

Consumer Info



[Quarterly Newsletter of Consumer Rights Education & Awareness Trust (CREAT)]

No.4/2009

Oct-December 2009

Food Advertisement to be regulated

The days of exaggerated claims about the nutritional benefits of packed food appears to come to an end. Consumers, particularly the young who were bombarded with high sounding words like energy boosters, vitamin enriched, memory enhancer etc. cannot be taken for a ride in the future. Though late, than never, the Food Safety and Standards Authority of India (FSSAI) has framed the Guidelines on Code of Self Regulation in Food Advertisement. The draft has been put up on the website and comments invited from the public.

The Code has been drafted under the provisions of the Food Safety & Standards Act, 2006. The Act seeks to regulate the law relating to advertising and unfair trade practices in the food sector. It places restrictions of advertisements and prohibits unfair trade practices. Currently there is no legal framework regulating advertisements standards in India except the voluntary code framed by the Advertising Standards Council of India (ASCI). Taking into account the legal and voluntary regulatory mechanism elsewhere in the world, the FSSAI has framed the Code of Self Regulation. The Code has 15 regulations as summarized below:

Advertisements and communication for food and beverages should not be misleading or deception. Claims about ingredients in a food or beverage should have a sound, authentic,

scientific basis and supported by evidence whenever required

Advertisement should not disparage good dietary practice or the selection of options such as fresh fruit and vegetables

Advertisements should encourage excessive consumption or inappropriately large portions of any particular food. They should not



undermine the importance of healthy lifestyle

Care should be taken to ensure advertisements do not mislead as to the nutritive value of any food. Foods high in sugar, fat TFA and/or salt should not be portrayed in any way that suggests they are beneficial to health

The nature of the audience should be taken into account particularly when selling products in rural areas, to urban or to children. Advertisements and communication should not exploit their lack of experience or knowledge and always provide truthful information.

Claims relating to material characteristics such as taste, size, suggestions portions of use, content, nutrition and health benefits shall be specific to the promoted products and accurate in all such representation

Advertisements should not mislead consumers to believe that consumption of a product advertised will result in personal changes in intelligence, physical ability etc. The code says that advertisement should observe high standard of social responsibility

Claims in an advertisement should not be inconsistent with information on the label or packaging of the food

Advertisement for food and beverage should not claim or imply endorsement by any government body, professional body unless there is prior consent.

Celebrities or prominent people who promote food should recognize their responsibility towards society and not promote food in such a way so as to undermine a healthy diet

Advertisements should not undermine the role of parental care and guidance in ensuring proper food choices are made by children

Advertisers must recognize their social and professional responsibility towards promoting a healthy lifestyle and strive to achieve high standards of public health

Cycle of consumer movement	3
Role of the Media	3

INSIDE >>

Survey on fake medicines	4
Consumer Law and Protection	4

Introduction

The process of economic liberalization and globalization, which started in the early 1990s in India, has brought to focus many concepts like good governance, regulatory independence, accountability, transparency etc. No workshop or seminar will go without a mention of these jargons. Similarly, the word civil society is a contribution of the globalization debate. However civil society has been in discussion since 1960s. Broadly, civil society refers to concerned citizens who have formed alliances or groups to bring about a change in the society. Earlier the word non-governmental organizations (NGOs) were used to denote these groups. But over the time the term NGO has earned disrespect and sometimes equated with financial mismanagement. Civil society appears to be a respectable word. Basically civil society and NGO are one and the same. May be civil society is a broader term.

Before analyzing the contribution and role of civil society in consumerism, we need to be clear of what consumerism is. The first statement that comes across while dealing with consumers is by none other than Mahatma Gandhi. He said 'the world has enough for everyone's need but not for everyone's greed'. Perhaps no other explanation is necessary. The other Indian spiritual monk Swami Vivekananda who said 'consumer is King' also said that 'I hold everyone a traitor as long as one person is suffering due to hunger'. In both these men we find a critique of consumerism.

