



# **MAJOR ADVOCACIES**

**State Consumer Helpline Knowledge Resource Management Portal**

**Centre for Consumer Studies**

**INDIAN INSTITUTE OF PUBLIC ADMINISTRATION**

**I.P. Estate, Ring Road, New Delhi- 110002**

**Email- [schkrmp.iipa@gmail.com](mailto:schkrmp.iipa@gmail.com)**

**Telefax – 011-23705054**

**Website: [www.consumeradvice.in](http://www.consumeradvice.in), [www.consumereducation.in](http://www.consumereducation.in)**

**(Project Supported by Department of Consumer Affairs, Government of India)**

## Contents

1.UNETHICAL BUSINESS PRACTICES BY HOTELS AND RESTAURANTS .....	2
2.UNETHICAL BANKING PRACTICES IN VIOLATION OF RBI NOTIFICATION AND DIRECTIVES OF MINISTRY OF FINANCE- CHARGING OF SMS ALERT FEE BY BANKS .....	3
3.Charging of VAT on discounted prices offering discounts on MRP-Unethical Trade Practices and Misleading Advertisements .....	3
4.VALUE ADDED SERVICES -ALLEGED UNETHICAL TRADE PRACTICES OF ACTIVATION AND RENEWAL WITHOUT SEEKING SUBSCRIBER'S CONSENT- ANTI-CONSUMER PRACTICES BY TELECOM SERVICE PROVIDERS.....	5
5.MISLEADING ADVERTISEMENT OF SENSODYNE TOOTHPASTE .....	6
6.UNETHICAL ADVERTISEMENT IN VIOLATION OF CODE FOR MEDICAL PROFESSIONAL/INSTITUTIONS– METRO HEART INSTITUTE WITH MULTISPECIALTY, FARIDABAD - ISSUE RAISED TO MEDICAL COUNCIL OF INDIA, HARYANA MEDICAL COUNCIL AND DEPARTMENT OF CONSUMER AFFAIRS.....	6
7.NON-PROVIDING OF ESSENTIAL DETAILS AS PER LEGAL METROLOGY (PACKAGED COMMODITIES RULES ) ON CURA RAS PACKING- ISSUE TAKEN UP WITH UP STATE LEGAL METROLOGY .....	7
8.CHARGING OF PRICE MORE THAN MRP AS WELL AS OVERWRITING ON STICKERS IN PACKAGED COMMODITIES. ISSUE TAKEN UP WITH MAHARASHTRA STATE LEGAL METROLOGY THROUGH MAHARASHTRA STATE CONSUMER HELPLINE AND DEPARTMENT OF CONSUMER AFFAIRS .....	7
9.COMPLAINT OF BRITANNIA GOOD DAY BISCUIT IN VIOLATION OF LEGAL METROLOGY ( PACKAGED COMMODITIES), RULE, 2011 .....	7
10.CHANGE IN IVR SYSTEM IN BOOKING FOR LPG REFILL RESULTING IN GIVING UP SUBSIDY- ISSUE TAKEN UP WITH DEPARTMENT OF CONSUMER AFFAIRS.....	8
11.BASED ON THE COMPLAINT ESCALATED BY THE PORTAL, HALDIRAM STOPPED CHARGING SERVICE TAX ON TAKE AWAY ITEMS. SUCH CHARGING OF SERVICE TAX ON TAKE AWAY ITEMS IS IN VIOLATION OF SERVICE TAX RULES .....	8
12.COMPLAINT TO MEDICAL COUNCIL OF INDIA AGAINST DOCTORS ENDORSING THE PRODUCTS IN VIOLATION OF CODE OF ETHICS FOR MEDICAL PROFESSIONAL IN RELATION TO SENSODYNE ADVERTISEMENT FOR TOOTHPASTE.....	8
13.CHARGING OF UNETHICAL VAT AND UNETHICAL BUSINESS PRACTICES BY RESTAURANTS LE-CHEF, FARIDABAD .....	9
14.NON-GRANTING OF SUBSIDY BY DELHI DISCOMS .....	9
15.UNETHICAL BUSINESS PRACTICES BY DHBVN- CHARGING FEE FOR SENDING BILL BY EMAIL INSTEAD OF HARD COPY BILL .....	10
16.UNETHICAL BUSINESS PRACTICES BY DHBVN- RAISING ELECTRICITY BILLS ON AVERAGE BASIS .....	10
17.UNETHICAL BUSINESS PRACTICES BY DHBVN- CHARGING OF ADDITIONAL FEE FOR ONLINE APPLICATION FOR NEW CONNECTION .....	11
18.CHARGING OF TRANSACTION FEE BY DHBVN FOR ONLINE PAYMENTS/DEBIT CARDS ETC.....	11
19.FRAUDULENT BUSINESS PRACTICES BY E-COMMERCE AND FINANCIAL FRAUDS.....	12
20.MISLEADING ADVERTISEMENTS- ZERO PERCENT FINANCE, FREE INSURANCE ETC.....	12
21.UNETHICAL BUSINESS PRACTICE OF ADDITIONAL TRANSACTION FEE FOR ONLINE PAYMENT THROUGH DEBIT CARD/E-WALLETS/CREDIT CARDS ETC.....	13
22.MISLEADING ADVERTISEMENT OF DABUR CHYAWANPARAKASH IN TIMES OF INDIA DTD.28/12/2015- "SAFE FOR DIABETICS" .....	13
23.UNETHICAL BUSINESS PRACTICES BY OLA/UBER CABS- CHARGING OF TOLL TAX FROM PASSENGERS BEING DROPPED AT AIRPORT .....	14
24.FRAUDULENT BUSINESS PRACTICES THROUGH TELE-CALLING/INTERNET ETC.....	14
25.AN ANTI-CONSUMER POLICY – PROPOSED MOVE OF IBA FOR WITHDRAWAL OF FREE NON-HOME BANK ATM TRANSACTIONS .....	14
26.UNETHICAL BUSINESS PRACTICE OF CHARGING REPLACEMENT FEE FOR DEFECTIVE ATM/DEBIT CARDS BY PSU/PRIVATE BANKS .....	16

