



CONSUMER UPDATE

World Consumer Rights' Day

CAG, in association with Justice Basheer Ahmed College for Women, organized an *Awareness Program on Internet Safety* on 22.03.2017, on account of World Consumer Rights Day (WCRD). The theme for the year is "Consumers in Digital Age". Dhilip from CAG spoke about best practices to stay online – better passwords, 2-step verification, protection of device, spotting scams online, security and privacy checkup and so on. The presentation was well received by the students and few faculty members of the college.

15 March is World Consumer Rights Day, an annual occasion for celebration and solidarity within the international consumer movement. It marks the date in 1962, when President John F. Kennedy first outlined the definition of Consumer Rights. WCRD was first observed on 15 March 1983, and has since become an important occasion for mobilising citizen action.

Selling above MRP in hotels, multiplexes – is this legal?

In the last few years, it has been increasingly found for mineral water bottles or other beverages to be sold at a higher price than the Maximum Retail Price (MRP) as printed on the package of the bottle, especially in hotels/restaurants, malls, airports and cinema halls. Most consumers end up paying twice or thrice the amount for a bottle of mineral water. The issue at hand is whether the practice of overcharging of this item, especially in hotels and malls, is legal in the country.

On the Union Ministry for Food and Consumer Affairs getting an increasing number of complaints regarding the overpricing of water bottles, about 10-20% higher the maximum retail price (MRP) and in some cases with no mention of MRP on the bottle, Union Minister Mr. Ram Vilas Paswan stated that "sale of packaged water and soft drinks above MRP (Maximum Retail Price) -- including at airports, multiplexes and hotels would attract stringent penal actions like fines and jail term". He expressed his disapproval towards the said practice and the need to raise consumer awareness in order to do away with it. Mr Paswan also urged all companies to ensure that the water bottles manufactured by them are sold at the same price irrespective of the place where it is sold.

Following this, most of the states in the country have served prosecution notice against over pricing or dual pricing of water bottles. Maharashtra legal metrology department has gone a step further and sought the state government's permission to take these companies to the Consumer Forum for unfair trade practices.

Recently, a Consumer Forum in Hyderabad directed a hotel to return the Rs.20 that it had charged above MRP, imposed an additional sum of Rs.5,000 towards other costs and a fine of Rs.20,000 on the hotel, for overcharging of bottled drinking water.

In the case of Asia Kitchen Koremangala, they were asked to deposit an exorbitant amount as fine for overcharging the customers for water bottles.

The Karnataka High court has also held in the case of Danone Narang Beverages Vs State of Karnataka, that not mentioning of MRP on the bottle or overcharging is an illegal offence under Indian Laws.

Thus, it is established that, be it hotels or malls or multiplexes, overcharging of water bottles and other packaged items is not in accordance with law.

Real Estate (Regulation and Development) Act, 2016

The Real Estate (Regulation and Development) Act 2016 (RERA) is a statute enacted by the Parliament of India which seeks to protect home buyers. The Bill was passed in March 2016 and the Act came into force from May 1, 2016 with 59 of 92 sections notified. The remaining provisions came into force on May 1, 2017.

Once the Act is implemented, house buyers may be a lot more relaxed when it comes to buying of property from builders as this statute brings in transparency and accountability into the system so as to ensure that consumers are not being cheated or taken for a ride by the developers.

Some of the salient features of RERA are as follows:

- State governments, within a year from the date of coming into force of this act, should establish a Regulatory Authority. The primary duty of this Authority is to facilitate the growth and promotion of a healthy, transparent, efficient and competitive real estate sector and aid the government in protecting the interest of the allottees, promoters and real estate agents. They may accomplish this by making recommendations to the State Government of the competent authority.
- Promoters have to register their projects with the Real Estate Regulatory Authority. The act also provides for revocation and extension of the said registration. When registering, promoters must submit all the documents; these include the legal documents and the details of the projects, etc.
- Builders have to get all necessary clearances before they sell the project.
- Only upon getting a certificate from the RERA will the promoters be allowed to issue advertisements and prospectus. A promoter is bound to pay compensation to the customer who is misled by false advertisements or prospectus or any information in it that is found to be false.
- Homebuyer will have to pay only for the carpet area, and that is the area within walls. The builder cannot charge for the built-up area, the way it was done before the commencement of the act.
- A promoter cannot accept any deposit from the buyer unless a written agreement for sale has been entered into.

