

# CONSUMER

## A SOVEREIGN Without SOVEREIGNTY

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D B THENGADI

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DR. THENGADI

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## A Sovereign without Sovereignty

*D. B. Thengadi*

*Published by*

**Rajabhau Pophali**

**Akhil Bharatiya Grahak Panchayat (Vidarbha)**

**Mahal, Nagpur—440 002.**

© Author

First Published November, 1986

Rs. 20.00

PRINTED IN INDIA

at Prabhat Press, 20/1 Nauchandi Grounds, Meerut-250 002,  
and published by Rajabhau Pophali, Akhil Bharatiya  
Grahak Panchayat (Vidarbha). Mahal, Nagpur-440 002.

**CONSUMER — A SOVEREIGN WITHOUT SOVEREIGNTY**

BY THE SAME AUTHOR

*Hindi*

1. Vichar Sutra
2. Ekatma Manava Vad
3. Communism—Apni Hi Kasauti Par
4. Purani Neev Naya Nirman
5. Prachar Tantra
6. Dhyeya Path Par Kisan
7. Hamari Visheshataen
8. Rashtriya Punarnirmaan Ka Adhar
9. Dr. Babasaheb Ambedkar
10. Lakshya Aur Karya

*English*

11. Focus on the Socio-Economic-Problems
12. Perspective
13. The Great Senitnel
14. His Legacy our Mission
15. Modernisation without Westernisation
16. Why Bharatiya Mazdoor Sangh
17. Your Office

## *Publisher's Note*

Dear Consumer,

We have great pleasure in presenting you this book on the occasion of the first All India Study Class of Akhil Bharatiya Grahak Panchayat.

We hope that this book will help you in getting interested and involved in your own welfare within the frame-work of national welfare.

*Nagpur*  
*September 20, 1986.*

RAJA POPHALI

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# I

## A Sovereign ?

“ग्राहक एवं राजा” declares the Grahak Panchayat.

And, apparently, that seems to be the real state of affairs. All in this country are rushing to serve this “Sovereign” of market economy. Manufacturers, wholesalers, semi-wholesalers and retailers;

Managers and employees of fair price shops, ration shops, wholesale co-operative stores, primary stores, superbazars and departmental stores;

Office-bearers of the *Fair Trade Practices Association* (now renamed as the *Council for Fair Business Practices*) as well as of the Chambers of Commerce, the Employers’ Association etc.;

Staff of the Food and Drugs Administration, Activists in the Indian Standard Institution, the AGMARK, and the I.S.I. Certification and the Agmark Schemes;

Health Inspectors of the local bodies, municipalities, corporations and the Governments;

Legislators at the national as well as state levels always worried about the quality, durability, safety aspect, standardisation, prices, adulteration, measures and weights, fake advertisements, proper trade marks, black-marketing, drug control, monopolies and restrictive trade practices, motor accidents, protection of hirers, sale of goods, proper supply of essential commodities etc;

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Leaders of the organisations of depositors, distributors etc;  
Directors of all advertising agencies;  
Public Relations Officers, Vigilance Officers and Consumer Cells Service;

Managers of different concerns;

Staff of the A.I.R. broadcasting price-bulletins, and of the Commerce Ministry, publishing consumer bulletins;

Intellectuals engaged in consumer research, quality-testing, scrutiny of costs and prices, study of existing consumer legislation and consumer education;

Housewives helping in collection of data, price surveys, collection of samples for testing, and checking of weights and measures;

Different agencies of various governments for the protection and promotion of consumer interests;

And, finally, the various organisations and guiding agencies of consumers themselves, including, women's organisations.

And yet, inspite of all these benefactors, the Indian Consumer is as helpless today as ever.

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Frederic Benham was not exaggerating when he remarked, "*Under Capitalism, the Consumer is the King*";

It was his conviction;

Economists of the Capitalistic order endorsed his view;

For the time being it appeared to be logical also;

The consumer is free to spend his income in the manner he thinks best. Theoretically speaking, the consumer in a capitalist society enjoys perfect freedom of consumption. It is his preferences (as revealed by his ways of spending money) which influence and regulate the nature of economic activity in a Capitalistic economy. It is he who directs the distribution of economic resources among various industries. The entire productive activity in the country is undertaken to satisfy him. Every producer has to acquaint himself with the tastes and preferences of the consumer. It is in this sense that the consu-

mer is the king and the sovereign. The producer is his servant. Ultimately, it is the tastes, preferences and valuations of the consumer which determine the nature and volume of productive activity in a capitalistic economy. The tastes and preferences and valuations of the consumer are revealed to the producer through the price-mechanism. Prof. M.L. Seth illustrates this point by the following example. Suppose, the consumers in a country shift their preference from Tea to Coffee, i.e. they begin to patronise coffee at the expense of tea. As a result, the demand for tea will decline, while the demand for coffee will rise. The decline in the demand for tea will result in a fall in its price. While the rise in the demand for coffee will be followed by a rise in its price. Factors of production employed in the tea industry will leave that industry, resulting in smaller production of tea, while the rise in the price of coffee will attract additional factors in the coffee industry. As a consequence, the production of coffee will increase to meet the increased demand of the consumers. Thus, the tastes, preferences and valuations of the consumer, as reflected through the price mechanism, not only influence and regulate the nature and volume of production, but also bring about the re-distribution of productive resources among the various industries from time to time.

### Limitations

But soon the economists came to realise that this sovereignty of the consumer cannot be unlimited or unrestrained. In natural course, it is limited by the productive powers of the community. The sovereign may desire for a particular commodity. But that cannot be produced due to the primitive, backward state of economy in general technical knowledge in particular. Low purchasing power, restrictions by the State, taxation structure reducing his purchasing power, monopolist character of certain industries which leaves him at the mercy of the monopolist regarding the type and quality as well as price of the commodity, currency and credit system, fashions and customs prevalent at the time, standardisation of production, and rationing—these were found to be some of the limitations on the sovereignty of the consumer even in a capitalistic economy.

### **Socialist View**

The socialists had opposed the very idea of granting perfect freedom of choice to the consumers. According to them, in a capitalistic system the vast majority of poorer sections cannot possess such freedom of choice which is the privilege of only richer sections. Secondly, such freedom may not be conducive to the larger interests of the society. Because of their irrational choices, the resources of the country may be squandered to the detriment of national economy. Thirdly, the socialists felt that if consumer is allowed freedom of choice, he is likely, due to his ignorance and perversion, to injure himself in the process.

### **Mrs. Wootton**

Mrs. Barbara Wootton has argued against the institution of freedom of choice on the ground that the consumer is a poor judge of things and that, faced with a bewildering variety of goods (which are substitutes), he cannot make a rational choice. He lacks even the minimum knowledge necessary to make an enlightened choice.

Because of such public debate the consumers' sovereignty became before long a highly controversial issue.

### **The Law of Maximum Satisfaction**

The Law of Maximum Satisfaction accepted by one section of economists, also circumscribes consumers' freedom.

The Law has been stated by Marshall in these words: "If a person has a thing which can be put to several uses, he will distribute it among these uses in such a way that it has the same marginal utility, for if it had a greater marginal utility in one use than in another, he would gain by taking away some of it from the second use and applying it to the first". Though voluntary, this is also a limitation. The law is equally applicable to money which, like any commodity, has several alternative uses. It can be spent on various alternative items.

## Other Restraints

Interdependence of various prices, inter-relatedness among various markets, and inter-connectedness of the demands, supplies and prices of commodities, are also responsible for restraint on consumers' sovereignty.

Thus it seems that the correct position is reflected in the following observation of William Fellner:

*"The principle of consumer's sovereignty, like all other social principles, does, of course, become an absurdity if it is upheld dogmatically without responsible qualifications."*

## Extraneous Factors

In fact, a large number of factors that are not directly within the orbit of buyer-seller relationship and that are beyond the control of buyers as well as sellers, affect the jurisdiction of this sovereignty. Prof. Samuelson remarks that all of us reap the benefits of an economic world we never made. It would be equally correct to say that we also reap the disastrous consequences of an economic world we never made.

Nearer home, the policies and planning of the government influence every aspect of individual as well as social life. Take for instance, the case of taxation structure.

## Taxation

In case of a direct tax, i.e. income tax, the tax payer can distribute his loss of income over various items of expenditure. So that he sacrifices only marginal units (or loses only a small amount of marginal utility on each item). Consequently, the direct tax does not pinch the tax-payer so much. The burden of an indirect tax on a commodity falls almost wholly on that commodity so that the consumer sacrifices not only the marginal unit, but also some intra-marginal units. The total loss of satisfaction is greater in the case of an indirect tax rather than a direct tax.

### Plan-priorities

An order of plan-priorities is another instance.

Is it advisable and practicable to determine this order in the light of consumer's preferences?

We are all aware that it is not easy to know precisely what is consumer's preference. The absolute magnitude of satisfaction (which is subjective by nature) is inherently unquantifiable. The measurement of subjective utility on an absolute scale is not possible.

William Fellner says that consumer behaviour can be derived from the tastes of consumers by ordinal assumptions alone, that is without implying cardinal measurability of utility. Again, the fact of 'economic irrationality' of a consumer on account of impulses, sentiments, and advertisements, local customs, current fashions, is accepted by most of the economists, even though, they rightly say that the building up of a theory of Economics would be impossible without taking 'economic rationality' of a man for granted. They, however, feel that it is possible to know the preferences of the consumer by keeping a close watch over his 'choice behaviour'.

Then there are certain practical considerations.

### Variety of Preferences

Firstly, there is no uniformity in the tastes and preferences of different sections of consumers.

The rich may prefer large-scale production of luxury goods when the essential commodities are not available to the poorer sections. They can hardly understand the difference between price and value, i.e. the fact that a lipstick is more costly but less valuable for human life than air which is most valuable but costs nothing.

They may even feel that higher the price the more must be the value of the same commodity. They may consider those products superior which are sold at higher prices. Again, they have a preference for "status symbol" commodities like diamonds and precious stones.

## Wrong Preferences

Because of illiteracy, even the poor consumers may often have wrong preferences which are injurious to their health and interests. For a narcotic, opium is more valuable than foodgrains.

In the absence of national consciousness, the majority of consumers may not know what is conducive to the process of national reconstruction, and consequently the choices of such consumers may not be in keeping with the requirements of national economic growth. One may prefer production of liquor to that of steel, coal or electricity.

While the order of plan-priorities cannot be based on consumer-preferences, its nature or form certainly affects the jurisdiction and character of consumer's sovereignty.

## Influence of Vested Interests

When a government under the influence of vested interests aspires to show an increase in its gross National Product, it has no other way of doing so except by increasing disproportionately the production of luxury goods on the demand of the affluent. The argument that once we somehow increase the GNP we will be able to devise the means of its equal or equitable distribution, is fallacious. The pattern of production has in it an in-built mechanism which resists introduction of any pattern of distribution which is inconsistent with or contrary to itself, i.e. the pattern of production. The policies of such—a government on import-export, technology, foreign collaboration, inflow of foreign capital, foreign exchange earnings etc., are formulated keeping in view the requirements of the capitalists—foreign as well as indigenous. All these factors erode considerably the decision-making authority of poor consumers about matters directly concerning them. And decision-making authority is the essence of the concept of sovereignty.

This is only by way of illustration, but it should suffice to indicate that factors not apparently or directly a part of market mechanism have substantial influence on consumers status.

## Non-Economic Materialistic Factors

Apart from these predominantly economic factors, there are other non-economic materialistic factors which are also relevant in this context. Here it may be noted that total welfare is generally divided into two parts: (i) economic welfare, and (ii) non-economic welfare. Prof. Pigou describes economic welfare as "that part of social welfare that can be brought directly or indirectly into relation with the measuring rod of money." Non-economic welfare is that part of total welfare which is not amenable to money measurement.

### Social Factor

Its importance, however, cannot be minimised. For example, L.T. Hobhouse has this remark about "social factor".

"Take away the whole social factor and we have not Robinson Crusoe, with his salvage from the wreck and his acquired knowledge, but the naked savage living on roots, berries and vermin."

These non-economic materialistic factors also abridge indirectly the authority of consumers.

### Other Factors

These are, for example, the geographical position of the country, its climate, rivers, mountains, natural harbours etc. peace and security, or natural resources of the country, such as, land, water, forests, mineral resources, agricultural potentialities etc.

### Events Abroad

It may appear to be fantastic but the general conditions in other countries may also have their impact. During the middle of the 19th century, textile industry of Britain depended completely upon the cotton from America. But when there was a civil war in America and the federal blockade of southern ports, American cotton became unobtainable in Britain. Consequently there was a sharp rise in the prices of raw cotton.

With the rise in prices, the demand for cotton declined. The impact of this situation on the British labour market and British consumer is understandable. In Lancashire, the centre of cotton textile manufacturing, the demand for consumer goods declined and the shop keepers of the area had to migrate to other areas in search of better prospects. All this due to a political development in some foreign country.

This was an incident during the last century when the world was not so small. This century has witnessed almost continuously, how consumers from the innocent, non-aligned, non-involved, undeveloped and developing countries were hithard because of the two world wars and subsequent cold-war and global powergame of super-powers that are completely callous about human rights, human welfare and human life.

Thus non-economic materialistic factors not amenable to money-measurement have also a role to pay in this matter.

### The Non-Materialistic

But that is not all. In his 'Open Secret of Economic Growth' (1957) David Macord Wright observed:

*"The fundamental factors making for economic growth are non-economic and non-materialistic in character. It is the spirit itself that builds the body."*

This statement may not be relished by cheap but fashionable progressives and radicals, but it reflects profound wisdom. Even during the days of euphoria of industrial revolution and Newtonian science, Malthus referred to "general rectitude of character of the inhabitants" as a factor in economic development. Gradually the westerners came to realise that a good constitution does not always guarantee good citizens. Among western economists, there is a growing awareness of the important role of socio-cultural and religious institutions as a factor in economic growth. The leaders of Communist China are publicly admitting that it was a mistake on the part of new China to adopt materialistic philosophy; that materialism made the chinese selfish, self-centred and indifferent to collective good; and that they would now inaugurate an era of spiritual-civilization maintaining their drive for material progress but

without materialistic philosophy. For economic prosperity, we expect our workers, managers, entrepreneurs, bureaucrats in public sector, professionals, judges, administrators, politicians and rulers to be honest, sincere, efficient, competent, diligent and idealistic. But when people do not cherish and uphold spiritual values, they become incapable of possessing national character, integrity, self-discipline, and dutifulness. A remark by an American author about Indian character is thought-provoking, though unpalatable. W.S. Woytinsky says, "If it were possible to transplant overnight all the factories of Michigan, Ohio and Pennsylvania to India without changing the attitudes of the people, two decades later the country would be as poor as it is now."

All these economic, non-economic materialistic, and non-materialistic factors must be borne in mind while considering the line of action to be adopted today by the Indian consumer movement.

### **The Paradox**

The paradox lies in the fact that in theory, consumer enjoys a number of precious rights. It is an accepted fact that consumers interest is the nearest economic equivalent of national interest. The sovereignty in India resides with the people. It does not reside with the parliament or the government. In economic terms, the Consumer and the People are co-extensive. Every member of the public is consumer.

But during recent years the consumer has been becoming progressively more defenceless even in the western countries.

### **In Australia**

India is considered to be an economically backward country, but the plight of consumer even in so-called 'advanced' countries is not enviable. See, for example, the following observation of Dr. H. Epstein, Chairman of the Australian Consumers Associations.

"It is a fact that in a shopping centre the consumer has no hope of finding what she wants ..... she certainly has no earthly hope of comparing prices. She does in fact not know

most of the time what she is buying, for everything is pre-packed. She does not know how much she is buying for the weights are either not indicated or are ..... confusing. She does not have the faintest idea of what value she gets for her money, and she certainly does not know when leaving, whether her accounts are right or wrong. Otherwise she is well catered for, Modern marketing and merchandising is a humbug”.

### Senator Murphy

Introducing the Trade Practices Bill of the Commonwealth of Australia in the Senate, Senator Murphy had observed, “Now the marketing of goods and services is conducted on an organised basis and by trained business executives. The untrained consumer is no match for the businessman who attempts to persuade the consumers to buy goods, or services on terms and conditions suitable to the vendor. The consumer needs protection by the law”...

If that is the condition in a highly literate country like Australia, what must be the plight of a consumer in our country where the number of the completely illiterate is 430 million and that of the semi-literate, 120 million?

### Kennedy's Message

Now, let us take the case of U.S.A. President John F. Kennedy's special “Consumer Message” to the Congress in 1962, says:—

“The march of technology has increased the difficulties of the consumers along with his opportunities... . Rational choice between and among products would require the skills of the amateur electrician, mechanic, chemist, toxicologist, dietician, and mathematician ..... marketing is increasingly impersonal. Consumer choice is influenced by mass advertising utilising highly developed arts of persuasion. The consumer typically cannot know whether drug preparations meet minimum standards of safety, quality and efficacy. He usually does not know whether one prepared food has more nutritional value than another, whether the performance of a product will in fact meet his needs, or whether the “large economy size” is really

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a bargain. Additional legislative and administrative action is required however, if the Federal Government is to meet its responsibility to consumers in the exercise of their rights. These rights include:

1. The Right to safety.
2. The Right to be informed.
3. The Right to choose.
4. The Right to be heard—to be assured that consumer interests will receive full and sympathetic consideration in the formulation of government policy and fair and expeditious treatment in its administrative tribunals."

### The Rights

Though not defined in the message, the right to safety is the right to be protected against the marketing of goods which are hazardous to health or life; the right to be informed is the right to be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling, or other practices, and to be given the facts the consumers need to make an informed choice; and the right to choose is the right to be assured, wherever possible access to a variety of products and services at competitive prices, and in those industries in which competition is not workable and Government regulation is substituted, an assurance of satisfactory quality and service at fair prices.

### Johnson's Message

As Barbara B. Murray states, the White House support for the consumer movement began with President John F. Kennedy's March 15, 1962 message to the Congress.

During President Lyndon Johnson's regime, a great deal of consumer legislation was passed. Subsequent presidents also evinced keen interest in this subject.

On February 6, 1968, President Johnson observed in his fourth message to Congress on the American consumer:

"A hundred years ago, consumer protection was largely unnecessary. We were a rural nation then: a nation of farms

and small towns. Even in the growing cities, neighbourhoods were closely knit.

Most products were locally produced and there was a personal relationship between the manufacturer and the buyer. If the buyer had a complaint, he went straight to the miller, the blacksmith, the tailor, the corner grocer. Products were less complicated. It was easy to tell the excellent from the inferior.

Today, all this is changed. A manufacturer may be thousands of miles away from his customer—and even further removed by distributors, wholesalers and retailers. His products may be so complicated that only an expert can pass judgement on their quality.

We are able to sustain this vast and impersonal system of commerce because of the ingenuity of our technology and the honesty of our businessmen.

But this same vast network of commerce, this same complexity, also presents opportunities for the unscrupulous and the negligent.

It is the government's role to protect the consumer—and the honest businessman alike—against fraud and indifference. Our goal must be to assure every American consumer a fair and honest exchange for his hard-earned dollar."

### **President Giri**

In our own country, in his letter to the Prime Minister, President V.V Giri had mentioned "adulteration of foodgrains, under-weighting, manipulation of records, ghost ration cards, corrupt and inefficient inspecting staff, non-enforcement of penal provisions and half-hearted action against offenders," as the various manifestations of Indian consumers' miserable plight.

