India.

Pankaj Agrawal, Additional Secretary, Ministry of Consumer Affairs, Government of India, said the ASCI which has taken the responsibility of monitoring contents of advertisements telecasted and published, has proven to be ineffective and needs to be given strong support. A strong legislation would act as a strong backbone and will help to take strict actions against defaulters.

25 years
1983 2008
CUTS
International



Ministry of
Consumer Affairs,
Food & Public
Distribution
Government of India

सत्यमेव जयते



CUTS CART



GRANIRCA Project Update

District Level Training Workshop

The last District Level Training Workshop was held at Banswara on November 02-03, 2011. It was targeted to empower grassroots consumers through training to ensure effective and strong consumer movement in the district. It will help the consumer activists to get acquainted with grievance redressal mechanism for speedy, inexpensive and effective justice in project districts, which will further support the underprivileged classes in their respective blocks. The workshop participants were benefited by information provided by Omkar Mal Kaviya, District Supply Officer, Banswara; Archana Davey, Member, District Consumer Forum; and Deepak Shrimal, Activist and staff from CUTS CART.



State Level Feedback Roundtable Meeting

A State Level Feedback Roundtable Meeting was held at Jaipur on November 29, 2011. The main objective of this meeting was to consolidate and share the key learnings emerged from the yearlong activities and identify the points for advocacy. More than 57 representatives comprising stakeholders, which included representatives of CSOs, print and electronic media along with 12 project district partners also participated.

Keynote address was given by Rajendra Prasad Bora, Senior Media Person and also an Active CUTS CART Advisory Board Member and a presentation was made by Dr Poonam Pandey, Project Associate, GIZ.



Public Interface Meetings (PIMs)

During November-December 2011, 24 PIMs as part of the Second Phase of the project were organised at 24 blocks of 12 districts. The objectives of PIMs were to raise consumer awareness at the grassroots to build a strong consumer movement at the grassroots level in Rajasthan; share the existing appropriate mechanisms for exchange of information on measures of consumer protection; empower consumers to make informed choices and thereby protect their health and safety and get more value for money; obtain feedback from the people about the existing redressal mechanism condition, environment and accessibility; and bridge the gap between consumers and service providers/officials responsible for consumer protection.



PUBLICATIONS

POSTERS

Four posters have been brought out as an informative material for generating awareness at the grassroots which were released during the State Level Feedback Roundtable Meeting on November 29, 2011 are as under:

- Consumers Know Your Responsibilities;
- Consumers Know Your Rights;
- Consumer Beware From Non-Standardized Products, Misleading Advertisements and Adulterated/ Spurious Products; and
- Consumer Be Aware and Teach Lesson to those, Who are Indulged in Mal and Illegal Trade Practices.



Briefing Papers

Medical Services & Consumer Protection Act

This briefing paper is an effort to showcase Medical Services vis-à-vis Consumer Protection Act (COPRA) highlighting duties and liabilities of doctors and hospitals, kinds of liabilities, status of private and government hospitals and other remedies available to consumers besides the COPRA.

www.cuts-international.org/CART/GRANIRCA/pdf/Briefing_Paper11-Medical_Services_and_Consumer_Protection_Act.pdf

Remittances:

Travails of the Migrants

India has more than 25 million migrants living across 110 countries. This briefing paper examines major issues related to international remittances from a consumer perspective and suggests improvements.

www.cuts-international.org/CART/GRANIRCA/pdf/Briefing_Paper11-Remittances_Travails_of_the_Migrants.pdf



File a Case with Proper Evidence and Firm Approach

(*Indian Institute of Professional Studies v/s Rekha Sharma*)

The Indian Institute of Professional Studies published an advertisement in *Dainik Bhaskar*, wherein it had invited applications for fresh admission in the Master of Physical Education (M.P.Ed.) course for 2009-2010. Rekha Sharma sent a demand draft for ₹200 for the application form. The Institute sent its prospectus, not containing any information about the M.P.Ed. course.

Treating this as an instance of false advertisement and an unfair business transaction, Rekha sent a letter demanding a refund of ₹275, which included the bank commission for obtaining the demand draft and postal charges. However, the Institute did not refund. Rekha then filed a consumer complaint before the Kota District Forum, alleging she had lost one academic year due to this. She also filed an affidavit with documentary evidence to substantiate her claim.

The Institute contested and submitted that the M.P.Ed. course had been started in that year, but since the new prospectus, which had been sent for printing, had not been received, the old one was sent, which also contained information about the course. The Institute claimed on receipt of Rekha's letter demanding a refund, it had sent the new prospectus through post. It said there was no deficiency made and the complaint should be dismissed. However, since no affidavit was filed by it in support of this, the Forum held its reply did not have evidentiary value.