Consumerism

According to one school of thought the word consumerism would mean over consumption leading to waste of



resources. The growing consumption patterns, particularly in the developed societies have been termed as consumerism. The consumerist culture is criticized for its disregard to health of the individuals as well as of the society. Consumerism used in this sense denotes over eating and over usage of scarce resources by a small section of the population. This is also linked to the theory propounded by Pretario. For

example 20% of the population consuming 80% of the world's resources. 20% of the population being responsible for 80% of the world's garbage. The list goes on. Consumerism viewed in this sense prevailed in the 1960s. Vance Packard coined the word 'consumerism'. His book 'Waste Makers' did discuss the concept of consumerism. At that time consumerism was labeled as a baby of prosperity. One author observed that 'consumerism was not born out of the gratitude of consumers but out of a desire for more.

However over the years the word consumerism is being used to denote the collective action of the civil society in asserting their rights and fighting against any form of violation of consumer rights. According to Richard H. Buskirk consumerism is 'an organized effort of consumers seeking redress, restitution and remedy for dissatisfaction they have accumulated in the acquisition of their standard of living'. According to another author 'consumerism is an organized reaction of consumers to have business unfair practices remedied'

The McMillan Dictionary (1985) defines consumerism as that which is concerned with protecting consumers from all organizations with which there is exchanged relationship. It encompasses the set of activities of government, business, independent organizations and concerned consumers that are designed to protect the rights of consumers". The Chamber's Dictionary (1993) defines Consumerism as the protection of the interests of the buyers of goods and services against defective or dangerous goods etc. Simply stated it refers to wide range of activities of the government, business and civil society designed to protect the rights of the consumers. It may also be viewed as a process of seeking redress, restitution and remedy for the dissatisfaction and frustration. This may be achieved either by the victim (consumer) himself or through the civil society groups.

Components of consumerism

A brief look into the past reveals that consumerism has expressed itself in several forms. First consumerism

manifested itself in the form of 'buy buy' culture. The trade, industry, commerce and media used all that was in their disposal to make people buy anything and everything. Consumers were promoted to buy not one but two or three of the same product. For example consumers who had one TV or phone started demanding two and even three phones/TVs. Now each and every member of the family has a phone. Other forms of consumerism include promoting matching culture i.e. matching clothes, matching nail polish, undergarments etc. When the telephone instrument was black everywhere, one company tried to increase its sales by marketing a colour instrument. It was found that the calls made from colour telephone instruments doubled.

Throw away culture is another form of consumerism. Use and throw started with good intention. For example sanitary towels/napkins, condoms, injection needle/syringe etc were some of the goods which was to be used once and discarded. But today we have shaving razors, cameras etc. which are thrown after use. The third form of consumerism was 'obsolescence' invented by the manufacturers. Purposely equipments and products were manufactured for particular hours, days or performances. Eg. Bulbs, vehicles etc. were not to burn more than a fixed hours, though technology was available to improve their performance through longer hours.

It would be unfair not to mention the role of the business, trade and industry, the government and the media in protecting the interests of the consumers. All these sectors of the society have played a major role in helping consumers to get the best in the market place. They are all major components of consumerism. For example industry sponsored consumer redressal mechanism has been with us since 1970s. A major milestone was the establishment of the Fair Business Practices Council at Mumbai by the industrialist Bajaj. Today most of the chambers of commerce and trade bodies like Confederation of Indian Industry have separate committees of wings to deal with consumer protection issues. The Federation of Indian Chamber of Commerce and Industry (FICCI) had set up a 'brand protection' committee involving consumer groups with a view to counter the menace of



counterfeit products. The second component of consumerism is self-regulatory bodies. Notable among them is the Advertisements Standards Council of India (ASCI), which has been instrumental in revising, eliminating or changing the contents of objectionable advertisements.

The third component i.e the Government or State has been a major contributor for the consumer movement. By enacting a number of pro-consumer legislations, the state has been trying to ensure a safe market place. But it was John F Kennedy's Bill of Consumer Rights (1962) that gave a fillip to the modern consumer movement. In India we have ancient texts like Arthshastra and Narada Bhakthi Sutra, which speaks of standards, punishments and the like who echo the spirit of consumerism. It is said that 3500 years ago, Turkey had a consumer code of sorts on food matters. There is also a theory that the Roman Empire collapsed because of lead poisoning arising from the use of lead pipes for their water supply system. In the Middle Ages, bakers who cheated were put in cages and completely immersed in water and taken out when they were on the point of drowning (Consumer Action in Developing Countries, IOCU)