### **Conditions in India**

No doubt, we have formal democratic set up in India and all political parties appear to be too keen to serve the poor consumer. 'Consumer is Sovereign', they willingly concede. In

theory, the concede that consumers have a right to be represented on and influence the decisions of the various boards of managements which, in their turn, influence the plight of common consumers. In India, only a few industries, like railways, telephones etc., consumers' organisations are associated with consultative bodies. But most of the industries have no representative of consumers on their boards of directors. Presently, there is no representative of consumers on the management boards of public enterprises, public utility services, Bureau of Public Enterprises, Bureau of Costs and Prices, Agricultural Prices Commission, and the Planning Commission. In industries under government monopolies, there is no pressure from any quarter to attain specific performance norms; in many cases such performance norms have not even been formulated. In the industrial field it is not recognised that the society, i.e. the consumer is the third and the more important party to industrial relations and that any Bi-partite agreement should be considered in fact as a joint commitment of the employers and the workers to the Nation, i.e. to the Consumer. Today, there is no lobby of consumers in Parliament or in any state legislature. Politicians content themselves by rendering lip-service to the consumer cause mainly during election campaigns.

### **Galbraiths View**

In short, the following general remark of J.K. Galbraith holds good regarding Indian conditions also: "Today, the notion that Consumer is Sovereign influence in the market economy will serve only those who believe in fairy tales."

### **Indifferent Consumers**

What makes the condition of Indian consumers particularly worse is the fact that they themselves are quite indifferent towards their own plight.

Consequently, even if a Stuart Chase or a Flinch or a Ralph Nader appears in India today he will find himself quite ineffective under the present situation.

## II

### *The Onward March*

Consumers' organisation is necessarily an autonomous, non-profit organisation, free from the direct or indirect influence of the Government, the commercial and industrial interests, and the political interest-groups. (wherever necessary, there can be de-officialisation of consumer bodies.).

#### **The Initial Lull**

In India, people were lulled into inaction after independence because they depended upon the Government for anything and everything. Even in advanced countries, such as, U.S.A., Canada, U.K. and Sweden, governmental measures for consumer protection had followed, and not preceded, the consumer movement. The consumers' right to be heard is well protected in Sweden, Norway, U.S.A., U.K. and Japan because in those countries consumers are organised and governments are responsive. As M.C. Munshi points out, in Japan, since 1965, when the Social Affairs Bureau was formed, the Enquiry Commission seeks consultations with consumer organisations before advising the Prime Minister. In Britain, Under the Fair Trading Act 1973 the director general of fair trading has to consult consumer interest while making his statutory enquires. By now all states in U.S.A. have enacted legislation for consumer protection. In all U.S. states there are regulatory boards to regulate, through occupational licensing who may enter an

occupation and how entrants may conduct themselves. In U.S.A. successive Presidents appointed special assistants for consumer affairs. In Scandinavia, a consumer representative sits in the central executive or policy-making body. In Germany a government organisation, 'Stiftung Warentest', and another government aided voluntary organisation, and eleven other organisations called 'Zentrale' carry out the task of providing up-to-date information to consumers. In Canada, there is the Consumers' Association, and a separate government department of consumer and corporate affairs. In the underdeveloped countries of the Third World, the situation has been still worse.

### Case of Malaysia

Take, for example, the case of Malaysia Consumers' Association of Penang' (CAP) is probably the most powerful consumers' organisation in the South East Asia. It was launched in 1969 on a wave of public dissatisfaction in the predominantly Chinese West Malaysian island of Penang. Its first President was Mohammad Idris, a local councillor and businessman. But why Malaysian consumers were idle till 1969? Because of the convenient belief that the Government would do everything necessary for their welfare.

But on certain issues that were of vital importance for consumers' well-being, they were shocked to find that the Government and international organisations either failed to see the importance of the issues or were closely allied with the big companies responsible for these damaging practices. Consequently, asserts Daniel Nelson, in some areas, such as, the campaigns against bottled baby milk, and against the export of dangerous drugs and pesticides to Third World countries, the entire impetus has come from the private groups.

The experience in other underdeveloped countries, including India, has not been different. Hence the recent, reluctant awakening on the part of the apathetic indolent consumers.

### The Beginning

The consumer movement in India started in early 1920s, but it gained momentum only since the 1960s. In 1966 the

Consumer Guidance Society, Bombay was formed.

### **Consumer Guidance Society**

It is a non-profit organisation, registered under the Societies Registration Act and the Bombay Public Trusts Act.

The purposes of the society was to protect and promote the rights and interests of consumer, provide them with information and counsel, take up their complaints with the offending party and/or the authorities and help them select goods and services which are a fair return for the money they spend. ("Quality at Fair Price" seems to be the Society's motto).

Its various sub-committees handle activities viz., complaints, publications, programmes and testing. Test results of milk, sweets, sweeteners, prohibited colours and other articles of consumer interest are published in the society's monthly magazine "Keemat". The C.G.S.I. is affiliated to consumer organisations throughout the world as an Associate Member of the International Organisation of Consumers Union (I.O.C.U.)

### **A Fillip**

The movement gained a fillip especially after the setting up of the Indian Federation of Consumer Organisations, the Consumer Research and Education Centre at Ahmedabad, the National Consumers' Protection Council and the Akhil Bharatiya Grahak Panchayat. On January 27, 1978, the All India Consumers' Federation, the Akhil Bharatiya Grahak Mahasangh was formed at New Delhi in a meeting of 23 representatives of consumers' organisations from all over the country. The meeting which was presided over by Shri Mohan Dharia then minister, unanimously nominated Shri Bindu Madhava Joshi and Smt. Pramilatai Dandavate as convenors. The meeting was attended, among others, by Ministers K.K. Goyal and Arif Beg, Pandit Vasanta Gadgil, Prabhakar Natu, Maheshbhai Shah, Prof. Ramesh Bhatt, R.R. Dalwai and M. Radhakrishnan. The Central Executive of the Akhil Bharatiya Grahak Panchayat which met at Delhi on 25-27 January, 1980, resolved to concentrate the activities in four fields, i.e. LIC, Drugs, Textiles and Taxation structure. The participants included Shri Ram-

sharanji Bharatiya of Kanpur; S.G. Damle, Manohar Vartak, S.D. Fadris, Hanmantrao Garde, and Vasant Gadgil from Maharashtra; Brijmohan Sharma of U.P.; Jagdish Prasad of Bihar; Narayandas Mundada of M.P.; and Ratansingh Shandilya, Rameshwar Agrawal and Prof. Vidyasagar from Delhi.

### **Consumer Education and Research Centre**

Another consumer organisation formed during the Janata regime was the Consumer Education and Research Centre at Ahmedabad. The Centre was born when in January 1978 a senior business executive in Ahmedabad, i.e., Prof. Manubhai Shah, with three others walked in the chamber of the Transport Minister of Gujarat and demanded to know why the fare on public transport was being revised. Since then the CERC has fought battles against many giants, such as, the State Electricity Board, Indian Airlines, the LIC, Ahmedabad Telephones, the State Government as well as private managements. CERC does not take up the complaints of a tenant against his landlord, or of an employee against his employer, or other grievances for which an established avenue of redressal is available. Prof. Manubhai Shah, the Executive Trustee of the Centre, is assisted by Prof. Ramesh Bhatt, Advocate Bhaskar Tanna, Pravin Parekh, Nalin Thakore, I.R. Oza, Prof. D.T. Trivedi, Dr. A.S. Divatia, J.K. Mehta, Smt. Kailesh Raekhi, Rahul Bhinjiani and others. C.E.R.C. is a non-political, non-profit organisation of consumers. It is recognised as research institute by the Central Government on recommendation of Indian Council of Social Sciences Research.

### **The Present State**

At the end of 1985, according to official record, there were 181 consumer bodies in the country (For State-wise break-up see Annexure I). Out of these, 12 were the units of Akhil Bharatiya Grahak Panchayat.

### **The 'Voice'**

Last but not the least to enter the fields was the Voluntary Organisation in Interest of Consumer Education (VOICE)

founded by some teachers and students at the Delhi University campus in the academic year 1983-84. It was conceived as a consumer action group to do research and to study trade practices of specific consumer goods industries and to initiate independent action to protect the consumer interest. During the last two years it has taken up several cases and advocated consumer causes before courts of law and through parliamentarians. Its latest battle against TV Co. is in the court of law. Among other issues it has contested against unfair trade practices by corporate giants like 'Bata' and 'Wills'. In the public sector it has been able to obtain stay orders from Supreme Court against out-of-turn allotment of cars to VIP's by Maruti Udyog Ltd. It has made the Soft Drink Companies, to state in every advertisement that their drinks are 'Artificially Flavoured': 'Contain no fruit juice or fruit pulp' and is now questioning their high prices.

The 'VOICE' is progressing under the able leadership of Dr. Shri Ram Khanna, a reputed public figure of Delhi.

### **Akhil Bharatiya Grahak Panchayat**

It is a matter of great satisfaction that after the steering committee meeting of the ABGP at Pune on July, 14-15, 1984, its work has received a new momentum, a new impetus. With a view to give greater scope to local initiative, the meeting decided to alter the form of the ABGP constitution, give up its current unitary character and develop it into a federation of different autonomous units. With the implementation of this decision, there has been a steady growth in the number of its registered affiliates, their activists, and the projects and agitations undertaken by them. Figures in the official records are obviously out-dated.

### III

## *Supporting Institutional Framework*

It is helpful, through to a negligible extent, to know the institutional framework set up by non-consumer organisations to protect and promote the consumers' interests.

The Council for Fair Business Practices set up in 1967 by a group of industrialists is formed to educate the businessmen that it is to their advantage to satisfy and give a fair deal to the consumer. It is a kind of self regulatory body to promote fair business practices and create an awareness among the business community about its responsibility towards the consumers. According to the Code of Conduct of the Council, manufacturers and businessmen should ensure that:

- (1) the agents appointed by them do not charge prices higher than the fixed ones;
- (2) stocks in items of scarcity are not withheld or suppressed;
- (3) they do not produce or trade in spurious goods of standards lower than the specified ones.

The members of the Council are asked not to adulterate, not to publish misleading advertisements, to invoice goods exported or imported at correct prices, and to maintain accuracy in weights and measures of the goods offered for sale and not to deal in smuggled goods. A bulletin on Consumer News is also brought out by the Council periodically.

The Central Government has constituted a Consumer Protection Council. It is composed of representatives of the concerned ministries, state governments, Consumer Organisations, Co operative bodies and Indian Standard Institution who will advise the Government on all matters concerning consumer interests and suggest executive measures related to various aspects of consumer protection.

The Council is also empowered to administer schemes of financial assistance to consumer organisations for specific projects and action programmes that would further the cause of the consumer.

After their recent consultations with the representatives of the consumers' organisations, the Central Government has taken a decision to further strengthen the institutional framework which will go a long way in protecting consumer, but the whole thing is not yet crystalised.

A consumer-business forum comprising the representatives of concerned interests has been set up by the Federation of Indian Chambers of Commerce and Industry. The FICCI has also advised chambers, trade associations and industrial houses to set up complaint cells.

To assist consumers, Central Food Laboratories have been set up. (See Annexure VI)

There are officers to whom complaints can be made against (1) I.S.I. and Agmark certified products; (2) food adulteration; and (3) drugs and cosmetics.

The government has also issued guide lines for financial assistance to consumer organisation unders the central sector schemes of "Measures for Consumer Protection." (Annexure XII)

Various authorities set up under the law for consumer protection are also a part of this supporting institutional framework.

## VI

# *Consumer's Understanding: Understanding Consumers*

### **Three-Fold Exploitation**

Infact, three-fold exploitation is a must for the very survival of capitalistic order. There must be exploitation of peasants for cheap raw-materials, of workers for minimising the costs of actual manufacturing process, and of consumers for increase in prices. But all these three interest groups are not aware of this basic fact. The vested interests conduct powerful, misleading propaganda and convince them that their interests are mutually exclusive and even mutually hostile.

### **No Incompatibility**

Consumers as well as peasants should remember that there is no inherent incompatibility between the consumer demand for reasonable prices and the peasant-demand for remunerative prices. The two appear to be mutually contradictory because of the faulty planning and policies of the government. As a welfare state the government is under an obligation to raise the infrastructure for rural development. Again, it has committed itself to the policy of rural industrialisation. Both these measures, if properly implemented, will reduce to some extent, the cost of production of the farmers. But most important of all, the government should change its current style of

planning. Presently, we are following the Russian Pattern in which top priority is given to heavy industries, and agriculture is relegated to secondary position. The order of priorities should be altered; agriculture and rural development should be given first priority, next only to defence, and all the facilities or financial assistance made available annually to the industrial sector should be reserved henceforth for agriculture and rural sector. All the agricultural inputs should be heavily subsidised at the source. There should be some sort of correspondence between the prices of agricultural products and those of manufactured goods. If agricultural inputs, such as, water, electricity, fertilizers, seeds, diesel, pesticides, insecticides, agricultural implements, tractors etc., are subsidised heavily at the source, the cost of production of the Kisan will go down and it will be feasible to secure remunerative prices for agricultural produce without raising to any appreciable extent the financial burden on consumers. Export facilities that are being enjoyed by industrial sector today should be extended to agricultural sector also. Thus it is obvious that there is no inherent contradiction between the interests of the consumers and those of the Kisans; the wrong plan-priorities are responsible for this apparent incompatibility between the two. This should be conveyed properly to both—the consumers and the kisans.

### **Direct Contact Beneficial**

Whenever consumers or their co-operatives are in direct contact with producers or their organisations both stand to benefit because in this process middlemen and their commissions are eliminated. In most of the cases goods pass through a long line of intermediaries and these middlemen or intermediaries thrive at the cost of both—the consumers as well as the producers; the case is in no way different when the state itself plays the role of an intermediary. There have been occasions when distribution of certain commodities was taken over by the government on the plea that the private traders were reaping unjustifiably huge profits; but subsequently it was found that the profiteering by the state was still worse.

## Middlemen

In case of agricultural produce, the small and marginal farmers are usually confronted with a peculiar situation. They have no storage facilities of their own. Middlemen, on the other hand, are provided with huge loans by the banking industry for the purpose of creating fresh storage facilities. Almost before every harvest, the capitalists propagate through their news-papers that, that year there is going to be a bumper crop. This is mainly to prepare poor peasants psychologically to sell their products at cheaper rates. Peasants are poor, they cannot afford to wait till the market conditions become more favourable, because they have no facility to store their products for any length of time. They feel all the more helpless in case of their perishable produce. This situation is mercilessly exploited by intermediaries who raise storage capacity at the cost of banks. Consumers are required to pay higher prices for essential agricultural products; but the producers also are deprived of their legitimate dues. Without much substantial investment of their own, this class of businessmen reaps profits which are out of proportion by any standard. What they seek is profiteering, —not reasonable profits. And, again, the Urban Consumers are led to believe that the prices of essential commodities have gone up because of the irrational attitude of the peasants. For Urbanites, who do not care to study the market mechanism, the villain of the piece is Kisan,—not the parasite middleman.

## The Magnitude of Menace

The magnitude of the menace of middlemen everywhere in the world can be properly appreciated from the following remark of Dumsier and Hefle Bower in their 'Economics with Application to Agriculture':—

“If the farmer gave his wheat for nothing, if the miller milled his flour for nothing, if the railroad hauled the flour for nothing, bread would still cost 4.2 cents per pound loaf.”

This exploitation can be put an end to, whenever there are direct negotiations between the consumers and the producers.

## Workers and Consumers

Similarly, there is no real conflict of interests between common consumers and common workers, inspite of the myth propagated by the government and the capitalists that the demand of workers for wage-rise is mainly responsible for price-rise. Firstly, every wage-rise is not responsible for price-rise. In principle, wage-rise is responsible for price-rise only to the extent to which it (i.e., the wage-rise) is in excess of productivity-rise; and in our country productivity indices are not available in case of most of the industries and services. Secondly, had there been such a causal relationship between wage-rise and price-rise, every price rise would have been inevitably preceded by some wage-rise. That does not seems to be the case. And, thirdly, it is now generally recognised that the main factors responsible for price-rise are (i) deficit financing, (ii) black money, and (iii) unrestrained dividends, profits and interests, and that the wage-rise has, in natural course, only a marginal impact on the price situation—though that impression is artificially generated by the government and the capitalists to mislead the gullible sections of ordinary consumers. Withholding of stocks, creation of artificial shortages and scarcities, and even want on, deliberate destruction of the goods with a view to ensure higher prices for the same—all these are the devices with which poor workers are not even remotely associated. In fact, the workers are the weaker section of consumers and are, therefore, having the same degree of consumer consciousness which automatically prevents them from helping or participating in any anti-consumer measures. It is advisable to acquaint common consumers with all these facts, lest they should be misled by the mischievous propaganda of the rulers who are presently pursuing the 'divide-and-rule' policy of the British imperialists.

## Needed: A United Front

If all the three victims of the capitalistic exploitation understand the reality of the situation, it will be possible for them to form a broad-based united front to fight the powerful exploiters.

## V

# Activities

### Propaganda

Propaganda of consumers' cause through the mass media is not so easy. There was no discussion in newspapers on the MRTP amendments and their effect on the consumer. Clauses (i) to (v) Section 36 A Part B of the MRTP Act, which make false representations of various kinds as an unfair trade practice, would be considered unwelcome by the media whose substantial revenue earning comes from advertisements—particularly since bargain, lottery gift and contest ads come under unfair trade practice in Section 36 A(2) and (3). The ad-oriented press, functioning as an information appendage to big business houses or propaganda instruments of the ruling party, can ill-afford to uphold the cause of poor consumers. Equally doubtful is the practical efficacy of even clause (vi) of section 36 A, namely "makes a false or misleading representation concerning the need for or the usefulness of any goods or services",—the whole system being dominated by the urban elite craving for anti-poor modernisation. Even Justice R. Sachar, as head of a committee, stated, "we are not suggesting that the Commission will examine the advertisement with a view to finding out whether right or wrong social values are being projected. That is not the purpose". The committee did not expect law to deal with social values in consumer goods.

This, however, is not a handicap from which consumers' organisations alone are suffering. All the bodies representing

the poor are sailing in the same boat. And they are all striving hard to find a way out of this difficulty.

It would be preposterous on my part to presume that I can suggest you any new method of propaganda that has not been tried by consumers' movement elsewhere. Group discussions, talk before students and women's organisations, talks on consumer laws and on advertising ethics, complaints cell, exhibitions, seminars, symposiums, conferences, letters to editors, news-letters or bulletins, booklets, leaflets, folders, poster campaigns and, as far as possible, pressing mass media including cinema, radio and T.V. into service. Some legitimate activities of consumers' organisations serve the purpose of propaganda indirectly. Price surveys; visits to local factories, bakeries, markets; checking of weights and measures in shops and publication of their report; sample tests of washing powders, ready mixes, cheap kitchen gadgets like potato peelers, lemon squeezers etc. (Even normal contacts with the various departments concerned with consumer protection, such as the Food and Drugs Administration, the Public Health Department, the Weights and Measures Department, The Director of Marketing and Inspection, or the Indian Standards Institute.) The testing of different products and publication of the reports of their laboratory analyses can enhance the credibility of the organisation. But it requires services of experts, and is presently beyond the capacity of average consumers' organisation of this poor country,—though a few exceptions are fortunately already there. Agitations also serve the same purpose indirectly. Demonstrations, protest-morches, dharnas, hunger-strikes, satyagraha, consumers' strikes, i.e. boycott,—all these forms of resistance highlight the work of the organisation. Nader's advice is 'make greater use of boycott.' (What of consumers' organisations? In California, even agricultural workers led by Cesar Chavez organised consumers' strikes on a number of occasions in support of the workers' demands.) Social organisations like 'Rotary Club or Lions Club' can also be helpful in this respect. Thus the enumeration of such methods is superfluous. But a consideration that deserves greater attention is the sense of proportion. Propaganda is helpful; but it should not be treated as a substitute for organisation. And in the glamour of wild, dazzling propaganda, the importance of the basic approach of person-

to-person contact should not be lost sight of. Ralph Nader once said, "Even though consumer issues are supported on a deeper and broader base, and cut across economic, religious and social lines, the biggest challenge is to devise an effective strategy like developing audience networks, self-financing and door-to-door canvassing."

It is highly significant that the supreme importance of door-to-door canvassing and developing audience networks has been stressed by a successful consumer—leader of a country which has developed the most advanced techniques of propaganda, mal-propaganda and imag-building.