- The developer will have to transfer 70 per cent of the money received from customers to an escrow account. This will ensure the builder does not spend the money on other projects since they can withdraw money from this account only after approvals from engineers and chartered accountants that have been appointed.
- The builder has to provide a five year warranty on any structural defects on the project which in turn protects the house buyer from faulty construction.
- The promoter will have to return the deposited money with interest if he is not able to stick to a timeline.
- The act specifically provides that all real estate agents have to be registered and may sell only approved property. Furthermore, it provides an entire chapter in duties and obligations for real estate agents.
- Any aggrieved person may file a complaint with the Regulatory Authority or the Adjudicating Officer for violation of any of the provisions of this statute.
- The State Government has the powers to appoint a judicial officer who will adjudicate over the matter and adjudge the amount of compensation to be awarded
- The statute also provides for establishing of an Appellate Tribunal which has the power to hear any appeal that has been transferred to it. Over and above this, if the person is aggrieved with the decision of the Tribunal, he may appeal to the High Court within sixty days of the date the order was passed.
- The legislation has a separate chapter for offences and punishment and provides for penalty in cases where the promoter acts in contrary to the orders of the Regulatory authority.

Section 84 of the Act requires that the State Governments make appropriate rules applicable to their territory within a period of six months of commencement of the Act. In Tamil Nadu, while the draft rules were put forth by the government a few months back, it is yet to be notified. To ensure effective implementation of the Act, it is important that the Tamil Nadu government notifies the rules at the earliest and establishes the Regulatory Authority so that consumers in the real estate sector stand to benefit.

For 20 paisa each, Bank Data of one crore Indians was up for Sale!

The bank account data of one crore Indians was up for sale. And it was dirt cheap at 10 or 20 paisa per individual, police investigations have revealed. Probing the case of an 80-year-old woman from Greater Kailash in South Delhi, who had lost Rs 1.46 lakh from her credit card, the cops busted the module which stole data from insiders in banks, call centres and authorized firms, and sold it to crooks.

What is shocking is that the arrest of a key player in the trade has led the cops to recover stolen data of one crore people, claimed DCP (south east) Romil Baaniya. The data, comprising card number, card holder name, date of birth and mobile number, is in several categories and runs into more than 20 gigabytes. Most sought after data is of senior citizens bank details, police said.

The arrested person, Puran Gupta, a resident of Pandav Nagar, has claimed that he usually sold bulk data of around 50,000 people for anything between Rs.10,000-20,000. The accused is said to have bought the data from a Mumbai-based supplier. Raids are being conducted to arrest him. The crooks used this data by posing as bank representatives and convinced people into sharing details such as the CVV number and OTP, and used these to withdraw money.

As the crooks were already armed with details such as the person's name and card number, many of their targets fell into the trap and ended up furnishing their passwords. Most of the time, the crooks said they were trying to confirm suspicious transactions and asked people to quickly share details so that an ongoing transaction could be blocked. They use other pretexts like encashing reward points, card blocked, etc to lure people. *Source: Times of India*

Insurance firm rejects cancer patient's claim

The District Consumer Dispute Redressal Forum in Gurgaon has imposed a penalty of Rs 25,000 on health insurance company Max Bupa for rejecting a 70-year-old cancer patient's claim. It also asked the firm to pay the complainant Rs 3.23 lakh, the money spent on treatment, with an interest of 9%.

Kewal Pal Singh and his wife had taken a medical insurance policy from National Insurance Company in 2004 and paid the annual premium amount of Rs.77254/- without any break. In 2012, they upgraded their policy and continued to pay the yearly premium as was required under the policy. In September 2014, Singh was initially diagnosed with disorder of calcium metabolism and was admitted to a hospital in Delhi. He informed the insurance company to avail of the cashless benefit but it was rejected and he was asked to apply for reimbursement after paying the hospital. Later, Singh was diagnosed with multiple myeloma and was admitted to another hospital for treatment. Since then, he had to make several visits to hospital for chemotherapy and had to pay the charges. Singh submitted documents multiple times but his claims for reimbursement were rejected on account of non-disclosure of disorder of past 7-8 years. During this period, the policy was also renewed for the period 2014 – 2015. However, later, the company cancelled the policy of the couple following which, Singh approached the Consumer Forum.

The Forum observed that "Rejection of the claim was not sustainable as the complainant had obtained the mediclaim policy in 2004 itself and was prompt in paying the yearly premium. Also, the exclusion clause regarding pre-existing conditions, has a condition for a waiting period of 48 months and in this case the mediclaim policy is continuous since 2004. Thus the complainant is not covered under the exclusion clause and the rejection of the mediclaim reimbursement tantamount to deficiency in service".



CAG

Citizen consumer and civic Action Group

CAG is a 32 year old non profit, non political, professional organization working towards protecting citizen's rights in consumer and environmental issues and promoting good governance including transparency, accountability and participatory decision making.

The complaints cell at CAG addresses specific problems of consumers. Also CAG regularly conducts consumer awareness programmes for schools, colleges and special target groups.

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