

THE UGLY SIDE OF PRIZE SCHEMES

For the past few years there is a spurt in free gifts schemes. Companies are offering prizes ranging from a plastic bowl to a flat in a posh locality. Magazine publishers promise wall clocks, emergency lights and cameras. Are these schemes true and genuine? Have the lucky consumers been able to take possession of these gifts without any hassle?

Recently a company announced a lucky draw scheme under which if you purchase ice cream bars of that company and if by chance you find a logo of a motorcycle on the stick you are considered to be the winner and eligible for the vehicle.

A lady from Malleswaram, in Bangalore, who is a consumer of the particular ice cream for years, was lucky to find a logo of a motorcycle on one of the sticks. The lady surrendered the stick and waited for the company's reply. However she was shocked to receive a letter from the company stating that the stick was not genuine and the logo was not according to the specification developed by the company. Hence she was not eligible for the prize. Even after several personal discussions and letters the company refused to part with the prized vehicle.

Being a genuine consumer and a public spirited citizen the lady has filed a complaint in the consumer forum asking not for the vehicle but the stick and has requested the forum to direct the company to make public the details of the prize winners and how the stick she got is a duplicate.

This is not an isolated case. A large number of consumers have complained about non-receipt of the gifts promised by the sellers and the difficulties they had to undergo before claiming the prize.

A recent case reported in Consumer Protection Reporter (199/1/CRP/26) highlights the exploitation going on in the name of lucky prize schemes.

When Mr Amar Chand of Shimla was declared the lucky winner of a Maruthi 800cc in a free gift scheme little did he realize there was a slip between a cup and the lip. Though he was the legitimate winner he had to take the matter to Consumer Forum to make the promoters honour their commitment. This case is an eye opener to all consumers who fall prey to gift schemes.

During 1994 the Hira Moti Spices Private Limited launched a scheme which promised a 800cc Maruthi as first prize. As per the scheme if you buy 20 kgs of spices of the company at a stretch you will be given a coupon against which certain prizes would be given on draw of lots of lucky coupons.

Like many consumers Mr Amarchand purchased the spices and his coupon won the Maruthi car in the lucky draw. But the manufacturer refused to deliver the Maruthi car on several grounds which was not made known to the consumer before.

For instance the company said that the spices were purchased on credit without making any cash payment.

Secondly it was argued that the purchases were made for commercial purposes and hence the purchaser is not a consumer.

Thirdly it was said that the lucky draw does not fall under the purview of Consumer Protection Act (CPA) and the complaint is not maintainable.

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Consumers, particularly ladies, who are lured by attractive advertisements, should know the tactics adopted by sellers to avoid giving away the prize.

Fortunately, in this case, the Himachal Pradesh State Commission has declined to accept the arguments.

The Commission has said that the company had nowhere mentioned that the spices should be purchased on cash basis to be eligible for the scheme. Even the coupon does not include this clause.

The Commission observed that even if the purchases are made on credit basis the purchaser would be a 'consumer' as per the provisions of CPA and eligible for filing a complaint.

The CPA clearly provides that the goods can be purchased for a consideration which can be under a system of deferred payment.

It was also decided that as per Section 2(1)for a(3) of the CPA a complaint can be filed against unfair trade practice.

The scheme was floated with the purpose of collecting money dishonestly and was not intended to honour the obligation which amounts to unfair trade practice.

The funniest argument of the seller was that the consumer for a has no authority to order delivery of the prize (Maruti car in this case) but can only order to discontinue the prize scheme.

The Commission dismissed this argument as unreasonable and said that the power to discontinue the unfair trade practice will also include the power to enforce the scheme and cause the delivery of the car.

Consumers would do well not to fall prey to such gimmicks but collect all the information and then decide before committing themselves for any prize schemes.