### Organisational

Actual organisational work should be considered as more important than propaganda. Rather, propaganda as well as agitations and constructive activities are to be utilised for strengthening the organisation. The technique of organisation—based upon personal contacts and psychological handling—is the same everywhere. In this sphere it should be noted that consumers can be organised horizontally, area-wise as well as vertically, service-wise or industry-wise,—area-wise, for all industries and services in the same area; service-wise or industry-wise, for the entire manageable region. Association of railway passengers, road transport passengers, electricity consumers, telephone users, etc., are the examples of vertical organisations; Grahak Sanghas constitute horizontal organisations. There can be function-wise forums also, such as, those for consumer guidance or for consumer education.

### Agitational

Like organisational techniques, the methodology of agitation within the framework of law and constitution is also well set during the last four decades. Various forms of agitation need not be mentioned here. But for the leaders of this movement it is necessary to be armed with necessary information and data about relevant factors before launching a struggle. They need not become experts in different theories of micro and macro-economics,—many of which become out-dated before

they have a chance to be popular. But they should have broad idea about consumption behaviour of the economy as a whole, consumption function and scales of consumer's preferences. He should also be apprised of the psychology of traders and manufacturers. Gone are the days of classical economics when entrepreneurs worked only for profit-maximisation. Now other motives are also recognised. Desire for secure profits, for sales maximisation subject to minimum profit constraint; for leisure, power and greater prestige, etc. character of the concerned commodity must also be studied. Its portability, durability, perishability, substitutability, suitability for sampling, grading and exact description, etc. All such intimately relevant details the organisation must have in its possession before formulating the strategy, tactics and programmes of any struggle.

## VI

### 'Consumerism'

The ABGP need not be particular about adopting or rejecting the popular term 'Consumerism'. Before a decade or so it was considered fashionable to adopt some 'ism' or the other. The term 'ism' had been very respectable and prestigious till then. That is not the case today. 'Consumerism' is capable of different connotations,—some good, others not so good. It is not a philosophy in the recognised sense of the term. Its purpose is to educate consumers of their rights and help them in securing justice and welfare. The policy of 'caveat emptor' means 'let the buyer beware'. But, according to Mrs. Virginia H. Knauer, Consumerism seeks to replace this age old dictum by 'Caveat venditor', that is, 'Let the seller beware'. Cravens and Hills feel that "Consumerism is a special force within the environment designed to aid and protect the consumer by exerting legal, moral and economic pressure on business." In some quarters, however, this 'ism' is presumed to be the preliminary stage leading ultimately to hedonism,—though at the present stage it may appear to be innocent. The American students who revolted against the establishment sought to destroy the 'consumer society'. Be it as it may, it is not obligatory to be enamoured of one phrase or the other. It would make little difference whether ABGP accepts or rejects 'Consumerism'.

## VII

### *Consumer Co-operation*

This is the sphere of a non-profit economy—a concept introduced by the principle of ‘dividend on purchases’. The distributable surplus or the net profit accrues to the members, not in their capacity as shareholders in proportion to their shares, but as consumers in proportion to their purchases. The profits made after a year are distributed among the members according to purchases made by the members concerned. Those members who have made larger purchases will be entitled to a larger portion of the profit. This has two advantages: (i) It induces the members to purchase from the co-operative store and not from the private trader, and (ii) It encourages more and more people to become the members of the co-operative stores. The usual practice of paying rebate or patronage dividend to members of consumers co-operative stores is that first of all the statutory minimum towards the reserve fund is set apart; then interest on deposits, etc., is paid, and finally, the balance is distributed among members in proportion to the purchases made by them. It is a bonus of rebate on purchases. (The system of rebate or bonus is not uniform in different states of India).

#### **The Principles**

The co-operatives follow the principle of ‘one man—one vote’ instead of the capitalistic custom of ‘one share—one vote’. The four fundamental principles universally accepted are; sale

for cash; sale to members; sale at market rates; and bonus on purchases. (In our country, 'sale for cash' and 'sale to members' have become controversial principles for obvious reasons).

## **The Second Plan**

The Second Five Year Plan rightly pointed out that "co-operative organisations have the merit of combining the advantages of individual and small-scale pattern with those of large-scale organisation and management and are a vital factor both for the social stability and economic growth".

## **Principal Benefits**

The Principal benefits of consumers' co-operation are:—

- (i) The much hated Trader-intermediary is displaced under consumers' co-operation. The middleman's profit also accrues to the members.
- (ii) The consumer's co-operative society faces no competition from a rival trader. Because all the members make it a point to buy all their requirements from their store.
- (iii) Not much capital is required to run it. The managers job is more often than not an honorary job involving little or no expense to the society.
- (iv) There is a clear saving in advertisement expenditure.
- (v) The Government always exercises control and supervision over the working of consumers' co-operative societies. Their accounts are checked and audited at regular intervals by government auditors. The scope for financial manipulations and embezzlements is, thus, reduced to the minimum.

## **The Principles**

Following are the principles of co-operation:—

A committee set up by the International Co-operative Alliance in 1937, stated the following as the Rochdale Principles:

- (a) Open membership.

- (b) Democratic control.
- (c) Limited interest on capital.
- (d) Distribution of surplus to members in proportion to their transactions.
- (e) Political and religious neutrality.
- (f) Cash trading.
- (g) Promotion of education.

The above principles were formulated mostly from the point of view of consumers' co-operatives.

The International Co-operative Alliance, therefore, on the request of the International Co-operative Congress, held at Bournemouth in 1963, appointed a commission to formulate the fundamental principles of co-operation. The commission, after considering and analysing the traditional principles, recommended that the following should be considered as essential to the genuine and effective co-operative practice:

- (i) Voluntary, open and active membership.
- (ii) Democratic control.
- (iii) Limited interest on share capital.
- (iv) Patronage dividend.
- (v) Promotion of education, and
- (vi) Mutuality.

Principles of co-operation are few, but fundamental.

### Limitations

There are well-recognised limitations also. Co-operation can increase purchasing power, but it cannot create it, where there is none. True, the movement has not yet evolved an all-embracing philosophy of its own; it has not produced any Marx or Gandhi of its own. It has, nevertheless a distinct furrow to plough in practical life.

Co-operation seeks to steer clear of both—Capitalism as well as Socialism.

### Laski's View

Prof. Harold Laski says, "the essence of co-operation is denial that the profit making motive can ever produce a just or human society. My inference from this is the vital one that between co-operation and capitalism, there can be no peace. They are mutually exclusive conceptions of society. The one seeks to end the exploitation of man by man, the life of the other is built upon that of exploitation. The one puts need where the other puts profit. The one thinks of community as a great fellowship of consumers integrated into unity by common wants, the other thinks of it as an aggregate of individuals whose rights are measured only by the effective demand they embody. The one thinks of international trade as an exchange of goods and services to mutual advantage, how the other regards it is shown, dramatically enough, not merely by tariff and subsidy and quota, but, even more, by Japanese aggression in China and Italian Imperialism in Abyssinia. .... There can be ..... no peace between cooperation and capitalism; in the same world, there is no room for the ideologies of both."

### Socialism of Co-operation

Tracing the ideas and beliefs of Robert Owen and others, Prof. S.K. Goyal distinguishes socialised economy from the consumers' co-operation thus:

While consumers' co-operation aims at equitable distribution of property which is accomplished through the working of the principle of bonus on purchases, in a socialised economy ownership of private property is condemned, in a consumers' co-operative the ownership and the control vests in the organised body of the consumers, thus, labour is regarded as one of the factors of production which is entitled to a reasonable share in production, i.e., fairwages, but it is not essentially a workers' economy and does not discriminate between various classes of labour; consumers' co-operative respects the wishes of the individual and allows complete liberty either to join the association or to leave it at his will, but, in a socialised economy, the individual freedom is sacrificed at the altar of the

community; consumers' co-operation believes in complete political neutrality, but in a socialised economy politics plays a vital role; the consumers' co-operative is not organised with the aim of earning profits and, therefore, even if the consumers are required to pay for goods they purchase from it at market prices, the differences between the market price and the cost price is refunded to the consumers in the form of bonus on purchases, but in a socialised economy, only individual profits are eliminated and there is no objection to the State making profits.

### **Beginning in Britain**

Consumers' co-operative movement is comparatively young in India. Even before the 28 Rochdale pioneers met together in November 1843, awakening in this direction among British workers was discernible in their attempt in 1795 to form the 'Hull Anti-Mill Society', existence in early 1830s of more than 200 societies, and a series of Congresses held between 1831 and 1834 for educating British workers in co-operation. Robert Owen, the 'Father of Co-operation', Charles Fourier, the leader of the Chartist Movement, and William King, editor of 'Co-operator', had tried, though unsuccessfully, to work out the new concept of co-operation. In 1869, the 'Co-operative Union' which is the central organisation of the co-operative societies was formed. In Britain consumer movement gained momentum after the second world war. The decade of 1950s, is described as one of consumer revolution in Britain. Women's organisations and intellectuals have played a great part in building up this movement there.

### **In Germany**

In Germany, a 'Workers Savings and Consumers' Association' formed at Chemnitz in 1845 was the earliest attempt in this direction. In 1864, the first regional consumers' co-operative union was formed at Brandenburg, and in 1867, the first union of German Consumers' societies was established at Stuttgart.

### **In Sweden**

In Sweden, the movement had its inception in 1860, and in September 1899 the Swedish co-operative union and wholesale known as K.F. i.e., 'Kooperativa Forbundet, was formed as a central organisation.

### **In Russia**

In Russia, the first consumers' society was organised by the workers of the Kyn works in the Urals in 1864, and the Central Union of Consumers' Societies (Centrosoyuz') was formed in 1917.

### **In Poland**

In Poland, the co-operative societies appeared in the later half of the last century. Their central organisation was set up in the first national conference of consumer societies in 1908. 'Spolem' is now the central organisation.

### **In Norway**

In Norway, beginning was made in 1851 and the Norwegian Co-operative Union and Wholesale Society, the NKL was formed in 1906 as the Central Organisation.

### **In Switzerland**

In Switzerland, the first society was formed in 1847, and the movement gathered momentum in 1865.

### **In U.S.A.**

In U.S.A., the first consumer society was formed by Boston Germans in 1845.

### **Other European Countries**

The inception of this movement in other European countries was in the following order. France in 1835; Belgium in 1848; Italy in 1854; Canada in 1861; Denmark in 1866; Netherlands

in 1870; and Finland in 1899. The International Co-operative Alliance was formed in 1895.

It may thus be noted, that as compared to the pioneering western countries, India is a junior entrant in the field of consumer co-operation.

During the last four decades consumer movements are gaining momentum in the west as well as in Japan and Australasia—particularly, New Zealand.

### **Impact on National Economy**

In U.K., Finland, Iceland, Sweden and Switzerland the consumer co-operative movement has made great impact on national economy, while it commands sizeable strength in Denmark, Norway, Israel, France and Belgium.

### **In India**

All those interested in the economic development of the country are fairly conversant with the history of our consumer co-operative movement. The recommendation of the Famine Commission (1901) for the starting of Village Credit Societies; the establishment of a co-operative union in Calcutta in 1903, the Triplicane Urban Co-operative Society at Madras in January, 1904, and its first ever Rochdale store of India in April, 1904; the Co-operative Credit Societies Act of 1904 in pursuance of the 'FIND RAIFFEISEN' report of Sir Frederick Necholson, and the Co-operative Societies Act of 1912; the Edward Maclagan committee of 1914; the Montford Reforms of 1919, and subsequent Co-operative Acts of different provinces; a set-back to the movement during the Depression of 1929-39; formation of the first District Co-operative Wholesale Store for the Madura-Ramnad districts in December 1939; a tremendous fillip to co-operation during the second world war period; appointment of the Co-operative Planning (Saraiya) Committee; a decline in the movement during 1952-54; encouragement to Credit Societies during the first and the second Five Year Plans; the report of the Rural Credit Survey Committee (1954); downward trend of consumer co-operative movement till 1958-59; comprehensive recommendations of

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the All India Seminar at Bombay in September, 1960, under the auspices of the All India Co-operative Union (now NCUI); recommendations of the Natesan Committee (1960); naked greed of traders during and after the Chinese invasion (1962); consequent schemes of the Government of India from November 1962 onwards to strengthen the consumer co-operative movement; and the growing interest of the Planning Commission in this movement during and after the Third Five Year Plan, all these facts are quite well-known to the students of Indian economy. Subsequent developments; (such as the establishment of the National Co-operative Development and Warehousing Board and a separate department of co-operation in the Union Ministry, the creation of Central Committee for Co-operative Training, etc.; etc.;) are too recent to need any enumeration.

Nevertheless, it would be relevant to state briefly the performance of the sixth plan in this field.

#### **The Sixth Plan**

The Sixth Five Year Plan had set targets for the co-operative programme; but the progress in the disbursement of co-operative short-term credit during 1980-81 and 1981-82 was below the plan expectations; though the disbursement of term loans was comparatively more satisfactory. Establishment of a National Bank for Agriculture and Rural Development on July 12, 1982, has not increased substantially the flow of co-operative credit in rural areas, and there has been no significant increase in the flow of institutional credit to small farmers, marginal farmers, tenants, share-croppers, agricultural labourers, rural artisan and self employed. The progress of consumer co-ops lagged behind the Sixth Plan expectations, on account of various factors. The outcome of the amount of Rs. 330.15 crores earmarked for co-operation out of a total sixth-plan outlay (original) of Rs. 2314.87 crores provided for programmes covered under Rural Development including co-operation, has been much below the plan expectation.

## Neither Spontaneous, Nor Voluntary

In India, the spirit of co-operation has not preceded the institutions of co-operation. The co-operative movement was neither spontaneous nor voluntary. Those who happened to be the pioneers of the movement were not conversant with its spirit, principles and methodology. The consumers' co-operatives were formed mainly to meet the needs of distributing rationed and controlled commodities, and consequently with the policy of de-control and de-rationing, the movement received a set-back. The Government has been responsible for sponsoring this movement by extending bounties and subsidies and also other financial assistance to consumer stores. In the process, people lost all initiative and began to look upto the Government for each and everything. The activists in the movement ignored the basic principle of consumers' co-operation, that is, the need to supply all the essential commodities to a consumer. (Essential commodities include, among other items, foodgrains, cloth, sugar, drugs and medicines, vanaspati, kerosene, cycle tyres and tubes, soaps, babyfood, tea, coffee, ghee, milk and milk products, edible oils, matches, torch cells, footwear, electric lamps etc.). There has been no serious effort to bring about working coordination between the wholesales and the primaries; both of them suffer from the lack of awareness of the mutuality of their interests. No systematic attempt is made to attract women and their organisations to this field. The need to educate members after making them interested and psychologically involved in the movement is not yet fully realised. Consequently, they become mere passive beneficiaries and not active participants. Paid staff everywhere is naturally devoid of missionary zeal; and the plight of honorary workers is miserable. As Prof. H.L. Kaji puts it, "Honorary workers in the past were lured in the service of co-operation by a vision of honour, honours and honorarium. Honour is, however, an illusion, honours have vanished and honorariums have thinned." While disloyalty on the part of ordinary members is not a rare phenomenon, even members of management boards are often found to be dishonest and disloyal. Undue influence of individual members obstructs the functioning of the societies. No wonder, that the condition of employees of consumers'

co-operatives is pitiable. Often societies suffer from factionalism, party feuds and corruption and embezzlement by staff as well as directors. A sort of vested interest is easily created, and it becomes difficult to ensure that the consumers' co-operative society does not in fact become a Joint Stock Company registered under Co-operative Act. All these factors have rendered the movement thoroughly incapable of making any substantial contribution to the process of national reconstruction. Thus regarding consumers' co-operative movement in India which is now 82 years old it can be said that barring a few exceptions (because of the guidance and active interest of eminent persons like Dr. D.R. Gadgil), the entire movement has been initially sponsored and constantly patronised by the Government, managed mostly by the rich, and during the post-independence era, exploited by politicians. It has not yet touched even the fringe of the problem of consumer protection. The following observation of Morace Plunkett is particularly noteworthy in Indian conditions. "The lesser the politics in business and the more the business in politics, the better for both".

### **Lack of Professional Management**

While missionary zeal is conspicuous by its absence, professional management is also not properly introduced in this sector. Care is not taken to ascertain the local needs and the local consumer preferences. Any local effort should begin modestly with the organisation of a 'Buyers' Club', i.e., 'Grahak Sangha', which means a group of buyers that pools its requirements, makes joint purchases and distribute these among the members themselves at least at market rates to effect savings. The club or sangh may begin with groceries, and stocking of staples which do not deteriorate. It can make bulk purchases from private traders at a discount. Such a club or sangh can be a stepping stone to the setting up of a primary store. In our country, the financial position of both, the primary and the wholesale stores is very weak because of the inadequacy of capital. (The number of wholesale stores is negligible. District wholesales exist in states like Tamilnadu, Maharashtra, Gujarat etc.) Shortage of capital gives rise to other problems.

Location of the site selected for store is not suitable because of inability to offer 'pugree' or pay excessive rents. Stores are started with too small a membership or too small or borrowed capital. The size of the store includes membership, share-capital, and the business turnover of the store. Should it be impossible to work out the minimum membership, share capital, working capital and annual business turnover of a primary store, in the light of the estimated minimum expenditure needed to run a store efficiently? Share capital raised from the members usually forms the bulk of the working capital of a primary store. The funds of a primary store, generally, consists of (i) share capital subscribed by the members; (ii) Entrance fee by members on admission; (iii) Fixed deposits raised from members and non-members; (iv) Trade deposits raised from members; (v) Cash-credit accommodation or loans from financing agencies or the government; and (vi) State participation if any. There is a strong view prevalent that there should be equal contribution from the State. (The practice of trade deposits is common in Madras and Andhra.) The maximum borrowing power of a primary store is generally fixed at five times the paid up share capital plus the reserve fund.

### **The Neglected Sector**

It is noteworthy that whereas every sector of co-operative activity is assisted by the Government in some way or the other, the only sector neglected by the government is the consumer co-operative sector the only exception being the Railway Administration.

### **The Handicaps**

Lack of adequate funds leads to the appointment of low-paid, incompetent, inefficient staff under members of managing boards who are also ignorant of business techniques and skills. Members of the society are mostly indifferent, sleeping partners. Officers of the department have no business acumen and again, they are subject to frequent transfers. Citizens residing in the neighbourhood are not enlightened; being illiterate or less educated, they prefer cheapness to purity, quality and

correct weights and measures. They are, again, in the habit of demanding goods on credit which results in heavy bad debts. Even educated middle class citizens are not inclined to plan their family budgets, and to avoid extravagance in formal ceremonies. They always strive to maintain the appearance of status through ostentatious spending.

The managements cannot take correct decision on the lines of merchandise. Not knowing consumer preferences, they cannot precisely decide what all articles should be purchased. Articles involving slow turn-over are often selected. The efficiency lies in purchase of quality goods in bulk at the very source of production with minimum transport charges, and, further, in passing on the economies so secured to the selling point with the utmost speed. The wholesale stores often fail to meet the requirements of primary stores. The stores that are dependant upon the controlled and the rationed goods cannot afford to have wide commodity coverage. There is generally no display of goods in shop windows and showcases along with their prices. Packing is not attractive. There is no arrangement for proper cleaning and grading of the goods. There is no protection of foods from rainwater, fungal attacks and rodents. There is general shortage of storage facilities, i.e., of rat-proof and damp-proof godowns. There is a tendency for over-stocking. Simultaneously, there is no alterness to avoid driage, wastage and leakage, salesmanship is inefficient. In many cases, establishment becomes top-heavy. There are no proper restraints on the overheads of a store, which include rent, light, heat, insurance, management, transport charges, salesmanship, accounting, interest on all articles, etc. There is no vigilance in stock accounting; the stock-registers are not kept up-to-date. Number of stores adopt defective pricing policy. Sometimes they charge higher prices than those charged by local traders.