The civil society is another component of consumerism, has played a major role in strengthening the consumers. A brief study of the history of the consumer movement reveals that it is the civil society initiatives that have made consumers voice being heard at the regional, national and international levels. In the 1920s consumer groups began emerging in the Unites States and Scandinavia and spreading to the rest of Europe and Australia. The first effort to consolidate consumers in India was taken by Annie Beasant when a co-operative was stated in Madras in 1950s. The Consumer Guidance Society of India in Mumbai, is another milestone in Indian consumer movement. In 1974, Jaji Mandanna brought consumer movement to Karnataka by establishing the Karnataka Consumer Services Society. Today there are more than 1900 consumer organizations in India and some 100 in Karnataka.

Cycle of consumer movement

Consumerism like many other social movements also has a 'life cycle' with 4 phases.

- The first is the CRUSADING stage – a few concerned citizens take up consumer issues & highlight them through the press and other means
- The second stage is the POPULAR MOVEMENT stage – where consumer issues are widely accepted by various community organizations—consumer groups, women organizations, trade unions, co-operatives and even political parties
- The third stage is the ORGANISATION stage – here consumer organizations develop with professional staff and are able to act effectively as an organized group
- The fourth stage is the BUREAUCRACY stage – where consumer issues are taken over by government as part of a public service function

The above classifications are general and in many of the societies the four stages are overlapping. It may also be noted that the consumer movement is the result of

- (a) Books and writings
- (b) Events/tragedies
- © Legislations.



Some of the books that have contributed include the following:-

- *Unsafe at Any speed by Ralph Nader
- *Acquisitive Society by R.H. Tawney
- *Theory of the Leisured Class by T.Veblen
- *Your Money's Worth by Stuart Chase and FJ Flinch
- *Waste Makers by Vance Packard
- *The Hidden Persuaders by Vance Packard

Many novels did push the concept of consumer movement. For example Arthur Haily's novels like Final Diagnosis described unethical practices in hospitals. A similar novel was Robert Ludlum's Coma, which was made into a film. Toxin is another novel which describes how burger and pizza companies cheat people.

Events like the thalidomide (drug reaction) and Bhopal Gas tragedy has strengthened consumer movement. And there are a host of legislations, which have promoted consumer movement. The classic example is the Consumer Protection Act. As said earlier before the CPA was enacted there were not more than half a dozen consumer groups. Since 1986 the number has increased to over 1500.

Role of the Media

The media, particularly the print media, has played an important role in promoting consumer movement. In fact, much of the success of consumer movement is due to the constant reporting by the media of events, cases and violations of consumer rights. Though consumer issues did find a place in the media even before the CPA, the space and variety increased post CPA. The media has been publishing articles, case studies and analysis of important judgments given by the forums, commission and courts.

It is important to note that a number of consumer activists were and are themselves good writers who are using the media for their crusade. The pioneers of the consumer movement in India started their columns on consumer protection. They were both columnists and consumer activists. Notably women columnists wrote extensively on consumer issues. The role of the media in consumer protection can be studied under the following heads:

- *Publication of government sponsored advertisements about consumer rights
- *Publication of columns exclusively on consumer rights
- *Reporting of consumer laws/cases
- *News coverage of events organized by civil society and Government
- *Running a consumer complaints column wherein the complaints are forwarded to the concerned authorities/companies for redressal

Yet the media has not identified consumer issues as a 'development' issue unlike health, education, human rights, food etc. Secondly the regional print media's role in promoting consumer issues is debatable. As for Kannada media is concerned it was Kannada Prabha that first started a column on consumer rights (written by this author). The weekly column continued for over seven years. Later on Samyuktha Karnataka joined the stream & Mr.G.Sathya narayana from Mysore is writing this column. Other papers like Prajavani, Vijaya Karnataka etc have tried to promote consumer awareness, though in a limited sense. #



Paper presented by Mr.Y.G.Muralidharan, at the seminar on 'Consumer Welfare and Media' organized by Journalism Department, Kuvempu University, Shimoga in collaboration with Indian Institute of Public Administration, New Delhi

Consumer Health

Survey on fake medicines

The Drug Controller General of India has proposed to widen the survey to map the prevalence of counterfeit drugs in the country with larger number of samples. At present the Drug Controller is examining over 26000 samples of drugs of 62 top selling medicines. The proposal is to pick up one lakh samples for the next survey. According to the DCGI office the object of the survey is to cover the market as widely as possible. The first of its kind survey is expected to throw up an official estimate of the prevalence of spurious drugs in the country. Estimates by non-governmental agencies put the prevalence of counterfeit drugs anywhere between 0.5 per cent and 30 per cent of the Rs.34000 crore market.

