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QUARTERLY REPORT

THE AWARE CONSUMER

UNLOCKING CONSUMER POTENTIAL



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THE DIRECT SELLING CONUNDRUM IN INDIA

Direct selling companies that deploy MLM compensation plans are not to be confused with Ponzi schemes or Pyramid schemes. Learn the subtle differences...

PLUS LAW & YOU • MY MARKET • HORIZONS • OUT OF THE BOX

OUT OF THE BOX

B VAIDYANATHAN Chief Mentor

The Varied Billion & the Politics of Consumerism

Consumer India is vast, voracious, largely unaware and being taken for a ride.



THE INDIAN CONSUMER stands out in more ways than one. Liberalisation and the increasing middle income population have vastly changed the consumer profile. Increasing urbanisation, education levels, tech savvy youth, the culture of twin income with nuclear family, etc., have all changed consumer preferences and needs since the 90s.

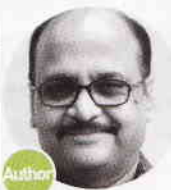
The vastness of the Indian consumers as a group has few parallels. With 127 crore of them—one-sixth of the world population—spread over all types of terrain with social diversity and varied needs, obviously, thereby contributing to clearing of market shelves filled with almost anything and everything available at cheap rates with attractive packaging. This is the sad state of affairs prevailing in this country.

While healthy levels of consumption are most welcome, it should not be at the cost of quality. Herein is the issue of consumer awareness. Though an average consumer would want value for his hard earned money,

he is being taken for a ride by all and sundry, whether it is manufacturer of goods or provider of services. This is happening in every aspect of life; from groceries to cosmetics; from furniture to furnishings; from medicine to medical education; from general insurance to life insurance; from private agencies to government services—there is hardly any area of commerce which is untouched by the 'least bothered' approach towards the paying consumer.

Consumer awareness is a relative term. Majority have developed or have been moulded into a psyche to accept the status quo unless it is intolerably bad or the financial stakes are reasonably high for that particular consumer to ignore and proceed. The reasons are not too far to seek. This is mainly because there is no incentive/reward for fighting to restore what is legally due to you. Let us examine what has happened to the consumers and the consumer movement.

In a way, the consumer movement got formally inaugurated by the prom-



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ulgation of the Consumer Protection Act, in 1986. The three-tier quasi-judicial machinery, viz., district forum, state commission and national commission, as well as the state level and central level consultative bodies envisaged in the Act gave the much needed thrust and strength to the consumers to raise their voice against 'defective' goods and 'deficient' services.

Once consumer awareness levels increased due to the voluntary consumer organisations, which started growing everywhere, reaching out to the weary consumer, the idea of safeguarding the *aam admi* consumer was probably found to be less rewarding to the political class and the entire idea was practically abandoned. After all, the political masters never wanted a constituent group to become strong enough to grow and raise their dissent. If this hypothesis is not correct, then how can anyone justify why such a progressive Act was made a showpiece by amending the Consumer Protection Rules, in 2005, which in any case, can be done with the



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Even a gullible consumer will start raising his voice and seek justice if assured that he will be heard... Thus, a consumer who lacks confidence will become aware and fight for fair play and justice.”

approval of the concerned minister, without having to be approved by the Parliament, so as to make the consultative Central Consumer Protection Council a mere showpiece.

Let us see how such a broad-based consultative body was made into an ornamental piece. Before the amendment to the Rules, the Central Consumer Protection Council had over 150 members, comprising about 30 representatives of consumer groups from almost all the states. Thus the Central Council was able to know and discuss the problems relating to consumer issues from across the country. Since the state ministers and the secretaries were also present, the forum gave a good opportunity for highlighting and resolving issues of the states as well as those pertaining to the Centre. For example, though Rourkela, in western Orissa is commercially very important, it does not enjoy the status of a district headquarters. So, when the district forum was constituted for Sundergarh district, it was located at the district

court complex, Sundergarh, a place 100 km away from Rourkela. More than 95 per cent of the consumer dispute cases in the Sundergarh District Forum originated from Rourkela. This anomaly and huge national loss was highlighted in one of the central council meetings, by me. Bhagabat Behera, the state minister as well as the secretary, appreciated the rationale in the argument and subsequently, with the approval of the then Chief Minister Biju Patnaik, started a second forum for Sundergarh district, at Rourkela, in 1994.