Worst of all, there is no adequate stress on proper accounting, book-keeping and auditing. As Dr. S.C. Mehta points out, "Proper accounting will apprise the store of its real position; its gross and net margins; trade per member, per employee and per call; return on capital and whether it is over or under-stocked. Account control is the only way to know losses from waste, theft, and misappropriations, and to nip them in the

bud." This aspect is not taken seriously by the managements.

All these factors have combined to create a curious situation. Instead of being treated as relief-centers, most of the consumer co-operatives are considered to-day as power-centers. Consequently, there is a craze for starting with indecent haste branches, new enterprises or productive activities without making necessary pre-arrangements for the same.

### **Productive Activities Abroad**

There has been a controversy around the question whether the consumer co-operatives should contain and control production in the industrial and agricultural sectors through their own wholesales or federations, and thus remain independent of the influence of the producers. In foreign countries one comes across consumers co-operatives that own or maintain filling stations, mines, plantations, forests and timberland, hydro-electric plants, refineries, telephone installations, agricultural estates, deep sea fisheries, oil-tankers, transport ships, fire departments, fleets of lorries, helicopters, sanatoria, or holidays homes. The jurisdiction of their productive industrial activity is very wide, and includes artificial silk, staple fibres, fertilisers, petroleum-products, buildings, contracting and architectural constructions, machinery, automobiles, and even raw materials and semi-manufactures. They have succeeded in cutting to proper size the monopolies in various industries and in reducing their monopoly prices.

### **In India**

In India, a modest beginning is already made in this direction. In many offices and factories there are canteens and messes run on this basis. Manufacture of leather goods, cultivation of vegetable farm, lease of forest coupes, hulling of paddy into rice, conversion of gram into dal, production of gingelli oil, oil milling, flour milling, dairy, restaurant, these are some of the activities, though all of them can be termed only as pilot projects. The fields that can in near future be entered into by consumers' co-operatives are being explored. Services like tailoring, haircutting, laundry, cycle repairs, shoe-repairs,

transport, etc.; manufacture of 'papad', bidi, biscuits, bread, confectionery; cleaning of foodgrains, repacking of coconut oil and coffee powder, grinding and repacking of condiments in small packets of fixed weights, marked by the store name and sealed, these are some of the activities suggested so far for this purpose. It is also being discussed whether such activities should be undertaken for the benefit of co-operative members only—as is generally the case to-day, or outsiders also may be allowed to be the beneficiaries. While there is certainly much scope for progress in this direction, the limitations of the productive activities of the consumers' societies should also be properly understood. As Mr. G. Fauquet, an official of the co-operative chapter of I.L.O. observes, "The consumer movement thus becomes a means for the consumers to correct private and public enterprise, not to replace it. It is impossible for a consumer movement to take over the whole economic life in a free society. So the consumer movement is satisfied with remaining a sector in a mixed society and its ambition is to become a countervailing power".

### **Resistance More Urgent**

Again, under the prevailing conditions, consumer resistance has become more urgent and deserves priority over other activities. Recently, the Govt. of India appears to be taking more keen interest in the development of this movement. This is a welcome feature, though it is difficult to forget how controls introduced with the best intentions have led inevitably to massive corruption under Indian conditions.

### **Needed Peoples Initiative**

We have our own special characteristics, our own strong as well as weak points. Presently, consumer co-operative movement has not spread its net-work in rural areas which is the genuine Bharat. The Government has designed the strategy of service co-operatives providing credit, marketing, supply and consumer services, thus combining in them the functions of both the service as well as the consumer co-operatives. In rural areas, service co-operatives and multi-purpose co-operatives

are expected to supply consumer goods together with fertilisers, seeds, etc. to the rural people. This may appear to be expedient; but in the long run this will have to be replaced by a more scientific and durable system. Such a system can be evolved not through Governmental patronage but on the strength of initiative taken by voluntary organisations of selfless patriots pledged to the goal of national reconstruction.

### **Absence of Indian Tradition**

Whenever we launch any new movement or organisation it is customary for us to take into consideration our own history and traditions as well as the experience of the outside world in the concerned field. Obviously, during the golden periods of our hoary past it is impossible to find out any parallel or precedent for the consumer movement of modern times, for the simple reason that during those periods individual citizens were Dharma-oriented, the social orders were Dharma-based, and the tenets of Vaishya Dharma as enunciated by our Law Givers from time to time were invariably more scientific, more down-to-the earth, and more authentic than those of the 'Fair Trade Practices Association i.e. the Council for Fair Business Practices, of modern India or the Rice Leaders of World Association and the National Better Business Bureau of the United States and Canada. During such historical periods the concept of consumers' movement would have been a superfluity.

### **Word of Caution**

The concept of consumers' movement is originated in the west and developed by the western economists. Naturally, we have to fall back upon western economic theories while studying the various aspects of this movement. Hence the need for a word of caution in this respect. No western theory should be accepted at its face value. The West has developed a technique of giving prestigious appearance to their theories even though they may not be so in reality. No economic theory in the west could hold its ground for long. But every theory had its day.

Therefore, one has to be very careful before accepting any thought from the west.

### An Example

As an example, one may consider the much trumpeted theory of Consumers' Surplus.

The concept of consumers surplus, first visualised by Arsene Jules—Dupuit, in 1844, and later systematised by Dr. Alfred Marshall, in 1879, states, "The excess of price which a person would be willing to pay rather than go with-out in the thing, over that which he actually does pay is the economic measure of this surplus of satisfaction. It may be called 'Consumers' Surplus'. The Consumers' Surplus is the product of opportunities available to the consumers in a country. These opportunities are available to the people in advanced countries in a greater measure than to the people in under-developed countries. The Consumers' Surplus is the product of 'Environments'. If there is a ban on printing of news papers, the people will suffer the loss of Consumers' Surplus. People spend money which they were spending on news papers, on other commodities from which they will secure less satisfaction.

This theory is not correct. Because—(i) Marshall's assumption that utility and satisfaction bear a definite relationship with each other not warranted by facts. Satisfaction is not necessarily directly proportionate to utility—utility implies expected satisfaction—satisfaction means actual realised satisfaction (ii) Like price, other determinants of demand also undergo change. (iii) The marginal utility of money to the consumer does not remain constant through out the process of exchange. (iv) The utility of any commodity does not depend upon the quantity of that commodity alone. No commodity can be considered as absolutely independent. (v) There is hardly any commodity which has no substitutes or related goods. It is neither possible nor feasible to treat the various substitutes of a commodity under one group. (vi) It is unrealistic, arbitrary and improper to assume that in order to measure consumers' surplus in the market, we should cancel out all the differences in income, fashion, tastes, temperaments etc.

## Independent Evaluation: A Must

This is just an example to show how the prestigious western economic theories also can be misleading. No theory should be accepted without independent evaluation.

The Law

Manufacturers

Under ideal conditions it is expected that manufacturers should have a fair degree of control over their own products. They should ensure that the quality of their products is high and that they are in accordance with the standard goods that they sell. They should also ensure that the cost of production is low and that the price of the product is fair. This is the ideal situation, but in reality it is often not the case. Manufacturers often have a monopoly over their products and they can charge a high price for them. They can also use their power to influence the government and to get a subsidy for their products. This is not a fair situation for the consumer. The consumer should have the right to choose between different products and to pay a fair price for them. This is the ideal situation, but in reality it is often not the case.

Local Action

As local action is a new concept, it is not clear what it means. It is often used to describe a movement or a group of people who are working together to improve the conditions of their own community. This is a good thing, but it is not always clear what the goals of such a movement are. It is often said that the goal is to improve the conditions of the community, but this is a very vague statement. It could mean anything from improving the physical environment to improving the social conditions. It is important to know what the goals are, so that the movement can be evaluated. This is the ideal situation, but in reality it is often not the case.

"Livable at any price"

Behind the most polished coat of consumer's resistance

# VIII

## *The Law*

### **Manufacturers**

Under ideal conditions, it is expected that manufacturers should have a fair degree of cost-and-quality consciousness, that they should ensure that they do not manufacture sub-standard goods, that their prices are commensurate with the costs of production, that the measures and weights are correct, that after-sales services are properly furnished, that there is no adulteration, and that their advertisements are not unethical.

### **Lord Atkin**

As Lord Atkin observed in a case arising out of Mrs. Donoghue's complaints, "a manufacturer of products, which he sells in such a manner as to show that he intends them to reach the ultimate consumer in the form in which they left him with no reasonable possibility of intermediate examination and with the knowledge that the absence of reasonable care in preparation or putting up the products will result in an injury to the consumer's life or property owes a duty to the consumer to take that reasonable care."

### **"Unsafe at any speed"**

In fact, the most publicised case of consumer's resistance

initiated by a single individual involves this principle. "Unsafe at any speed" by Ralph Nader is a passionate attack on the American automobile and its makers. Nader said that automobile manufactures routinely marketed vehicles they knew to be unsafe out of a lust for profits, that the design of vehicles rather than human folly was responsible for most accidents, and that the Corvair design was 'one of the greatest acts of industrial irresponsibility in the present century.' General Motors, he said, had marked a car, its executives knew to be unsafe, and that general Motors had done so for the controlling purpose of making money.

### **Ralph Nader**

Nader subsequently took cudgels against the pharmaceutical industry, published another thesis—"Who Runs Congress," which is a critical study of the administrative and legal machinery of U.S.A., and expanded his mission so as to cover all aspects of American life,—taxes, radio and television broadcasts, drugs, toys, old age pensions schemes, the unhealthy activities of multi-national drug companies, and packaged food and drinks.

His critical report in 1969 has been instrumental in enlarging powers of the Federal Trade Commission besides catalysing a top level house—cleaning in FTC. Nader alleged in the Report that "FTC was inefficiently managed, staffed by incompetent employees, under-committed to important protection projects, ineffective at detecting and correcting deceptive practices, and masked from public scrutiny by a veil of public relations activities that misrepresented the true FTC". The Report could substantially serve its purpose. But—inspite of all these activities, his main thrust is throughout on the principle enunciated in his "Unsafe at any speed."

### **Businessmen**

Businessmen are expected to refrain from hoarding, profiteering, and adulteration. Hoarding' is not merely possession of stocks without licence or in excess of the limit mentioned in the licence. It is deliberate withholding of stocks with a

view to create artificial scarcities which would result in pushing up of prices. It is true that a reasonable margin depends on volume of turn-over, availability position, replacement cost, stock-holding period, incidental services like after-sales service, packaging, home-delivery, transport etc. But what is the definition of "reasonable margin"? What is the line of demarcation between 'legitimate' profit as due reward for service and anti-social profiteering which means overcharging, particularly in times of natural or artificial shortages? Is it difficult for them to distinguish between mere difference in quality and grade, and downright adulteration which may cause crippling diseases or even death. It is in their own interest to maintain quality which means that "material shall be what they profess to be and not something else by way of a substitute or colourable imitation." Their credibility will be established if they care for quality, durability, standardisation and proper pricing policy.

### **Do's and Don't's**

There should be no misbranding. Foods or drugs are declared to be 'misbranded' if their packages or labels contain statements which are false or misleading in any particular way, if one were sold under the name of another, if the contents of the package have been removed and other contents substituted, or if the presence of certain narcotics or stimulants are not revealed; in case of food, if its weight or measure is not clearly shown and, in case of drugs, if their packages or labels state false claims of curative effects. (There should not be a tendency to exploit the lacuna in law. For example, labelling on cigarette packages does not prohibit smoking, but ensures informed choice on the part of consumers.) The practice of selling duplicates as imported items or as popular brands of Indian products must be given up.

### **Substandard Goods**

They should not sell sub-standard goods. The term 'standards' implies the criteria against which something can be judged or evaluated. 'AG Mark' was established in 1937 for

grading and marketing agricultural produce by the Directorate of Agriculture Marketing and Inspection of the Ministry of Food and Agriculture. The Indian Standards Institute was established in 1947. The Directorate of A.M.I. is concerned with commodities graded under 'AG Mark', such as vegetable oils, ghee, cream, butter, rice, gur, eggs, groundnut, potatoes, fruits, pulses and spices. The Indian Standards Institute has set up a public grievances cell to deal with complaints on quality goods under ISI mark from consumers, and laboratory testing etc. from organisations and general public. (The Department of Civil Supplies has also set up in February, 1985, its own consumer grievances cell to deal with all sorts of consumer complaints.)

### **Packaging**

Packaging should not be used as a device to conceal quality or quantity. Packaging should be for preservation of the material and its presentation in normal way,—and 'not for fancy trimmings'. Like 'misbranding', unfair packaging consists of deceptive packaging, misleading slogans to describe package sizes, insufficient information on the labels about the package contents, proliferation and irrationality to package sizes, making unit price comparisons difficult. In fact, the Packaged Commodities Rules enjoin upon the manufacturer to declare conspicuously on the package the net contents, the month and year of packing, the sale price and such other information which is considered necessary, in the interest of the consumer.

### **Enlightened Businessmen**

Farsighted, enlightened businessmen or industrialists need not be afraid of consumer protection law and its implementation machinery. As Mr. Tompsett, the then managing director of Dunlop India Ltd., once remarked, "Industrialists proper have nothing to fear from sound consumer protection laws and consumerism. They should even welcome it. Consumerism . . . . . is surely one of the mechanisms for product development and improvement, quality control, cost effectiveness, and

service to the public. The contented consumer is indeed the sure guarantee of business success."

### Wholesalers

Wholesalers are expected to service the retailers promptly and properly, and not to withhold supplies of any retailer on the ground that he sold the goods at less than the recommended prices. The retailer should have a legal right to return goods which are not of a specified quality.

### Retailers

Retailers are expected to enable the consumer to choose the product of his choice. They must display prices and local taxes that have to be paid by the consumer when he buys goods in packaged form. And, most important of all, the role of the State.

### The Role of the State

When International Labour Organisation adopted the Equilateral Triangle representing the three interests, i.e. the employers, the employees and the State, the jurisdiction of the state activity was limited. But now the State has already become the biggest employer, and, in many industries, a monopolist producer. This has made the Equilateral Triangle quite irrelevant. Under the new situation, the state has forfeited its moral right to represent consumers.

### Alfred Marshall

In the words of Alfred Marshall, "The *prima facie* interest of the owner of a monopoly is clearly to adjust the supply to the demand, not in such a way that the price at which he can sell his commodity shall just cover its expenses of production, but in such a way as to afford him the greatest possible total net revenue." When in a market there is one single seller of a commodity and there is no competition at all, the situation is one of pure or perfect or absolute monopoly. The producer under pure monopoly is so powerful that he can fix any fant-

astic price for his product. Under competition, the price is left to be determined by market forces; a monopolistic concern fixes the price of its product itself. A monopoly can practise various methods of price-discrimination also. In some cases a monopoly concern can create condition of 'monopsony' which implies that market structure in which there is only one buyer of a commodity or service. Monopsony, is characterised by the ability of the single buyer to set the buying price. With such huge powers at its disposal will the State with its government monopolies and public sector undertakings observe self-regulation in the interest of consumers?

### **Disputes Inevitable**

If all or any one of these expectations remain unfulfilled, disputes would become inevitable. As Narad has observed:—

“नष्टे धर्मे मनुष्याणां-व्यवहारः प्रवर्तते ॥”

When people give good-bye to Dharma, disputes arise.

### **Justice Bhagawati**

Justice P.N. Bhagawati of the Supreme Court has urged consumers to form associations to fight for consumer protection. He wants local initiative to be developed at the non-official level. It is obvious that since a large proportion of production and distribution of various consumer items is in the hands of the Government or Government-controlled agencies, it is essential that consumer bodies should be autonomous, i.e. free from government control.

### **Justice Sachar**

Justice R. Sachar of the Delhi High Court is also of the view that a strong consumer movement would not grow under the government patronage. “It is an aspect of a social movement and has to spread on a voluntary level,” he remarked.

### **Justice Khanna**

Speaking at the CERC meet at Ahmedabad, Justice H.R.

Khanna said, "Today the state is assuming the role of a manufacturer and an industrialist. It has also taken over the functions of a trader, a distributor and a banker. In addition, it enjoys the monopoly of running trains, airlines, telephones and post and telegraphs services. Likewise, it enjoys a monopoly in the field of Insurance. Some of these functions are being discharged by the state through its departments and others through corporation owned by it..... Likewise, the customer and consumer can do no better than express verbal resentment against increase in charges and lowered efficiency—in fields where state undertakings enjoy monopoly."

He further said, "Although....it would not be practicable and realistic to insist upon the highest or absolute efficiency (of manufacture), it would be equally unjust and inequitable to throw the burden of inefficiency of a manufacturer on the consumer in working out the figure of 'fair price' of the article manufactured. To put it differently, the authority concerned in determining fair price should not demand from the manufacturer the paragon of excellence in the matter of volume of production, but at the same time the authority should not make the consumer bear the margin of high cost resulting from avoidable low production."

### **Justice Rao**

Former M.R.T.P. Chairman, Justice Madhusudan Rao suggested that "the prevailing laws to protect the consumers should be consolidated into a Consumer Protection law, since it affects everyone every day in the country."

### **The Expert Committee**

The Expert Committee on companies and M.R.T.P. Acts, appointed by the Government of India, observed in its report submitted in August 1978: "Our Act at present contains no provision for protection of the consumers against false or misleading advertisements or other similar unfair trade practices. .... There is now greater recognition that consumers need to be protected not only from the effect of restrictive practices but also from practices which are resorted to by the trade and

industry to mislead or dupe the customers.”

Justice Rajendra Sachar, Chairman of the Expert Committee observed: “we cannot say that the type of misleading and deceptive practices which are to be found in other countries are not being practised in our country. Unfortunately, our Act is totally silent on this aspect. The result is that the consumer has no protection against false or deceptive advertisements. Any misrepresentation about the quality of the commodity or the potency of a drug or medicine can be rejected without much risk. This has created a situation of a very safe heaven for the suppliers and position of frustration and uncertainty for the consumers. It shall be the function of any consumer legislation to meet this challenge, specially consumer protection legislation must have a positive and active role.”

### **“Want of Awareness”**

A former Chairman of the M.R.T.P. commission once observed, “There is a plethora of restrictive practices being adopted in many of our trade and business activities. But there is want of awareness on the part of consumers, their associations and other parties of bringing such practices to the notice of the commission and placing adequate evidence before it.”

### **The Maitra Committee**

Before more than a decade, the Mitra Committee on weights and measures reported that the loss in false weights and measures which the Indian consumers sustain year after year could not be less than Rs. 3,000 crores. (Rupees three thousand crores.)

### **Advocate Singhvi**

Advocate L.M. Singhvi observes, “the complexities of modern industrialisation, mass production and mass distribution, and the technology and the style of modern communications and advertising have accentuated the problems of the consumers whose conventional swords and shields and antiquated bows and arrows are unequal to the modern armoury

of the present-day marketing systems."

### **S. Sundaram**

In his Paper on Law and Consumer Protection Shri S. Sundaram opines that the provisions of the Indian Law on this subject—including the Indian Contract Act and the Sale of Goods Act, as well as a plethora of legislation on diverse subjects aiming at consumer protection are far inferior to those of the Fair Trading Act of Britain, The Trade Practices Act of Australia, the Investigation Act of Canada or the various Acts of U.S.A. against frauds on consumers. Sri Sundaram also puts forth some valuable suggestions: Constitution of a Consumer Ombudsman, as in Finland, to quickly deal with all lapses in Consumer Protection Laws, (Can we convert the RTP Commission into a Consumer Prosecution Ombudsman?); special provisions to prevent, prohibit, punish and publicise unfair trade practices; Constituting "Mobile Courts, near bazars or markets, comprising a judicial officer assisted by a representative of the citizens of the locality and a representative of the merchants of the locality or a representative of the service concerned." Such mobile courts would be appropriate to deal with situations arising from short measure or weight, sudden shortages and refusal to sell scarce but essential articles like sugar and edible oil, he feels.