After an appraisal and Rekha's documentary evidence, the Forum held there was deficiency in service and ordered the Institute to pay Rekha ₹280 towards the demand draft and postal charges ₹25,000 as compensation for loss of an academic year, ₹10,000 towards mental agony, and ₹2000 as costs.

The Institute appealed to the Rajasthan State Commission against the judgement. Law requires when an appeal is filed that 50 percent of the awarded sum or ₹25,000, whichever is lower, be deposited with the commission. The Institute did not deposit, so its appeal was dismissed. The Institute then filed a revised petition before the National Commission. It contended that Rekha could not be a consumer, since she purchased only prospectus and the application form, but had not been admitted to the course. It also claimed there was no deficiency in service as the new prospectus, earlier under print, had been subsequently sent.

Overruling, the National Commission observed the procedure laid down under the Consumer Protection Act is well established, viz. that consumer forums have to settle disputes on the basis of evidence. Since the Institute had not filed its affidavit in evidence, it had failed to prove its submissions.

Accordingly, the Commission held the District Forum was justified in refusing to consider the reply filed by the Institute, which was not supported by an affidavit. The order of the District Forum was upheld and the revision petition dismissed.

So, the parties in a dispute must remember they cannot adopt a file-and-forget approach. Evidences should be brought on record, supported by an affidavit. Else, no matter how good the case, in the absence of evidence, the dispute would go against a party that fails to file an affidavit.

Consumer Day Celebration

The Project Partners were part of the National Consumer Day which was observed at their respective districts on December 24, 2011 with participation of local administration. The project team members Deepak Saxena, Amarjeet Singh and Dharmendra Chaturvedi participated at state level functions organised by the State Government at Jaipur on National Consumer Day.



Grievance Redress in Insurance Sector on Fast Track

Grievance redress in the insurance sector is quicker now. The average time taken for a grievance to be addressed is around 14 days. This has been made possible because of the integrated grievance management system set up by the Insurance Regulatory and Development Authority (IRDA). Ever since it became operational in April, over 90 percent of the complaints registered have been attended due to close monitoring by the regulator.

The total number of complaints registered in the system as on December 09, 2011 was 2,71,324. Of these, about 1.95 lakh were attended, while 23,741 complaints are pending. The turn-around time for a complaint was 14 days.

The complaints related to non-receipt of policy bonds/contract documents (which come under unfair business practices) top the list followed by mis-selling of policies, especially in unit-linked segment in life insurance. Apart from company-related issues, it has also been noticed that inadequacies in postal services was also behind this. In the non-life segment, policy-related and claim-related complaints were in majority.

While the customers are happy, the speedy action by the regulator has led to strict action on insurers in some cases. The number of inspection teams visiting the insurers for on-site inspections has also gone up. Interestingly, on-site inspections have also brought new lapses to the notice of the regulator. For instance, IRDA warned Future General Life Insurance Company in November, on the non-receipt of policy bonds and delays cancellation of policies. Life Insurance Corporation of India was asked to stick to stipulated time-frames following an on-site inspection. The above-mentioned information was shared by IRDA Chairman, J Hari Narayan.

(The Hindu Business Line, 19.12.11)

Vodafone to Pay Rs 6,000 to Aggrieved Customer

The NCDRC gave its order while dismissing an appeal by Vodafone challenging the two concurrent orders of Hyderabad district consumer forum and the State consumer commission for compensation to Reddy. Telecom giant Vodafone Essar has been ordered by the country's apex consumer forum to pay a compensation of ₹6,000 to one of its customers for issuing a hefty bill of nearly ₹22,000, which included ₹500 for each ISD call to satellite phones.

The NCDRC also asked the company to revise the mobile phone bill of Hyderabad resident Arvind Reddy, while counseling it not to indulge in unfair trade practices. The bench headed by its member Anupam Dasgupta dismissed Vodafone's contention that Reddy's bill crossed the ₹20,000 mark on account of his calls made to satellite phones, chargeable at the rate of ₹500 per call.

It said the telecom firm had never properly explained Reddy about hefty charges levied on calls made to satellite phones. "In the tariff card furnished by petitioner (Vodafone), there was no mention at all of the rate of ₹500 per minute for calls to satellite telephones, nor was there any clarification of the asterisk mark (*) against a couple of the rates. "Therefore, from the material brought on record, I find no reason to disagree with the appraisal of evidence, in particular the tariff card mentioned above, by the district forum. Consequently, there is no reason to interfere with the order of the State Commission," the NCDRC bench said.

(Times of India, 03.10.11)