But now, with the amended provisions of the Consumer Protection Rules, the Central Consumer Protection Council can have only a maximum of 35 members, with a maximum of five representatives from consumer groups. Thus, each state will get an opportunity once in 21 years or so, by rotation, as the term of the Council is three years. Is this not the best way to finish the consumer movement and thereby retard consumer awareness?

Consumer awareness cannot exist in vacuum. It has to be inculcated, patronised, assured and rewarded. When all these things are lacking, consumer awareness yields only diminishing returns and rather more headache to those who promote and practice it. Functioning of the quasi-judicial machinery established under the Consumer Protection Act, are far from enthusing. Hence, it is not surprising that consumers by and large avoid approaching them as inordinate delays are common in spite of a fee being charged for filing a case, which was not originally envisaged in the Act.

A consumer issue affecting crores of housewives across the country was taken up by Consumer Protection Council, Rourkela. The case involves under-weighting of LPG refills (cooking gas). Consumer Protection Council, Rourkela accidentally stumbled upon this fact, through random sample surveys conducted in July 2000. Indian Oil Corporation (IOC) as well as the Ministry of Consumer

out of the box

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Affairs, Government of India, including the Director (Legal Metrology) were informed and requested to act. On account of this, IOC offered to conduct a joint survey. Since the outcome was worse than even our own independent findings, they excused themselves mid-way through the survey and did not even sign the papers. The company was not willing to accept the fault nor were they willing to discuss a solution.

Hence, a case was filed in July 2001, before the National Consumer Disputes Redressal Commission (NCDRC), as the loss inflicted on the consumers by IOC was estimated to be ₹750 crore per year. While the case was being heard by the NCDRC, the Consumer Protection Act was amended from March 15, 2003.

Several important provisions which were relevant to this case, especially for awarding punitive damages, payment of penalty when the defective good or deficient service affects large number of consumers, providing adequate cost to the litigant, etc., were introduced and the Council in January 2004 itself sought the invocation of those provisions in this case.

The NCDRC, based on the findings of professors of IIT, Kharagpur and the committee set up by the Ministry of Consumer Affairs, GoI, concluded in October 2005 that in the then prevailing LPG bottling system, consumers could get less than the stipulated weight of 14.2 kg and hence as an interim measure directed IOC to adopt pre-delivery weight checking of the LPG refill at the consumer's premises and also to publicise through advertisements as was being done, in a prominent manner, by Hindustan Petroleum Corporation. IOC did not comply with the 2005 directives and NCDRC took on record such behaviour, in 2006 as well as in 2007, at the instance of the Complainant Council. But the final order of the NCDRC passed in July 2007, though directed M/s IOC to automate all the LPG bottling plants, within four years,



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as was prayed by the Council in 2001, glossed over all the non-compliance recorded earlier and also the prayers of the Council for making the awards as per the amended Act.

The Council's Appeal for Review was turned down after about 10 dates and three years, not essentially on strong grounds. As many would lament, one of the reasons for proliferation of crimes in India is the dearth of fear among the culprits as adequate penalty is not awarded against them. When the shortcomings of the semi-automated carousel machines and the LPG bottling plants could be identified within a short duration (30 minutes) of inspection by a rank outsider like me, how could the engineers of IOC, from some of the best institutions of the country, failed to understand the problem is beyond comprehension. It must definitely be not because of chance, but because they did not want to deliver the correct quantity.

In the interest of consumer justice and as a step towards elimination of unfair trade practices, the Council preferred an Appeal before the Supreme Court. Thankfully, because of our initiatives, all the 184 LPG bot-

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ting plants of the three Oil Marketing Companies (IOC, BP, HP) have been automated, at a cost of about ₹300 crore. Mission accomplished but the voluntary organisation which single-handedly pursued the matter has become too weak (financially) to sustain itself in the future.

Awareness of individual consumers though essential for protection of consumer interests, cannot go far beyond safeguarding one's interests against defective goods and deficient services rendered by companies which have structured systems and procedures for safeguarding their brand image, reputation and consumer interests. It is here that structured consumer protection initiatives involving the government, consumer groups, corporate sector and the individual consumers find their place.

In the above referred example, we have seen how the voluntary consumer group was left in the lurch, even making it financially ruined to take such initiatives in the future. This is the last thing that one expects from the government. If voluntary consumer groups are not empowered, meaningful consumer protection will remain a mirage. ☹

(Views expressed are of the author alone)