### **Some Examples**

Shri Sundaram is quite correct in stating that the provisions of Indian Law on consumer protection are far inferior to those of some foreign countries. To cite a few examples:—

The clauses specifying the unfair trade practices in the relevant section correspond to those given by Sachar Committee (para 21–32), but these practices have not been made per se illegal as recommended by Sachar Committee. The Committee had also recommended (para 21–33) that the enumerated unfair trade practices should be punishable as an offence and any person or undertaking indulging in any of them should be liable to be prosecuted before the Commission. The Government refused to make such trade practices per se illegal. Under

American Law, 'unfair and deceptive practices' have been declared unlawful, leaving the question of what is 'unfair' or 'deceptive' to be decided on the facts and circumstances of each case. The term 'unfairness' has been held there to accommodate concepts like public policy, ethics, morality etc.

In section 36 A of the MRTP Act it is not clear whether 'false representation' can be equated with 'misrepresentation' under the Indian Contract Act. In U.S.A., the Federal Trade Commission is free to determine what is false and is not bound by the literal or technical meaning of the words.

The terms 'warranty' and 'guarantee' are not defined in the Act. They cannot be imputed the meaning given in the Sale of Goods Act. It is not clear, where no guarantee as to the performance or efficiency or durability of any product is given and if such product renders services for a very short time or gets repaired frequently, what would be the remedy under the Act. In U.S.A., it was recognised during the 1960s and 1970s that consumers' needs for redress are not being fully met by the court system. As Robert O. Herrman put it, new emphasis was placed on recalls for unsafe products.

Since recalls usually involve repairs, replacements or refunds, they serve both as a redress device and as a preventive measure. New efforts also were made to make warranty terms clearer.

### **In U.S.A.**

Under our law, it is not certain whether Section 36D provides scope to the Commission to order corrective advertising, that is an order requiring that the advertiser, who had made the deceptive advertisement, should disclose the true information necessary to correct the deception. In U.S.A. an FTC Administrative Judge found that a company falsely advertised that Listerine prevents, treats, and cures colds and sore throats. He not only ordered that Listerine cease and desist from making any such claims but also ordered that the following disclosure be made in any Listerine advertisements for two years: "Contrary to prior advertising, Listerine will not prevent or cure colds or sore throats, and Listerine will not be beneficial

in the treatment of cold symptoms or sore throats." Subsequently, a 'minor' modification was conceded; the phrase 'Contrary to prior advertising' was deleted.

### **'Loss' OR 'Injury'**

The definition of unfair trade practice states that the trade practice in question should cause 'loss' or 'injury' to the consumer. The likelihood of loss or injury to the consumer is not provided for at all, as is contained in the case of restrictive and monopolistic trade practice. Under American anti-Trust Laws, 'capacity' or 'tendency to deceive'; and not the 'actual deception' is the criterion for determining "unfairness" or "deception".

### **The Ultimate Customer**

Even if immediate customer is not deceived, e.g. where a manufacturer's label is not deceptive to a retailer, but is to the ultimate consumer, it is a case of deception. Any "unsubstantiated superlative description" is also deception. In 1972 the Supreme Court ruled that "unfairness" is broader than deception, and suggested that FTC use, among others, the following criteria for determining a practise as unfair.

- (a) Whether a practice offends public policy? Is it within at least the penumbra of some common law, statutory or other established concept of unfairness?
- (b) Whether the practice is immoral, unethical, oppressive or unscrupulous?
- (c) Whether the practice causes substantial injury to consumers.

### **Severity of Punishment**

The severity of punishment is also an important aspect. In Australia, offence against provisions of Part V of the Restrictive Trade Practices Act which deals specifically with consumer protection is punishable on conviction;

- (i) by fine not exceeding \$ 10,000 in case of a person not being a body corporate, or

- (ii) by fine not exceeding \$ 50,000 in the case of a body corporate.

Is position in Indian Law comparable in this respect?

### **Cigarettes Advertisements**

In India, advertisement for cigarettes is made on a lavish scale along with the statutory warning in comparatively insignificant terms, and at an insignificant place within the advertisement. In some foreign magazines, advertisements for cigarettes give the warning in a distinct column on a white base so that it catches the attention of the readers. The warning reads as under:

“The Surgeon General has determined that cigarette smoking is dangerous to your health.”

Thus, the observation regarding the quality of our legal provisions is correct.

But there is another consideration which we cannot afford to ignore.

### **A German Doctrine**

Is it practicable for Indian Legal system to fully and faithfully imitate the legal systems in the west? For example:

Is it possible for us to incorporate into our legal system the doctrine of ‘Culpa in Contracts’—This doctrine is prevalent in Germany. This assumes that when parties enter into negotiations for a contract, whether the negotiations finally succeed or not, a relationship of trust and confidence comes into existence between them, and this binds the parties to take such precautionary measures as are necessary for the protection of each other’s person or property. Each party is under an obligation to disclose such matters as are clearly of importance for the other party’s decision. Disclosure of erroneous information is a crime and is punishable by the Courts.

### **Israel**

In 1973, Israel also incorporated this principle in its Contract Law.

## **Sweden**

Again, an important way was adopted in 1971 by Sweden, when an 'Act Prohibiting Improper Contract Terms provided that if the price or any other aspect of the terms of a contract are improper', a special consumer court or the Consumer Ombudsmen can prohibit its future use.

## **Canada**

Certain provinces of Canada, such as, Saskatchewan, have passed legislation requiring all contracts for sale of farm machinery to ensure the machinery's continuing fitness for consumer use. The lists of 'unfair trade practices' in the provincial statutes of Alberta, British Columbia and Ontario are more exhaustive.

## **British Law**

According to the provisions of Part III of the British 'Fair Trading Act, 1973', where an order is made against a company, the court can direct that order to apply to all other companies in that group. Where the group is increased by the addition of a new company, or a company against which such order was made joins a group, the Director can apply to the court for the order to be extended to the new company or group which the company has joined.

## **Practicability**

Are we in a position to follow today such leads given by western countries? Such imitation of the west is not practicable even in cases in which it is desirable, in the absence of a certain stage of material development on their pattern or a certain level of material infrastructure. We have failed to implement correctly even the existing provisions that are essential for human life, though lagging far behind their counterparts in the western countries.

## Drug Control

Take, for example, the problem of drug-control.

Drug Control is becoming increasingly more difficult. Spurious products are being sold. Glucose bottle either contain very little glucose or it is contaminated. Drugs rendered time-barred are sold by changing their labels. Even life saving medicines are not spared. Often plain water is found in life saving injections.

According to official statement, out of the 33 drugs which the WHO said have been withdrawn in some countries, 16 were never approved for marketing, 10 have been withdrawn, and the rest have been allowed to be sold subject to certain stipulations in respect of label and package insert. The statement is not actually correct. Some firms in the advanced countries are using the Third World as a "dumping ground" for hazardous substances-food, chemicals, drugs etc. Not long ago, a survey by Consumer Interpol found anabolic steroids, barred for use in children in the U.K. and severely restricted in other western countries, being promoted in under-developed countries as a "remarkable appetite stimulant" and as ensuring "optimal assimilation of food" in children. The survey also revealed double standards by some pharmaceutical companies in the package inserts and promotional literature they employed for the Western and the Third World markets, the latter being fed with wrong and misleading information about the efficacy of the products. Unfortunately, the Government is not adequately responsive. In 1982, Bangladesh banned some 1,700 medicines considered harmful or useless.

## The Hathi Committee

The Hathi committee pointed to the irony of the drug control authorities having to depend entirely on the toxicity data the manufacturing firms provide. No drug is absolutely free from toxic or side-effects and it lies in the hands of a qualified doctor with knowledge of pharmacology and toxicology to apply it judiciously in the treatment of a patient. Such doctors are.....not available in adequate numbers, considering the vastness of the country and the gravity of the problem.

Has the Government at its command the monitoring and testing facilities of the scale and technological competence required for a scientific risk-benefit analysis of complex products? What guarantee can be there today that such assessment would be objective and uninfluenced by external pressures?

Thus the health of the country is in Jeopardy.

To sum up, the problem of legislation cannot be considered in isolation,—ignoring the general conditions obtaining in the country.

But the most vital and pertinent question is whether it is advisable to imitate the western legal system?

### **Advisability?**

The westernised intellectuals may consider this question as absolutely ridiculous. For them, western paradigm is the universal model of progress and development. India, according to them, cannot be great unless it becomes a carbon copy of the west. Legal system for the protection of consumers can be perfect only if it also becomes a carbon copy of the western legal system. That is their conviction. Any departure from this modern superstition would be treated as retrogressive.

### **The Western Scene**

They refuse to take cognisance of the hard realities. In the west, there is adequate production and distribution of essential as well as luxury products. Consumers there are confronted with the problem of proper choice from the large and diverse cornucopia of goods and services. They are after more and more information about the varieties of the competing products and services. Consumer organisations of the west represent the collective views of consumers in order to influence the producers.

The problem of Indian consumer is entirely different.

### **The Indian Scene**

The magnitude of the problem of unemployment and under-employment is not yet correctly assessed by the Government.

The single-dimensional methodology that was used earlier to assess unemployment was found to be unsuited to Indian conditions, and the suitable methodology is not yet evolved. The unemployment figures published by the Government are not reliable. Again, a vast majority of the earning people, belongs to low income-group. Under the circumstances, what matters most for them is the availability of essential commodities, such as, food, shelter, clothing etc. There is no question of the selection of luxury goods. Even essentials are not available to them.

Sixty per cent of our people are below the poverty line. 430 million are thoroughly illiterate; out of the rest 120 million are half-literate. More than 75% of our people live in rural areas whose problems are markedly different from those of the urban areas. All these poor, illiterate, rural consumers are daily confronted with problems and challenges which are beyond the comprehension of the westerners whose legal system we are advised to adopt. When maladies are different, remedies also ought to be different. But this is not being realised today because consumer consciousness or consumer movement is confined presently to the urban areas. The middle class urban elite is today the mainstay of our consumer movement. It is good so far as it goes. Middle class intellectuals are generally the pioneers of any new movement. Even Lenin, the Messiah of the proletariat said, "Socialist consciousness had to be imparted to them (i.e. workers) from the outside by intellectuals who were professional revolutionaries and who had to train the workers to become professional revolutionaries". Thus there is nothing wrong about the middle class leadership. That the consumer movement is being initiated and led by the middle classes in India is not only natural but also healthy. Middle class leadership is welcome but it should not be accompanied by Middle class mentality. These leaders are capable of rising above their immediate surroundings and identifying themselves with the rural poor who constitute the vast majority of our population. It will be a great national calamity if the tastes and preferences of our urban elite remain in tune with those of their western counterparts but not in keeping with the total requirements of our national economy.

## **Transplantation Risky**

Transplantation of the western legal system may be palatable to a small, unpatriotic minority, but it is not going to bring appropriate relief to about 85% to 90% of Indian consumers. We may study all the various laws for consumer-protection prevalent in the west; but we will have to evolve our own legal system taking into consideration the Indian situation and the priorities of the Indian poor.

Hence the need for fresh and original, collective thinking on this issue.

## **The Proposed Bill**

Nevertheless it is heartening to learn that a comprehensive consumer protection law with enforcement powers for voluntary organisations involved in the consumer movement is being considered by the government. The Minister for Food and Civil Supplies, Shri H.K.L. Bhagat told the Lok Sabha on July 30, 1986 that "though there are 15 laws to protect the consumers, these are inadequate".

It is to be hoped that the proposed Bill will not meet the fate of the largely circulated Madhya Pradesh Bill.

## IX

### *Some Practical Suggestions*

Those who are actively participating in the consumers' movement made a number of suggestions on the strength of their practical experience.

#### **The Biggest Employer**

They found that consumer has no option regarding services rendered by Public agencies, such as, municipalities, government hospitals, government schools etc. People have large number of complaints against public utility services like water supply, power supply, insurance, transport, telephone etc. In case of public sector undertakings, there is no scope for competition which ensures some protection to consumers. The amendment to the Monopolies and Restrictive Trade Practices Act gave MRTP commission, powers to protect consumers and curb trade malpractices. Under the amended Act, the commission has powers to investigate into bargain offers, reduction sales, misleading advertisements, sale of spurious articles, lotteries, false promises by companies, and all practices which are defined as 'unfair' under the Act. The Commission, however, is not vested with powers to deal with the biggest monopoly of all, i.e. the public sector. The Commission cannot provide any relief to the consumer against government-monopoly-concerns. Public undertakings should be brought within the purview of the MRTP Act, and the MRTP Commission should

be empowered to deal with all malpractices of the public undertakings that have been defined as “unfair”. Co-operative societies should also be brought within the reach of the commission.

Justice Madhusudan Rao had remarked, “Now that the MRTP Act is amended with the sole object of helping consumers fight their exploitation, it is upto the people to take advantage of the benefit conferred by law.” Full advantage, however, cannot be taken so long as the public sector undertakings remain outside the pale of consumer protection law. The practice of reserving a number of key products for the monopolistic public sector undertakings is anti-consumer.

It is also necessary to work out a scheme for making disclosures and presentation of accounts in the interest of consumers a legal obligation. The Companies Act should be suitably amended for this purpose.

### **The Definition of UTP**

The inclusion of provisions relating to unfair Trade Practices in the MRTP Act is a welcome gesture, but the very definition of the UTP suffers from inadequacy.

The definition of ‘Unfair Trade Practice’ says that trade practice enumerated under the Section should cause loss or injury to the Consumer. The likelihood of loss or injury to the Consumers is not provided for at all, as is contained in the case of restrictive and monopolistic trade practice. The definition should also cover ‘Capacity’ or tendency, to cause loss or injury. It should also be able to take care of the subtle and the hidden falsehoods in the advertisements.

### **The Procedures**

The procedure of invoking the powers of the commission which is an arduous one now, should be simplified.

There should be de-centralisation of MRTP commission.

The terms ‘hoarding’, ‘destruction’, ‘warranty’, ‘guarantee’, ‘loss’ and ‘injury’ should be defined.

Through the MRTP Commission has the power to inquire

into an Unfair Trade Practice on any of the basis specified under the act, a complaint from the consumer or their association is not given a status equivalent to a reference from the government or an application from the Director General.

The trade practices enumerated as "Unfair" should be made per se illegal, and these should be punishable as an offence and any person or undertaking indulging in any of them should be liable to be prosecuted before the Commission.

Efforts should be made to make warranty terms clearer.

The amount of compensation should correspond with the extent of damage caused, and not with the value of the commodity concerned. On the basis of the latter criterion, could an American lady secure compensation to the tune of one million dollars for loss of sensitivity of her lips because of using a defective lipstick?

A constant source of misunderstanding between consumer and trader is the question of warranties and guarantees that are often unclear, vague and deceptive. A claim made for a product in an advertisement should be treated as part of the warranty card.

Under our food laws, it takes about 4-5 years to dispose of cases in the law courts. Many items like milk, vegetables, etc. about which complaints are lodged are perishable. Consumer's Courts be set up for small claims.

The commission should be empowered to order corrective advertising, that is, an order requiring that the advertiser of the deceptive advertisement—(by means of banners, playcards, cinema slides, handouts, radio broadcasting, TV etc.) should disclose the true information necessary to correct the deception. Every advertisement amounts to a commitment made to the public. In advertisement, silence about the price may be construed as 'materially misleading' in appropriate cases.

After the Central Government appoints one or more inspectors for making an investigation into the affairs of the undertaking it, i.e. the central government, should have powers—Under the act to pass any order relating to unfair Trade Practice, on receiving the inspectors report.

### **Honest Representation**

As recommended by the Sachar Committee, there should be an obligation on the part of the businessmen to make true and honest representations, avoiding omission of relevant facts, or half truths, which might give a different impression than the actual facts.

The present Act does not have any provision for protecting consumers against false or mis-leading advertisements or other similar Unfair Trade Practices. The truth of the advertisement and representation must be proved before the Commission if the same are challenged.

There should be some authority with power to require the advertisers to prove their claims for their goods or services.

### **Ladies as Models?**

Using ladies as models for advertisements—whether they use that commodity or not—should be stopped.

### **After-Sales Service**

There should be some legal restraint to ensure availability of an improvement in the quality of after-sales service, which implies repairs or sending mechanic or engineer to complainant's place.

### **Grand Clearance Sales**

There should be some uniform policy for 'Grand-Clearance Sales' of unsold goods at reduced rates by consumer's stores.

### **The Redressal Forum**

It has been provided that the Consumer Disputes Redressal Forum would direct the traders and businessmen that they shall neither manufacture nor sell any such item that has been found to be prejudicial and hazardous to the public interest and health, respectively, and that if anyone fails to abide by this provision, his name may be published in the official Gazette

and in the mass-media. For wide and expeditious circulation of the names of such offenders the present arrangement is quite inadequate and unsatisfactory.

## **Trade Marks**

Implementation of the Trade Marks and Merchandise Marks Act, 1958, should be more strict particularly for preventing the use of fraudulent marks on merchandise.

## **Special Drives**

Special sales promotion drives which offer gifts, prizes and other items which are recovered in the cost of the products should be banned.

Sales campaigns-coupled with the offers of gifts, or coupons or competitions based on draws should be banned.

## **Storage**

The problem of storage has not been taken care of by legislation. This has been a cause of tragedies in the past. For instance, more than 85 persons had died at Bombay a few years back after consuming contaminated edible oil; the contamination was caused as that oil was stored in the used containers of aviation oil. Adequate arrangements should be made to warn children against hazardous and un-hygienic food-stuffs and dangerous toys.

## **Other Suggestions**

There should be a thorough investigation into the affairs of the Food Corporation of India. Suitable revision in the import licences policy is called for. There should be reconsiderations about industrial licensing policy for manufacture of consumer goods.

The maximum period for which any person may be detained in pursuance of any detention order under the "Prevention of Black Marketing and maintenance of supplies of Essential Commodities Act, 1980", cannot exceed six months from the

date of detention. This is mockery. The period should be extended to two years from the present six months.

Severe penal punishment should be prescribed for defective price-tagging and instalment trading.

The consumer Disputes Redressal Forum should be empowered to forfeit all defective or hazardous commodities or goods that have already come into circulation.

### **Protection Against Hazards**

There should be legal protection against hazardous radiation. Certain Colour Television sets that emit radiation which exceeds accepted safety limits as also poorly designed X-ray equipment can cause danger of radiation.

Restrictions should be imposed on manufacturing, importing or transporting for sale of any, wearing apparel so highly inflammable as to be dangerous when worn by individuals.

Safety standards should be prescribed for pressure stoves which account for 41% of all burn accidents in the home. There should be compulsory ISI certificate of all house-hold electrical appliances.

The Government should make available to Consumer's Organisations the expert advice on wideranged Consumer subjects, such as, health, nutrition, motor-cars, water-heaters, TV sets, electrical appliances etc. since we are now having ever-new Consumer goods, gadgets, appliances and services. Standards should be prescribed for maximum levels of radiation permissible for colour TVs, microwave ovens and X-ray machines.

### **A Single Forum**

There should be a single forum for redressal; a consumer should not be required to run between different authorities for the redressal of his grievances.

### **A Single Publication**

All the laws at the Central and the State levels for the pro-

tection of consumers should be brought together in a single publication.

### **Free Legal Aid**

In view of the large scale illiteracy and apathy of consumers, it would be unrealistic to expect in India an increasing spiral of consumer initiated law-suits as in U.S.A. Free legal aid should be arranged for poor consumers.

### **Study of Controls**

There should be fresh study of the operation of controls obstructing free movements of goods and services and inhibiting production; it is a matter of common knowledge that costs involved on account of controls are passed on by manufactures and traders to consumers.

Similar studies should be conducted regarding other regulations also.

In case of regulations on small self-employed persons, all-round study of the job concerned should precede formulation of regulation. For example, if regulation is aimed at reducing the rate of auto-accidents and auto-related deaths, it is necessary to assess the effects of all the causes, such as auto-design, deficient driving skill, condition of roads, etc.