A study in 2007 funded by the World Health Organisation and carried out by global policy think tank International Pharmaceutical Federation found that three per cent of the samples that it picked up in India to be counterfeit. The survey picked up 10000 samples of 56 top selling drugs, as ranked by market researcher ORG, IMS. Of the sample collected, mimicking packaging and brand names were also included under the counterfeit category
(BL, 21.5.2009)

Drug export quality certificate: State's power to be withdrawn

The Central Government has decided to withdraw the power of the State level drug regulators to issue export quality license, technically called Certificate of Pharmaceutical products (CoPP) and thereby bring uniformity in regulations. As a result the State Drug Regulators will not be able to issue these licenses.

The CoPP is recognized by the national drug regulatory authorities. The certificate is specific to a product and the country of import. The DCGI gives the certificate for a product for two years. According to the DCGI pharmaceutical exporters have been experiencing problems in international markets on account of delays in getting government approvals. The move of the DCGI to centralize the certificate issuing system will mitigate this problem. There is also a proposal to increase the duration of the certificates to five years
(BL 20.5.2009)



Is iodized salt indispensable?

India is one of 100 countries that have banned non-iodized salt in the belief that this is the most effective way to prevent iodine deficiency. Yet, it seems, this remains a controversial issue for some experts. According to Chandrakant S Panday, Professor & Head, Centre for Community Medicine, AIIMS, New Delhi, although the total requirement of iodine for an adult adds up to less than a spoonful, it is necessary for iodine to be included in our daily diet. Salt works as a very effective medium. Besides, iodine also protects the developing foetus from brain damage (iodine deficiencies can reduce IQ by an average of 13 IQ points)

However opponents of iodized salt say it would be better to draw attention to the fact that milling and polishing of rice and other grains removes iodine.



They point out that cereals, millets, pulses, leafy and root vegetables, spices, jaggery, nuts, fruits, milk and milk products, eggs, fish and even tap water contain iodine in its natural, absorbable form. A number of organizations advocate a healthy, balanced diet and clean drinking water instead of medical fortification.
(Mint, 6.7.2009)

Consumer Law and Protection

E-redressal

The Administrative Reforms Commission (ARC) has said that all state governments should emulate the Centralised Public Grievances Redress and Monitoring System (CPGRAMS), which has been launched by the Department of Administrative Reforms and Public Grievances (DAR&PG) in 2007 for receiving, redressing and monitoring public grievances.

Through CPGRAMS one can lodge a grievance 'online' and it enables the person to track his or her grievance being followed up with departments concerned. It also enables the DAR&PG to monitor the grievance, People can access it online through www.pgportal.nic.in. ARC is of the view that a similar system should be installed at the state and district levels because a decentralized system would benefit a larger number of citizens, on one hand, and also help in improving the effectiveness of field offices, on the other.
(HT, 3.5.2009)

Accident Policy different from Third Party Risk

The Supreme Court has overruled the order of the National Consumer Commission which had ordered payment of Rs.1 lakh to the widow of a motor cyclist who was killed in a road accident. In this judgment, National Insurance Company vs. J.Maheswaramma, the consumer courts had held the insurance company liable. The company argued that the deceased person had no valid driving license. But it did not prove it in the consumer court. On appeal by the insurance company, the Supreme Court held that the insurer's liability to show that the license was not proper



Sources: BL – Business Line, BS – Business Standard, HT – Hindustan Times, DH – Deccan Herald, TOI – Times of India Some of the news/stories in this newsletter are compressed from several newspapers. The sources given are to be used as a reference for further information and do not indicate the literal transcript of a particular news/story



Published by :

CONSUMER RIGHTS EDUCATION & AWARENESS TRUST (CREAT)

900, 1st Stage , 1st Phase, 15th Cross, Chandra Layout, Nagarabhavi Post, Bengaluru-72

Tel : 91-80-23181648, E.mail : creatorg@sify.com , Website : www.creatindia.org