But in general it should be borne in mind that it is not always possible to assess the gains of trade regulations in strictly monetary terms. Such benefits include for example, the prevention of premature death, the elimination of medical treatment costs, quality of life, consumer's saving resulting from more informed choices, and, most important of all, mental satisfaction or happiness of consumers whose indices have not yet been devised. Again the risk of chemicals in pesticides, drugs and food additives, such as, cancer or birth defect, may take a long time or a large scale use, to be firmly detected. It is easier to estimate the total costs of any regulations; it is more difficult to conceptualise its total benefits.

### **Price Fixation: Price Control**

The mechanism of price fixation and of 'price-control'—which is different from 'price-fixation', should be used by the government in favour of consumers. In case of monopolistic or oligopolistic industries such as, electricity, transportation, oil etc., the Government fixes definite prices. Under price control, maximum prices are fixed. This becomes necessary particularly during periods of shortages—natural or artificial. But price-control must be accompanied by rationing, otherwise rich persons may purchase in bulk the concerned commodity, and poorer consumers will be at the mercy of such bulk purchasers. Fixation of maximum prices and rationing must go together. (What price-support is to producers, price control is to consumers).

### **The Multi-Nationals**

The multi-nationals operating in our country are even otherwise a grave threat to our economic freedom; there is no legislation to restrain them in the interest of consumers. True, the appropriate U.N. Agencies must formulate, adopt and implement an international Code of conduct for multi-nationals from the consumers' point of view. But that should not prevent us from keeping our own house in order. The case of the Bhopal Union Carbide should be an eye-opener.

### **Healthy Environment**

The right of consumers to a healthy environment should also be acknowledged by law. It is one of the seven rights of the Consumers recognised by the International Organisation of Consumers' Union,—the other six being, right to choice, right to safety, right to be informed, right to be heard, right to redress, and right to Consumers' education. (All these six rights have been acknowledged.)

### **Social Audit**

Big concerns should be compelled to appoint cost-account-

ants. They should also be subjected to 'Social Audit' which means examination of an organisation's role in the fields of: (a) Employee welfare; (b) Consumer protection and welfare; (c) Share-holders' welfare; (d) Community welfare, and; (e) if the concern is big enough to have an impact on the national level, then its contribution in the fields of research and development, export market development, import substitution, and ancillary development and allied areas.

### **Integrated Thinking**

It should not be forgotten that all the various aspects of general national economy have direct or indirect impact on common consumer. To cite a few examples, higher rates of indirect taxation, deficit financing, faulty licencing policies, inadequate supply of power, coal, etc. Under-utilisation of capacity, scarcities, technological deficiency of the producing plants, shortages, labour unrest, inflationary conditions, inefficiency of implimentation machinery, an imperfect retail market in which misleading and wasteful advertising ads—15-20 % to market costs, etc.

### **No Political Interference**

All political interference should be immediately stopped. Who does not remember the example of Kesarigram, the sale of which is legally prohibited throughout the Country? Yet it is freely sold in U.P., M.P. and Bihar where it is grown.

Daily consumption of Kesari grams gives rise to lathyrism, a crippling disease. There should be total ban on the cultivation of Kesari gram.

The Government should arrange for a comprehensive enquiry into and report on the consumer's plight on the model of the Molony Committee Report in Great Britain, or valuable report on Consumer Fraud Law published in June 1978 by the U.S. Department of Justice (Law Enforcement Assistance Administration) through its National Institute of Law, Enforcement and Criminal Justice.

## **Prescribe Standards**

In India, most of the items are not covered by standards. This should be remedied as early as possible. There should be greater vigilance about recently developed standards for essentials like fire-fighting equipment for high rise buildings. quality control of cement, power threshers and domestic gas stoves.

## **Implementation Machinery**

Implementation machinery for consumer protection law should be tightened, considering the fact that even in case of huge government contracts for construction, contractors are found to be indulging in fraudulent practices and, on the other hand, small owners of hotels and restaurants imperceptibly reduce the size of idlis and dosas, while reducing their prices as per regulation.

## **Powers to C.O.S.**

Consumers' organisation should be given powers to inspect stocks of foodgrains at the ration shops and grains supplied to flour mills. They should also have powers to visit all centres of production and distribution of consumer goods.

## **Comprehensive Handbooks**

The Indian Standard Institute will be rendering Yeoman service to consumers' cause if it publishes detailed and comprehensive handbooks on as many consumer items as possible.

The Indian Standards Institute has brought out a Handbook on Summaries of Indian Standards for Building Materials with the object of assisting the engineers, architects, contractors and other professionals in choosing building materials for the purpose of design and estimation in construction work.

Providing guidance on the availability of Indian Standards on various building materials and products, it includes summaries of the contents of the relevant Indian Standards in regard to aspects such as quality requirements, dimensions,

range of properties and limitations of use.

The major products and materials covered in the handbook are cement and concrete, pozzolanas, building limes, stones, clay products for building, gypsum building materials, timber, bitumen and tar products, floor covering and other finishes, waterproofing and damp-proofing materials, sanitary appliances and water fittings, builder's hardware, wood products, doors and windows, concrete reinforcement, steel, light metals and their alloys, structural electrodes and wires, threaded fasteners and rivets, wire ropes and wire products, glass, fillers, stoppers and putties, thermal insulation materials, plastics, conductors, cables and wiring accessories. However, the Handbook does not deal with standards relating to paints and varnishes.

This pattern should be followed in case of Handbooks on other items also.

# ANNEXURES

# I

The total number of voluntary consumer organisations, action groups in India is, according to official information, 181. The statewise break-up of these organisations is as follows:

| States                       | Number of Members |
|------------------------------|-------------------|
| 1. Andaman & Nicobar Islands | 3                 |
| 2. Andhra Pradesh            | 23                |
| 3. Bihar                     | 12                |
| 4. Chandigarh                | 2                 |
| 5. Delhi                     | 13                |
| 6. Goa, Daman & Diu          | 1                 |
| 7. Gujarat                   | 45                |
| 8. Himachal Pradesh          | 1                 |
| 9. Karnataka                 | 27                |
| 10. Kerala                   | 9                 |
| 11. Madhya Pradesh           | 2                 |
| 12. Maharashtra              | 13                |
| 13. Punjab                   | 1                 |
| 14. Rajasthan                | 2                 |
| 15. Tamil Nadu               | 19                |

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| States            | Number of Members |
|-------------------|-------------------|
| 16. Tripura       | 1                 |
| 17. West Bengal   | 3                 |
| 18. Uttar Pradesh | 3                 |
| 19. Pondicherry   | 1                 |
| Total             | <u>181</u>        |

## II

### The A.B.G.P. Affiliates

1. Akhil Bharatiya Grahak Panchayat,  
87/B/5, Sarvodaya Nagar,  
*Allahabad.*
2. Akhil Bharatiya Grahak Panchayat, (Maharashtra)  
C/9, Shri Rajabhanu Pophali, Journalist,  
Garud Khamb Road,  
Near Bhonsala Veda Shala, Mahal,  
*Nagpur—440 002.*
3. Akhil Bharatiya Grahak Panchayat, (Vidarbha)  
C/o S.V. Padhye, Advocate,  
Rnikar Road, Mahal,  
*Nagpur—440 002.*
4. Akhil Bharatiya Grahak Panchayat,  
Grahak Bhavan, Tilak Marg,  
*Pune—411 030.*
5. Mumbai Grahak Panchayat,  
42, Kokan Nagar,  
Lt. Kotris Marg, Mahim,  
*Bombay—400 016.*
6. Akhil Bharatiya Grahak Panchayat,  
Moubhandar, NF-3/6 Moubhandar,  
Singhbhum (Bihar),  
*Bihar—832 303.*

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7. Akhil Bharatiya Grahak Panchayat,  
Distt. Singhbhum,  
F/10, Tayo Colony, P.O.: Gamharia, Singhbhum,  
*Bihar.*
8. Akhil Bharatiya Grahak Panchayat,  
III A-716, Bokaro Steel City,  
*Dhanbad—827 030. (Bihar)*
9. Akhil Bharatiya Grahak Panchayat,  
New Area, Kadam Kuan,  
*Patna—800 003. (Bihar)*
10. Akhil Bharatiya Grahak Panchayat,  
Singhbhum Zilla,  
Road No. 1, Quarter No. L-4/2,  
Farm Area, Kadma,  
*Jamshedpur—831 005. (Bihar)*
11. Akhil Bharatiya Grahak Panchayat,  
M-31/5, Telco Colony,  
*Jamshedpur—831 002. (Bihar)*
12. Akhil Bharatiya Grahak Panchayat,  
5-1-563, Jambagh Road,  
Navrang Cinema Compound,  
*Hyderabad—500 001.*

# III

## List of Books/Documents/Acts Relating to Consumerism

(As available in Parliament Library)

1. Satya Sundaram, I: Consumer Protection in India. Delhi, B. R. Publishing Corporation, 1985.
2. The Rights of Consumers By Sh. Jag Parvesh Chander.
3. Consumerism Edited by Barhasa B. Murracy, Phd., University of Detroit.
4. Shah, Manubhai: Protecting the Consumer. Economic Scene, Vol. 84, No. 13, Dec. 84, pp. 27-28.
5. Bool Chand: Consumer Protection. (Radical Humanist, Vol. 44, No. 5, Aug. 80 pp. 59-61).
6. Herrmann, Roberto: Consumer Protection: Yesterday, to-day and tommorrow. (Current History, Vol. 78, No. 457, May 80, pp. 193-196 & 226).
7. Mehta, Balroj: Protection to the Consumers (Akashvani, Vol. 40, No. 41, 12.10.75, pp. 1978-79).
8. Mehta, Raghuvir S.: Consumer's Protection. (Akashvani, Vol. 46, No. 38, 20.9.81, pp. 10-11 & 56).

### Indian Acts

1. The Essential Commodities Act, 1955.
2. The Prevention of Food Adulteration Act, 1954.
3. The Drugs and Cosmetics Act, 1940.

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4. The Agricultural Produce (Grading & Marketing) Act, 1937.
5. The Fruit Products Order, 1955.
6. The Vegetable Oil Products (Standards of Quality) Order, 1972.
7. The House-hold Electrical Appliances (Quality Control) Order, 1976.
8. The Paper Control Order, 1974.
9. The Indian Standards Institution (Certification Marks) Act, 1952; and
10. The Standards of Weights and Measures Act, 1976.
11. The Monopolies and Restrictive Trade Practices Act, 1969.

**Australia Acts**

1. Prices Justification Act, 1973.
2. Trade Marks Act, 1955.
3. Trade Practices Act, 1974.

**U. K. Acts**

1. Consumer Credit Act, 1974.
2. Prices Act, 1975.
3. Policy Holders Protection Act, 1975.
4. Food and Drugs (Control of Food Premises) Act, 1976.
5. Resale Prices Act, 1976.
6. Price Commission Act, 1977.
7. Unfair Contract Terms Act, 1977.
8. Dangerous Drugs Act, 1967.
9. Sale of Goods Act, 1893.
10. Misrepresentation Act, 1967.
11. Consumer Safety Act, 1978.

12. Control of Food Premises (Scot Land) Act, 1977.
13. Counter Inflation Act, 1973.
14. Food and Drugs Act, 1955.

### U.S.A. Acts

1. Consumer Goods Pricing Act, 1975.
2. Council on Wage and Price Stability Act.
3. Consumers Credit Protection Act.
4. Consumer Product Safety Act.

## IV

### **Laws Dealing with the Various Aspects of the Consumer Protection**

1. The Drugs and Cosmetics Act, 1940.
2. The Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954.
3. The Dangerous Drugs Act, 1930.
4. The Drugs (Control) Act, 1950.
5. The Poisons Act, 1919.
6. The Drugs Price Control Order, 1979.
7. The Prevention of Food Adulteration Act, 1954.
8. The Standards of Weights and Measures Act, 1976.
9. The Indian Standards Institution (Certification Marks) Act, 1952.
10. The Essential Commodities Act, 1955.
11. The Prevention of Blackmarketing and Maintenance of Supplies or Essential Commodities Act, 1980.
12. The Trade and Merchandises Marks Act, 1958.
13. The Emblems and Names (Prevention of Improper Use) Act, 1950.
14. The Forward Contracts (Regulation) Act, 1952.
15. The Monopolies and Restrictive Trade Practices Act, 1969.

16. The Agricultural Produce (Grading and Marking) Act, 1937.
17. The Essential Services Maintenance Act, 1968.
18. The Industries (Development and Regulation) Act, 1951.
19. The Sales of Goods Act, 1930.

# V

## Effects of Adulterants

Given below is a list of some common food articles, the adulterants used in them and the pollible effects of presence of these adulterants on health:

| Food articles                            | Adulterants                  | Effects                                                                                  |
|------------------------------------------|------------------------------|------------------------------------------------------------------------------------------|
| All types of Foods                       | Pesticide residue            | Serious poisoning with damage to nerves and Vital organs.                                |
| Mustard Oil                              | Argemone Oil                 | Loss of eye-sight, heart diseases and tumour, epidemic dropsy reseirbling wet beri-beri. |
| Edible Oils like Coconut Oil, Badam Oil, | Mineral Oil (used Motor Oil) | Damage to liver, carcinogenic effects (leading to Cancer)                                |
| Besan from Arhar Dall & Channa Dall      | Kesari Dall                  | Paralysis and Lep-rosy                                                                   |

| Food articles                  | Adulterants                                        | Effects                                           |
|--------------------------------|----------------------------------------------------|---------------------------------------------------|
| Haldi                          | Lead Chromate<br>(Yellow)                          | Anaemia, Epileptic,<br>Convulsions and Blindness. |
| Sweets and aerated water       | Inedible Colours                                   | Liver damage and Cancer.                          |
| Alcoholic beverage             | Poisonous adulterants                              | Blindness and Death.                              |
| Non-alcoholic beverages        | Non-permitted coaltar dyes and artificial sweetner | Anaemia and Epileptic Convulsions                 |
| Chilly Powder and other spices | Saw dust etc.                                      | Stomach trouble                                   |

## VI

### **Role of Central Food Laboratories**

The Government of India has at present set up four food laboratories at Mysore, Pune, Ghaziabad and Calcutta. These laboratories carry out following functions:

- (a) They analyse the samples of food sent by the officers authorised by the Central Government and send the certificate of analysis to that officer.
- (b) They investigate whether the food articles conform to the prescribed standard.
- (c) Investigate and analyse food samples in collaboration with Public Analysis Laboratories set up by the State Governments. Beside the Central Food Laboratories the State Governments have also set up Food Analysis Laboratories where consumers' can send their complaints.

The addressess of the four Central Food Laboratories showing areas under their jurisdiction are given below:

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| No. | Name of Laboratory                             | Areas Covered                                                                                                                                       |
|-----|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.  | Central Food Laboratories,<br>Mysore-570 013.  | Andhra Pradesh, Karnataka,<br>Kerala, Maharashtra,<br>Tamilnadu, Lakshadweep<br>and Pondichery.                                                     |
| 2.  | Central Food Laboratories,<br>Pune-400 001.    | Gujarat, Madhya Pradesh,<br>Dadra & Nagar Haveli and<br>Goa, Daman & Diu.                                                                           |
| 3.  | Central Food Laboratory,<br>Ghaziabad-201 001. | Haryana, Himachal Pradesh,<br>Jammu & Kashmir, Punjab,<br>Rajasthan, Uttar Pradesh,<br>Chandigarh and Delhi.                                        |
| 4.  | Central Food Laboratories<br>Calcutta-700 016. | Assam, Bihar, Manipur,<br>Meghalaya, Nagaland,<br>Orissa, Tripura, West-<br>Bengal, Andaman & Nicobar<br>Islands, Arunachal Pradesh<br>and Mizoram. |

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## VII

### Adulterants Commonly Found in Various Articles of Food

| No. | Food Articles       | Common Adulterants                                                                                                                  |
|-----|---------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| 1.  | Alcoholic beverages | Poisonous substances, pasticides, Urea, etc.                                                                                        |
| 2.  | Baking Powder       | Citric acid.                                                                                                                        |
| 3.  | Beans               | Excess of hydrocyanic acid or other cyanogenetic compounds.                                                                         |
| 4.  | Besans              | Excess of sand or dirt, coal tar dyes, powdered Kesari dal or other pulses, foreign starch.                                         |
| 5.  | Cereals:            |                                                                                                                                     |
|     | (a) Atta and Maida  | Excess sand and dirt, excess bran, foreign starch, soapstone, powdered chalk, insect infested and deteriorated stuff.               |
|     | (b) Suji (Semolina) | Sand and grit, foreign starch.                                                                                                      |
| 6.  | Coffee              | Coal tar dyes, date husk, tamarind husk, Black gram husk, chicory without declaration, sand and grit, saw dust and exhausted stuff. |

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| No.   | Food Article      | Common Adulterants                                                                                                                                                                                                                        |
|-------|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <hr/> |                   |                                                                                                                                                                                                                                           |
| 7.    | Common Salt       | Excess sand grit, moisture and salts other than sodium chloride.                                                                                                                                                                          |
| 8.    | Curry Powder      | Deficiency in total amount of spices used coaltar dyes and excess starchy matter.                                                                                                                                                         |
| 9.    | Edible Oils       | Rancid stuff, cheaper edible oils, added oil soluble dyes, mineral oils.                                                                                                                                                                  |
| 10.   | Fruit Products    | Non-permitted coaltar colours and flavours, non-permitted preservatives, non-permitted acids, not permitted artificial sweetness deficiency in fruit/vegetable content and water soluble solids, products not containing any fruit juice. |
| 11.   | Hing (Asafoetida) | Excess sand, grit, chalk, foreign resins, Coaltar dyes, deficiency in alcoholic extract.                                                                                                                                                  |
| 12.   | Katha (Catachu)   | Excess sand, dirt and water insoluble residue or alcohol insoluble residue.                                                                                                                                                               |
| 13.   | Kesar (saffron)   | Excess moisture added colours.                                                                                                                                                                                                            |
| 14.   | Margarine         | Excess moisture, animal body fat, deficiency in total fat.                                                                                                                                                                                |
| 15.   | Milk              | Abstraction of fat, addition of water, starch, coaltar dyes.                                                                                                                                                                              |

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| No.   | Food Articles  | Common Adulterants                                                                                                                                         |
|-------|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <hr/> |                |                                                                                                                                                            |
| 16.   | Milk Products: |                                                                                                                                                            |
| (a)   | Butter         | Excess moisture, deficiency in milk, admixture with animal body fat, vanaspati, etc. addition of preservative, coaltar dyes and foreign vegetable colours. |
| (b)   | Chenna         | Fat deficiency, addition of starch.                                                                                                                        |
| (c)   | Condensed Milk | Fat abstraction and dilution.                                                                                                                              |
| (d)   | Cream          | Fat deficiency and addition of Foreign fat.                                                                                                                |
| (e)   | Curd           | Fat abstraction and addition of water.                                                                                                                     |
| (f)   | Ghee           | Excess moisture, animal body fat, vegetable oils and fats, vanaspati, extraneous colours, mineral oil, rancid stuff.                                       |
| (g)   | Ice-cream      | Deficiency in milk fat and total solids, artificial sweetness, non-permitted colour and flavours, starch.                                                  |
| (h)   | Khoa           | Fat deficiency and starch.                                                                                                                                 |
| (i)   | Milk powder    | Excessive moisture, fat deficiency, starch.                                                                                                                |
| 17.   | Mustard seeds  | Argemone seeds (effect is toxic) deteriorated and insect infested mustard seeds or other foreign seeds.                                                    |

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| No. | Food Articles                                                                               | Common Adulterants                                                                                                                                                                              |
|-----|---------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18. | Non-alcoholic beverages.                                                                    | Non-permitted coal-tar dyes, artificial sweetness without label declaration, non-permitted sweetener like dulcin, poisonous-metals, like arsenic copper, lead mineral acids, non-potable water. |
| 19. | Pearl Barley                                                                                | Foreign starches.                                                                                                                                                                               |
| 20. | Prepared foods (miscellaneous) sweets, pastries, papad, saltish preparations (Dalmoth etc.) | False declaration of medium of preparation like pure ghee for vanaspati, addition of non-permitted colours, flavours and foreign starch as fillers.                                             |
| 21. | Spices                                                                                      | Excessive sand and grit, coal-tar dyes starch, foreign seeds, exhausted spices and wild varieties of certain spices.                                                                            |
| 22. | Starchy foods                                                                               | Sand, dirt added colours and foreign starches in arrowroot.                                                                                                                                     |
| 23. | Sweetening Agents                                                                           |                                                                                                                                                                                                 |
|     | (a) Cane-sugar, Bura, Khandasari                                                            | Excess moisture, dirt and filth.                                                                                                                                                                |
|     | (b) Gur                                                                                     | Sand, dirt added colours, deficiency in sugar content.                                                                                                                                          |
|     | (c) Honey                                                                                   | Excess moisture and cane sugar, sand and dirt, commercial invert sugar.                                                                                                                         |
| 24. | Tea                                                                                         | Foreign leaves, date husk, tamarind husk, black gram husk, saw dust, excessive woody stalks and coal-tar dyes.                                                                                  |

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| No.   | Food Articles | Common Adulterants                                                                        |
|-------|---------------|-------------------------------------------------------------------------------------------|
| <hr/> |               |                                                                                           |
| 25.   | Vanaspati     | Animal body fat, rancid stuff, sesame oil deficiency, added colours and foreign flavours. |
| 26.   | Vinegar       | Deficiency in acetic acid, addition of mineral acids and coal-tar colours.                |

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## VIII

### Food Adulteration

Addresses of officers to whom complaint can be made:

1. Director of Food (Health) Authority, Directorate of Institute of Preventive Medicine, Public Health Laboratory and Food (Health) Authority, Narayanguda, Hyderabad-500 029.
2. Director of Health Services, Assam, Dispur (Gauhati) 781 006.
3. State Drugs Controller, Bihar, Patna-800 001.
4. Director, Directorate of Drugs Control Administration, Gujarat State, Lal Darwaja, Ahmedabad-380 001.
5. Director of Health Services, Haryana, Chandigarh-160 017.
6. Director of Health Services, Himachal Pradesh, Kennedy House, Simla-171 004.
7. Director of Health Services, Jammu Region, Jammu (Tawi)-180 001.
8. Director of Health Services, Srinagar Region, Srinagar-190 001.
9. Director of Health & F.W., Karnataka, Anand Rao Circle, Bangalore-560 009.
10. Director of Health Services, Kerala Trivendrum-695 001.
11. Controller Food and Drugs Admn. Madhya Pradesh, Idgah Hills, Bhopal-462 001.
12. Commissioner, Food & Drugs Administration, Maha-

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- ashtra, Griha Nirman Bhavan, Bandra (East) Bombay-400 051.
13. Director of Medical Health & Family Welfare Services, Manipur, Imphal-795 001.
  14. Director of Health Services, Meghalaya, Shillong-793 001.
  15. Officer Incharge, State Public Health Laboratory, Office of the Director of Health Services, Nagaland, Kohima-797 001.
  16. Director of Health & F.W., Punjab, Chandigarh-160 017.
  17. Director of Health & F.W. Services, Orissa, Bhubaneswar-751 001.
  18. Director of Medical & Health Services, Rajasthan, Jaipur-302 001.
  19. Food Controller, Deptt. of Health & F.W., Govt. of Sikkim, Gangtok-737 001.
  20. Director of Public Health & Preventive Medicine 259, Anna Salai, Madras-600 035.
  21. Director of Health Services, Tripura Agartala-799 001.
  22. Assistant Director of Health Services (PFA) West Bengal, Mitra Building, Fourth Floor, 8 Lyones Range, Calcutta-1.
  23. Director of Medical & Health Services & F.W., Uttar Pradesh, Lucknow-226 001.
  24. Director of Health Services, Andaman-Nicobar, Islands, Port Blair-740 104.
  25. Director of Health Services, Arunachal Pradesh, Itanagar-791 110.
  26. Medical Officer of Health, Chandigarh Administration, 30, Days Building, Sector 17, Chandigarh-160 017.
  27. Chief Medical Officer, Dadra & Nagar Haveli, Silvassa-396 230.
  28. Director, Deptt. of Prevention of Food Adulteration, Delhi Administration, I.S.B.T. Building (5th Floor), Kashmere Gate, Delhi-110 006.

29. Director of Health Services, Goa Daman & Diu, Panaji-403 001.
30. Dy. Director of Medical & Health Services, Lakshadweep Kavaratti, Via H.P.O. Kozhikode-673 555.
31. Director of Health Services, Mizoram, Aizwal-796 001.
32. Commissioner, Food & Drug Administration, Post Box No. 50, Pondicherry-605 001.
33. Director General, Railway Health Services, Railway Board, Rail Bhavan, New Delhi-110 001.

# IX

## Drugs and Cosmetics

Addresses of Officers to whom complaints can be made:

1. Director, Drugs Control Administration, Andhra Pradesh, Narayanaguda, Hyderabad-500 020.
2. Drugs Controller, Assam, Directorate of Health Services, Dispur, Gauhati-781 006.
3. Drugs Controller, Bihar, Directorate of Health Services, 4th Floor, New Secretariat, Patna-800 001.
4. Director, Drugs Control Administration, Gujarat State, Multi-Storied Building, 2nd floor, Lal Darwaja, Ahmedabad-380 001.
5. State Drugs Controller, Haryana, Show Room No. 46, Sector-26, Chandigarh-160 026.
6. Drugs Controller-cum-Director of Health Services, Himachal Pradesh, Simla-171 001.
7. Drugs Controller, J & K, Directorate of Health Services, Jammu/Srinagar.
8. Drugs Controller, Karnataka, Place Road, Post Box No. 5377, Bangalore-560 001.
9. Drugs Controller, Kerala, Kerala Public Health Laboratory Campus, Red Cross Road, Trivendrum-695 991.
10. Food & Drugs Controller, Food and Drugs Administration, Maharashtra State, Griha Nirman Bhavan, Opp. Kala Nagar, Bandra (East) Bombay-400 051.

11. Food & Drugs Controller, Food and Drugs Administration, Madhya Pradesh, Idgah Hills, Bhopal-462 001.
12. Drugs Controller, Manipur, Directorate of Health & Family Welfare Services, Imphal-795 001.
13. Drugs Controller and Director of Health Services, Meghalaya, Shillong-793 001.
14. State Drugs Controller Nagaland, Directorate of Health Services, Kohima-797 001.
15. Drugs Controller, Orissa, Directorate of Medical Education & Training, Bhubaneshwar-751 001.
16. Drugs Controller, Punjab, Sector-7-C, Show Room No. 11-A, Madhya Marg, Chandigarh-160 019.
17. Drugs Controller and Director, Directorate of Medical and Health Services, Rajasthan, Jaipur-302 001.
18. Director of Health Services, Sikkim, Gangtok-737 001.
19. Drugs Controller, Tamilnadu, Deptt. of Drugs Control Admn. 256-261, Anna Salai, Madras-600 006.
20. Drugs Controller, Tripura, Directorate of Health Services, Agartala-799 001.
21. Drugs Controller, U.P. Directorate of Medical and Health Services, Lucknow-226 001.
22. Director of Drugs Control, West Bengal, College Square, Calcutta-700 072.
23. Director of Medical & Health Services, Andaman & Nicobar Islands, Port Blair-740 104.
24. Director of Health Services & Ex-Officio, Drug Controller, Arunachal Pradesh, New Itanagar-791 110.
25. Drugs Controller & Addl. Director Health Services, Chandigarh Admn., Chandigarh-160 016.
26. Chief Medical Officer, Dadra & Nagar Haveli, Silvassa-396 230.
27. Drugs Controller, Delhi Administration, Directorate of Health Services, 15, Sham Nath Marg, Delhi-110 054.

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28. Drugs Controller, Goa, Directorate of Health Services, Panaji-403 001.
29. Senior Medical Officer, U.T. of Lakshadweep, P. O. Kavaratti, Via H.P.O., Calicut-676 230.
30. Drugs Controller, Mizoram, Directorate of Health Services, Aizawal-796 001.
31. Commissioner, Food and Drugs Admn., P.B. No. 504, Roman Rolland Street, Pondicherry-605 001.

# X

## What the Law Provides

| Nature of Adulteration                                                                                             | Punishment                                                                                             |
|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| 1. Adulteration of food article in general                                                                         | The minimum punishment is six months which may extend to 3 years with fine not less than Rs. 1000/-.   |
| 2. Sale, Store or distribution of adulterated or/ and misbranded food and in contravention of rules.               | The minimum punishment is 3 months which may extend to 2 years with fine not be less than Rs. 500/-.   |
| 3. The adulteration which are injurious to health.                                                                 | Minimum punishment is one year which may extend to six years with fine not less than Rs. 2000/-.       |
| 4. The adulteration which is likely to cause death or to his body, as would amount to cause harm on greivous hurt. | Minimum punishment is 3 years which may extend to life imprisonment with fine not less than Rs. 5000/- |

# XI

Complaints against I.S.I. & AG-marked products may be made to:

1. The Director General,  
I.S.I. Manak Bhawan,  
New Delhi-110002. (For I.S.I. Marked Products)
2. The Agricultural Marketing Advisor,  
Government of India,  
C.G.O. Building,  
Faridabad-121 001. (For AG-mark Products)

## XII

### **Ministry of Food and Civil Supplies Department of Civil Supplies Consumer Protection Units**

Guidelines for financial assistance to consumer organisations under the central sector scheme of "measures for consumer protection".

1.1 It is necessary to provide a measure of protection to consumers in relation to quantity, quality and prices of at least essential consumer goods. The basic legal framework for providing such protection already exists. However, it needs to be reviewed and strengthened. Steps should also be taken for more effective enforcement of the laws and the various consumer protection measures. Besides, there is need for a co-ordinated price policy in regard to important consumer goods in order to ensure reasonable prices of such goods.

1.2 Voluntary consumer organisations could help a good deal in ensuring effective functioning of the public distribution system and providing more effective consumer protection. There is, therefore, need for promoting such organisations in both urban and rural areas. The major thrust of voluntary organisations should be towards reaching the generality of consumers. Women should be actively involved in voluntary organisations. Where it is not practicable to organise consumer organisations, there should be no hesitation to utilise the services of established and reputed social welfare organisations. In rural areas, local representative institutions like the Panchayats may be used to create consumer awareness through meetings and dissemination of information of consumer interest.

## **2. Policy Guidelines**

2.1 Government encourages formation of voluntary consumer organisations operating on a territorial basis. The organisation should preferably have specific areas of operation capable of assessment of the impact of the programme undertaken.

2.2 In addition, voluntary organisations/societies which perform different welfare activities including Mahila Mandals will also be encouraged to undertake consumer protection work.

## **3. Organisations Eligible for Assistance**

3.1 Any organisation seeking assistance under the scheme, will fulfil the following conditions of eligibility:

- (i) It should be voluntary organisation working for the promotion and protection of consumer interest;
- (ii) It should have a legal status permitting the entrustment of public funds. For this purpose, it should be registered under the Societies Registration Act, 1860 or any other similar statute;
- (iii) It should be non-political, non-official and under a non-proprietary management;
- (iv) It should have well defined objectives for protection of the interest of consumers;
- (v) It should not be run for profit to any individual or group of individuals but should serve the general public without distinction of caste, creed, colour or religion;
- (vi) Its' statements of accounts should be audited by a competent authority.

## **4. Purpose of Assistance**

4.1 Assistance shall ordinarily be given for specific projects and programmes of action and not for the general upkeep of

an organisation. The following items will be eligible for assistance:

- (i) Creating and strengthening infra-structure for the promotion of consumer movement in smaller towns and rural areas, provision for film projectors, public address system, testing kit, library books etc.;
- (ii) Towards organising consumer education programmes both in urban and rural areas by exhibitions, talks, film shows, demonstrations and advertisements through mass media, etc.;
- (iii) To undertake research and investigation into consumer problems;
- (iv) To undertake testing programmes regarding quality and quantity standardisation for various consumer products;
- (v) To organise seminars and workshops in areas of consumer education, consumer research and testing programme of consumer products;
- (vi) To undertake sophisticated and detailed testing of food and other consumer items regarding their quality, in laboratories recognised for the purpose by competent authority;
- (vii) Any other scheme or activity which directly or indirectly contribute towards consumer protection as may be considered appropriate by Govt. from time to time, shall be eligible for grant of assistance under the scheme.

## 5. Pattern of Assistance

5.1 Assistance may be provided to the extent of 100% of the capital cost of the specific project except building for which assistance is sought for each consumer organisation.

5.2 Assistance shall not ordinarily exceed 50% of cost other than the capital cost of the specific projects, for each consumer organisation.

5.3 The consumer organisations concerned should satisfy the competent authority that the remaining portion of the cost of the project will be met out of its own resource.

5.4 Assistance under this scheme will be given to the consumer organisations only on furnishing a certificate to the effect that it was not/has not been sanctioned/seeking sanction, grant-in-aid for the same purpose be another Department/Ministry of the Central Government for the purpose to which the grant relates.

## **6. Conditions Governing Grant of Assistance**

6.1 Any organisation applying for assistance should agree to abide by the rules and orders framed by the Government of India under the General Financial Rules, as amended from time to time and particularly 148 to 153 to the following stipulations:

- (i) No portion of the grant will be spent for purposes other than those for which it has been sanctioned or diverted to other organisations unless specifically agreed to by the Central Government;
- (ii) The organisation shall maintain an account with a nationalised/scheduled/cooperative bank or post office in the name of the institution and not of any individual whether by name or by designation. The account shall be operated jointly by the two office bearers to be nominated by the grantee organisation;
- (iii) The accounts of the organisation shall be audited by a Chartered Accountant or a Government auditor immediately after the end of the financial year. The accounts of the grant shall be maintained properly and separately from its normal activities and submitted as and when required. They shall be always open to inspection by an officer empowered by the Directorate of Consumer Protection;
- (iv) The accounts of the organisation shall be open to test-check by the Controller and Auditor General of India at his discretion;

- (v) The organisation shall submit to the Director of Consumer Protection, the following audited statements of accounts in respect of the grant not later than 3 months from the date of the closure of the financial year i.e. 1st. April to 31st. March:
  - (a) receipt & payment accounts of the body as a whole for the financial year;
  - (b) income & expenditure accounts of the body as a whole for the financial year; and
  - (c) balance sheet as at the end of the financial year for the body as a whole.
- (vi) The grantee will submit to the Directorate of Consumer Protection copies of annual report of their activities for the year for which the grant has been sanctioned. Besides, it will furnish regular periodical reports about the progresses of the activities and such other reports and statements as may be called for by the Directorate of Consumer Protection from time to time;
- (vii) No portion of the grant will be utilised to meet any other liability of the organisation;
- (viii) The organisation shall maintain an audited record in Form GNF-13 of all assets acquired wholly or substantially out of the Government's grants, and assets so acquired shall not, without the prior approval of the Government, be disposed of, encumbered or utilised for purposes other than those for which the grant has been sanctioned;
- (ix) The unutilised balance of the grant shall be refunded to the Government at the end of the financial year;
- (x) The organisation shall furnish a bond to the President of India in an approved form for due observance of the conditions of the grant and, in the event of failure to do so, for refunding to the President of India the entire amount of the grant with interest thereon;
- (xi) No article shall be purchased involving foreign exchange

expenditure and no assistance for import of any articles will be provided by the Govt.;

- (xii) When the Central Government have reasons that the sanctioned money is not being utilised for approved purposes the payment of further instalments/grants may be stopped and the earlier grants recovered; and
- (xiii) The organisation shall submit to the Directorate of Consumer Protection within 3 months of the close of the financial year in which the grant was sanctioned a utilisation certificate along-with a statement of expenditure and income signed by a Chartered Accountant to the effect that the grant sanctioned has been utilised for the purpose for which it was sanctioned.

## 7. Procedure for Submisson of Application

7.1 Consumer organisation seeking assistance should apply to the Directorate dealing with Consumer Protection of the Ministry of Food and Civil Supplies giving complete details of the project for which assistance is sought in the proforma prescribed by the Directorate. For each project there should be a separate application. The organisation should furnish together with the application the following documents:

- (i) Specific acceptance of all conditions mentioned in the guidelines for assistance under the scheme;
- (ii) an attested copy of the registration certificate issued by the concerned Registrar of Societies;
- (iii) latest annual report and a copy of the constitution of the organisation;
- (iv) copies of the audited statements of accounts for the last 3 years;
- (v) name of the nearest branch of any nationalised/scheduled/co-operative bank or post office with which the amount of grant shall be kept; and
- (vi) authorisation for operating the bank account.

7.2 The consumer organisations desirous of seeking assist-

tance shall apply to the Directorate for registration of the organisation and such applications shall be made, furnishing the particulars given in 7.1 above.

7.3 There should be no deviation from the above procedure except in cases specifically exempted by Government.

## 8. Date of Applicability

These guidelines shall become effective from 1st. April, 1982.

## XIII

National Seminar on "Unfair Trade Practices and Consumer Protection", held at New Delhi under the joint auspices of 'Voluntary Organisation in Interest of Consumer Education' (VOICE), Delhi; and Consumer Education and Research Centre (CERC), Ahmedabad.

### 1. *Case Studies*

#### I. Wills—'Made for Each Other' contest.

*Complainants:* (1) 'VOICE' Through its Convenor, Dr. Sri Ram Khanna.

(2) Indian Federation of Consumer Organisation (IFCO), Through its General Secretary, Smt. Kailash Rekhi.

### 2. M.G. Distributors—

—Consumers Education Trust of Mangalore.

### 3. After Sales Service Charges on Purchase of T.V.

—'VOICE' study group on T.V. Industry.

(1) Dr. Sri Ram Khanna. (2) Dr. D.P.S. Verma.

### 4. Bata Bubblegummers Contest.

—(VOICE) Sri Ram Khanna

(IFCO) Smt. Kailesh Rekhi

(Consumer Forum) Gyan Pandit.

### 2. *Papers On*

#### 1. Unfair Trade Practices And The Role of The Media.

—Pushpa Girimaji, Journalist, Indian Express.

2. Unfair Trade Practices Under The M.R.T.P. Act—An Analysis.  
—Ms. Lalitha, Education Officer (Research), Directorate of Research, The I.C.S.I.
3. Consumerism Vis-a-Vis Unfair Trade Practices—A Legislative Viewpoint.  
—G.K. Kapoor, Lecturer in Reader's grade, Department of Commerce, SBS College, University of Delhi.
4. Unfair Trade Practices—Role of Consumer Associations.  
—R. Krishnan, Deputy Director of Studies, The Institute of CSI, New Delhi.
5. Scope of Unfair Trade Practices—Role of Consumer Associations.  
—O.P. Dua; Advocate and Chairman, Bar Council of Delhi.
6. Procedural Aspects and Investigation Process.  
—P.P. Juneja, Advocate, Supreme Court.
7. Role of Government in Consumer Protection.  
—S. Haque, Director, Weights and Measures Department, Government of India.
8. Unfair Trade Practice: Media's Weapon For a Fair Society.  
—Krishan Mahajan, Legal Correspondent 'Hindustan Times.'

# XIV

## List of Unfair Trade Practices—Section 36-A

### Given in Part—B of Chapter—III of the Act

In this part, unless the context otherwise requires, “unfair trade practice” means a trade practice which for the purpose of promoting the sale, or use or supply of any goods or for the provision of any services, adopts one or more of the following practices and thereby causes loss or injury to the consumers of such goods or services, whether by eliminating or restricting competition or otherwise, namely;

- (1) the practice of making any statement, whether orally or in writing or by visible representation which—
  - (i) falsely represents that the services are of a particular standard, quality, grade, composition, style or model;
  - (ii) falsely represents that the services are of a particular standard, quality or grade;
  - (iii) falsely represents any rebuilt, secondhand, renovated, reconditioned or old goods as new goods;
  - (iv) represents that goods or services have sponsorship approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;
  - (v) represents that the sellers or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;

- (vi) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;
- (vii) gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereof;

Provided that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence;

- (viii) makes to the public a representation in a form that purports to be:—
  - (i) a warranty or guarantee of a product or of any goods or services; or
  - (ii) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result.

If such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such warranty, guarantee or promise will be carried out;

- (ix) materially misleads the public concerning the price at which a product or like products or goods or services, have been, or are, ordinarily sold or provided, and, for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods OR services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made;

- (x) gives false or misleading facts disparaging the goods, services or trade of another person.

Explanation: For the purposes of clause (1) a statement that is:—

- (a) expressed on an article offered or displayed for sale, or on its wrapper or container; or
- (b) expressed on anything attached to, inserted in, or, accompanying, an article offered or displayed for sale, or on anything on which the article is mounted for display or sale; or
- (c) contained in or on anything that is sold, sent, delivered, transmitted or in any other manner whatsoever made available to a member of the public; shall be deemed to be a statement made to the public by, and only by, the person who had caused the statement to be so expressed, made or contained;
- (2) permits the publication of any advertisement whether in any newspaper or otherwise, for the sale of supply at a bargain price, of goods or services that are not intended to be offered for sale or supply at the bargain price, or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement.

Explanation: For the purpose of clause (2), 'bargain-price' means:—

- (a) a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise, or
- (b) a price that a person who reads, hears, or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold;
- (3) Permits:—
  - (a) the offering of gifts, prizes or other items with the

intention of not providing them as offered or creating the impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction as a whole:—

- (b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest;
- (4) Permits the sale or supply of goods intended to be used, or are of a kind likely to be used, by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods;
- (5) Permits the hoarding or destruction of goods, or refuse to sell the goods or to make them available for sale, or to provide any service, if such hoarding or destruction or refusal raises, or tends to raise or is intended to raise, the cost of those or other similar goods or services.

## XV

### Guarantee Traps

(i) "The guarantee cards which are not signed and stamped by the distributor-dealer will be treated as invalid"—Fan manufacturer's Guarantee. The customer must, therefore, while he purchases the article, get the guarantee stamped by the vendor shop-keeper.

(ii) "Your guarantee is valid only if it is purchased from an authorised dealer"—guarantee of another fan manufacturer, if a customer purchases an article from an unauthorised dealer at a concession rate or re-buys the article from another customer even within the guarantee period, he is unable to use the guarantee in such a case.

(iii) "We cannot accept responsibility for fans which have been repaired by people other than those authorised by us to carry out such repairs"—a warning on a guarantee card issued by yet another reputed fan manufacturer, one can imagine the plight of a customer who has purchased the fan of this company in a city for his use at a fairly distant mofussil place, with no "authorised" dealer within a radius of 25 miles from the place where the fan is used, to service or repair the fan.

(iv) In the case of a famous company boldly and vociferously propagating "Free home service for two years" one finds an irksome clause in the guarantee to the effect that in order that the guarantee could be availed of it is necessary that "the fan or the part is sent to company's factory or to the nearest distributor/sub-distributor freight paid along with this card."

Where similar types of guarantees are given in respect of refrigerators, one discovers that where there is a minor fault

like defective magnetic door or unsteady internal bulb which could ordinarily be repaired at the cost of Rs. 10 or Rs. 20, the customer has the unenviable option also of getting the refrigerator repaired free of cost from the manufacturer by relying on the 'magnanimous' guarantee given by the latter, provided the customer is prepared to pay the insignificant freight charges for the article which might come upto only Rs. 50/- each way.

It is high time consumers effectively demonstrated against such camouflaged guarantees. The least that is to be expected from a good and a proper guarantee is firstly, that it should come in as a supplement to the ordinary legal rights of a customer and not in substitution thereof; secondly, that excepting marginal and abnormal cases like misuse, negligence etc., a manufacturing guarantee must be unconditional, and, last but not the least, in a contingency like repairing or replacing the article the incidental expenses, like freight etc. must be borne by the manufacturer or the dealer himself.

## XVI

### **Provisions Granting Remedies Against Unfair Trade Practices**

#### **36-B: Inquiry into unfair trade practices by Commission:**

The Commission may inquire into any unfair trade practice:

- (a) Upon receiving a complaint of facts which constitutes such practice from any trade or consumers' association having a membership of not less than twenty-five persons or from twenty-five or more consumers; or
- (b) Upon a reference made to it by the Central Government or a State Government;
- (c) Upon an application made to it by the Director General or
- (d) Upon its own knowledge or information.

#### **36-C: Investigation by Director General before an issue of process in certain cases:**

In respect of any unfair trade practice of which complaint is made under clause (a) of section 36-B, the Commission shall, before issuing any process requiring the attendance of the person complained against, cause a preliminary investigation to be made by the Director General, in such manner as it may direct, for the purpose of satisfying itself that the complaint requires to be inquired into.

#### **36-D: Powers which may be exercised by the Commission inquiring into an unfair trade practice:**

- (1) The Commission may inquire into any unfair trade practice which may come before it for inquiry and if, after

such inquiry it is of opinion that the practice is prejudicial to the public interest, or to the interest of any consumer or consumers generally, it may, by order direct that:

- (a) the practice shall be discontinued or shall not be repeated; and
- (b) any agreement relating to such unfair trade practice shall be void or shall stand modified in respect thereof in such manner as may be specified in the order.

(2) The Commission may, instead of making any order under this section, permit any party to carry on any trade practice, if it so applies and takes such steps within the time specified by the Commission as may be necessary to ensure that the trade practice is no longer prejudicial to the public interest or to the interest of any consumer or consumers generally, and, in any such case, if the Commission is satisfied that necessary steps have been taken within the time so specified, it may decide not to make any order under this section in respect of that trade practice.

(3) No order shall be made under sub-section (1) in respect of any trade practice which is expressly authorised by any law or for the time being in force.

**36-E: Power relating to restrictive trade practices may be exercised or performed in relation to unfair trade practices:**

Without prejudice to the provisions of section 12-A, section 12-B and section 36-D, the Commission, Director General or any other person authorised in this behalf by the Commission or Director General, may exercise, or perform, in relation to any unfair trade practice, the same power or duty which it or he is empowered, or required, by or under this Act, to exercise, or perform, in relation to a restrictive trade practice.

## XVII

### **12-A: Power of the Commission to Grant Temporary Injunctions**

(1) Where, during an inquiry before the Commission, it is proved whether by the Complainant, Director General, any trader or class of trader or any other person, by affidavit, or otherwise, that any undertaking or any person is carrying on, or is about to carry on, any monopolistic or any restrictive, or unfair, trade practice and such monopolistic or restrictive or unfair, trade practice is likely to affect prejudicially the public interest or the interest of any trader, class of traders or traders generally or of any consumer or consumers generally, the Commission may, for the purposes of staying or preventing the undertaking or, as the case may be, such person from causing such prejudicial effect, by order, grant a temporary injunction restraining such undertaking or person from carrying on any monopolistic or restrictive, or unfair, trade practice until the conclusion of such inquiry or until further orders.

(2) The provisions of rules 2-A to 5 (both inclusive) of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), shall, as far may be, apply to a temporary injunction issued by the Commission under this section, as they apply to a temporary injunction issued by a civil court, and any reference in any such rule to a suit shall be construed as a reference to an inquiry before the Commission.

## **12-B: Power of the Commission to Award Compensation**

(1) Where, as a result of the monopolistic, or restrictive, or unfair trade practice, carried on by any undertaking or any person, any loss or damage is caused to the Central Government or any State Government or any trader or class of traders or any consumer, such Government, or, as the case may be, trader or class of traders or consumer may, without prejudice to the right of such Government, trader or class of traders or consumer to institute a suit for the recovery of any compensation for the loss or damage so caused, make an application to the Commission for an order for the recovery from that undertaking or owner thereof, or, as the case may be, from such person, of such amount as the Commission may determine, as compensation for the loss or damage so caused.

(2) Where any loss or damage referred to in sub-section (1) is caused to numerous persons having the same interest, one or more of such persons may, with the permission of the Commission, make an application, under that sub-section, for and on behalf of, or for the benefit of the persons so interested, and thereupon the provisions of rule 8 of Order 1 of the First Schedule to the Code of Civil Procedure 1908 (5 of 1908), shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to the application before the Commission and the order of the Commission thereon.

(3) The Commission may, after an inquiry made into the allegations made in the application filed under sub-section (1), make an order directing the owner of the undertaking or other person to make payment, to the applicant, of the amount determined by it as realisable from the undertaking or the owner thereof, or, as the case may be, from the other person, as compensation for the loss or damage caused to the applicant by reason of any monopolistic or restrictive, or unfair, trade practice carried on by such undertaking or other person.

(4) Where a decree for the recovery of any amount as compensation for any loss or damage referred to in sub-section (1) has been passed by any court in favour of any person or per-

sons referred to in sub-section (1) or, as the case may be, sub-section (2), the amount, if any, paid or recovered in pursuance of the order made by the Commission under sub-section (3) shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance, if any, left after such set off.

# XVIII

## Fair Trade Practices Law of Ancient India

1. Immediately after the consolidation of British empire in India, there was a systematic effort to generate self-oblivion and inferiority complex among the English-educated 'natives' of this country. Consequently, these natives did not care to study our own ancient history, culture or traditions. So far as the consumer protection is concerned, they were under an impression that in the distant past there were no legal provisions to achieve this goal. They were, therefore, surprised to see chapter 2 (वैदेहकरक्षणम्—i.e. protection of consumers from traders) of the 4th Adhikarana of Koutiliya Arthashastram. This educated elite considered 'Smritis' as out-dated religious texts, they did not know that the character of 'Smritis' is predominantly sociological. The main authors of 'Smritis' are eighteen in number, though the total number of 'Smritis', according to Dr. P.V. Kane, is about 100. Then there are commentators like मेघा तिथि, विज्ञानेश्वर or जीभूतवाहन । Some shlokas in chapter 9 of Manu Smriti which deal with this subject were quite unexpected for them. Greater surprise was in store for them when they turned to Yojnavalkya. In his याज्ञवल्क्य स्मृति they found the following references on the topic of consumer protection:

### 2. व्यवहाराध्यायः

अध्याय 11—अस्वामिविक्रय प्रकरणम् (168, 169, 170)

अध्याय 13—क्रीतानुशय प्रकरणम् (177, 178, 179, 180, 181)

अध्याय 20—साहसप्रकरणम् (238 तथा 240 से 253 तक)

अध्याय 21—विक्रीया संप्रदान प्रकरणम् (254 से 258 तक)

अध्याय 22—संभूयसमुत्थान प्रकरणम् (259 से 265 तक)

अध्याय 25—प्रकीर्णक प्रकरणम् (197, 303)

(And under 3 प्रायश्चित्ताध्याय, the आपद्धर्म प्रकरणम् 35 से 40 तक) In course of litigation and general public debate they came across stray references to the provisions in our ancient texts such as,

मनु (100/92), (10/90), (10/94), (10/116), गौतम (7/16-21), (7/8-14), (7/15), वशिष्ठ (2/31), (2/37-39), (2/24-29), याज्ञवल्क्य (3/39), (3/36-38), आपस्तम्ब (1/7/20/12-13), (1/7/20/14-15) बोधायन (2/1/77-78), और नारद (ऋणादान 61-63-66).

They had never imagined that a comparatively lesser known Law-giver like नारद would lay down such detailed practical provisions regarding buyer-seller relationship:

क्रीतानुशयः—नारदेनोक्तम् (9/1...)

क्रीत्वा मूलेन यः पण्यं क्रेता न बहु मन्यते

क्रीतानुशय इत्येतद्विवाद पद मुच्यते ॥(9/1)

क्रीत्वा मूलेन यत्पण्यं दुःक्रीतं मन्यते क्रीयी ।

विक्रेतुः प्रतिदेयं तत् तस्मिन्नेवा हृदयविक्षतम् ॥(9/2)

द्वितीयेऽह्नि ददन् क्रेता मूल्यात् मिश्रां शमाहरेत् ।

द्विगुणं तु तृतीयेऽह्नि परतः क्रेतुरेव तत् ॥(9/3)

They could not conceive that वैश्यवंशसुधाकर, a report by a commission under the chairmanship of महिलनाथ would cover the topic of fair trade practices.

After the publication of the 'History of Dharma Shastra' by the reputed scholar Dr. P.V. Kane, the entire material on this subject has become available, though it is naturally scattered throughout the volumes. Those interested in studying the Fair Trade Practices Law of ancient India may go through, in addition to a few provisions mentioned above, the following items arranged subjectwise.

अस्वामिविक्रय—नारद (7/9)

बृहस्पति (स्मृतिचन्द्रिका 2, पृ. 213 : व्यवहार प्रकाश पृ. 290), (व्यवहार मयूख पृ. 195, व्यवहारप्रकाश पृ. 290) कात्यायन (612), मनु (8/199), नारद (स्मृति चं. 2, पृ. 213, व्य. प्र. पृ. 291 (नारद (7/3) याज्ञ. (2/168), नारद (7/2), विष्णु (प्र./166), मनु (6/202), विष्णु (5/164-166), मनु (8/202), नारद (7/4), बृहस्पति, मनु (8/301), याज्ञ. (2/170), कात्यायन

(615), मनु (8/202), बृहस्पति, कात्यायन 615, 618, 619, मनु (8/198) कात्यायन 614, कौटिल्य (3/16), मनु (8/202), कात्यायन (613), याज्ञ (2/170) कात्यायन (616), कात्यायन (620), कौटिल्य (3/16), याज्ञ (2/169), बृहस्पति (मिताक्षरा-याज्ञ 2/170), पराशरमाधवीय 3 पृ. 295, स्मृतिचन्द्रिका 2, पृ. 215, अपरार्क (पृ. 717), पराशरमाधवीय (पृ. 104), विवादरत्नाकर (पृ. 106), बृहस्पति (अपरार्क पृ. 775, कुल्लूक, मनु (8/202), कात्यायन, स्मृति चन्द्रिका 2, पृ. 216-217, पराशरमाधवीय 3, पृ. 297 एवं 300, व्यवहारप्रकाश पृष्ठ (295-296), बृहस्पति (स्मृति चन्द्रिका 2, पृ. 216, विवादरत्नाकर पृष्ठ 108.

× × ×

**सम्भूयसमुत्थानः** नारद (6/1) कात्यायन 624

कात्यायन (624 अपरार्क पृ. 832 एवम् पराशरमाधवीय 3, पृ. 304)

बृहस्पति (स्मृति चन्द्रिका 2, पृ. 184 अपरार्क पृ. 831-832)

बृहस्पति (स्मृति चन्द्रिका 2, पृ. 125 व्यवहार प्रकाश पृ. 208, अपरार्क पृ. 832)

व्यास (स्मृति चन्द्रिका 2, पृ. 185 अपरार्क पृ. 832)

बृहस्पति (व्यवहारमयूख पृ. 200, विवादरत्नाकर पृ. 113, व्यवहार प्रकाश पृ. 277), याज्ञ. (2/260), नारद (6/5), नारद 6/6, याज्ञ. 2/265, याज्ञ. (2/264), नारद (6/7 एवम् 17-18), कात्यायन (632)

कात्यायन 631 (पराशर माधवीय 3, 305 एवम् विवादरत्नाकर पृ. 114)

× × ×

**समय-क्रिया**—नारद (13/4-5 एवम् 7) मेंधातिति, मनु (8/220) याज्ञ. (2/188-192) कात्यायन (सरस्वतीविलास, पृ. 330-331, विवादरत्नाकर पृ. 197, स्मृति 2, पृ. 227) व्यवहार प्रकाश पृ. 338. याज्ञ. (2/187), नारद (11/4).

**कथविक्रयानुशय**

मनु (8/222), कौटिल्य (3/15), नारद (11-12), नारद (11/2), याज्ञ. (2/254), नारद (11/4-5), विष्णु (5/127)

विष्णु (5/128), कौटिल्य (2/15), नारद (11/6), विष्णु (5/129), याज्ञ. (2/256), मनु (8/222), मनु (8/228)

कात्यायन 684 (स्मृ. चं. 2, पृ. 218, विवादरत्नाकर, पृ. 192, पराशरमाधवीय 3 पृ. 367)

कात्यायन 685 (पराशरमाधवीय 3, पृ. 364) याज्ञ. (2/61), याज्ञ. (2/257), नारद (11/7-8), व्यास (स्मृति चन्द्रिका 2, पृ. 220, पराशरमाधवीय 3, पृ. 370)

नारद (11/10), नारद (12/1), नारद (12/2, 12/3), याज्ञ. (2/177) नारद (12/5-6), मनु (8/222), कौटिल्य (3/15), बृहस्पति एवं नारद (12/4), व्यास (स्मृति चन्द्रिका 2, पृ. 220) विवादरत्नाकर पृ. 198, व्यवहारप्रकाश पृ. 339)

कात्यायन एवं बृद्ध कात्यायन (सरस्वतीविलास, पृ. 324, व्यवहार निर्णय पृ. 348) भारद्वाज (सरस्वती विलास पृ. 324), नारद (12/5-4), नारद (12/7), भारद्वाज (व्यवहार निर्णय पृ. 351, सरस्वती विलास पृ. 324)

कात्यायन (711, व्यवहार निर्णय पृ. 349, सरस्वती विलास, पृ. 326)

याज्ञ. (2/255 एवं नारद 11/9), कात्यायन (692), कात्यायन (705-706)

कात्यायन (704), मिताक्षरा (याज्ञ. 2/238, पाणिनी (4/4/50)

गौतम (12/39), सरस्वती विलास पृ. 321, कात्यायन (कात्यायन (712)

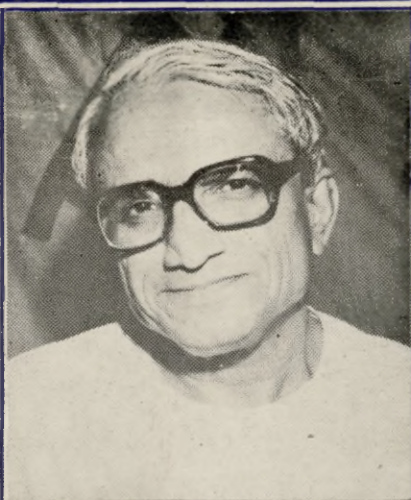
बृहस्पति (व्यवहार निर्णय, पृ. 349), सरस्वती विलास, पृ. 326)

हारीत (सरस्वती विलास, पृ. 326), व्यवहार निर्णय, पृ. 347-348)

(रात्रनरांगिणी 6/41), व्यवहारनिर्णय (पृ. 350), व्यवहारनिर्णय (पृ. 355-56)

मिताक्षरा (याज्ञ. 2/114), मिताक्षरा (याज्ञ. 2/114 एवं 2/176)

कौटिल्य (4/2), कौटिल्य (4/3), याज्ञ. (2/23)



Born at Arvi (District Wardha) on November 10, 1920, D.B. Thengadi started his social life as pracharak of R.S.S., after passing his law examination in 1942. As pracharak, his fields of operation were Kerala, Bengal and Assam.

He was one of the founder member of Akhil Bharatiya Vidyarthi Parishad and Madhya Pradesh State Organising Secretary as well as All India General Councillor of INTUC till the end of 1951.

After the formation of the Jana Sangh he was its M.P., State Organising Secretary and, for some time, in-charge of its South Zone.

He was member of Rajya Sabha from 1964 to 1976 and a member of Rajya Sabha Upadhyaksha Mandal from 1968 to 1970.

During the Emergency, he functioned as Secretary of the Lok Sangharsha Samiti from December 1975, onwards.

He has travelled abroad extensively and authored a number of books in English, Hindi and Marathi. He is also well-versed in Bengali, Malayalam and Sanskrit.

He is the Founder of Bharatiya Mazdoor Sangh (1955) and Bharatiya Kisan Sangh (1979).