# State Consumer Helpline Knowledge Resource Management Portal (SCHKRMP)

## Major Advocacies

### 1. UNETHICAL BUSINESS PRACTICES BY HOTELS AND RESTAURANTS

The hotels and restaurants have started charging “service charges” in their bills. These service charges are presumed to be in lieu of “tips” which is normally paid by the diners in the restaurants. The tip is normally paid as optional and is purely on the wish of the diners. The charging of service charges which normally ranges from 5% to 20% is compulsorily charged in the bills. Most of the diners consider such service charges as Government taxes and end up paying again tip despite the service charges being charged by the restaurants. Whereas the tip was based on the quality of services, the service charge is a fixed amount irrespective of whether the services are good or not. An incident was also reported where the restaurants added service charge of 15% in the head “Vat” and charged 28.13% under the head VAT. While the case was referred to Haryana Trade Tax department for necessary audit, the matter titled **Unethical charging of VAT, Service Charge and Service Tax by the Restaurants** was also referred to Department of Consumer Affairs vide letter No. IIPA/SCHKRMP/Rest./2015 dtd. 01/06/2015, 02/06/2015 and 23/01/2017.

The restaurant industry is also charging VAT on 100% value of the bill whereas service tax is being charged on 40% of the value of bills. The High Court of Uttarakhand has already adjudicated the matter and passed an order to charge VAT only on 60% of the value of the bill. However such practices of charging VAT on 100% value still continues. Department of Consumer Affairs vide their letter No. 24/9/2014-CPU dtd. 15<sup>th</sup> April 2015 invited comments of IIPA on the collection of service charges by Hotels and Restaurants. It was based on the comments sought by Competition Commission of India. The Portal submitted its comments vide letter No.IIPA/SCHKRMP/2015 dtd. 17/04/2015.

**Action taken by Department of Consumer Affairs:** Department of Consumer Affairs has issued “**Guidelines on Fair Trade practices related to charging of service charge from consumers by Hotels/Restaurants**” vide file No. J-24/9/2014-CPU(pt) dtd. 21<sup>st</sup> April 2017. As per guidelines, the Hotels/Restaurants are required to state on the bill presented to the customer that service charge is voluntary and the service charge of the column of the bill may be left blank for the customer to fill up before making payment.

## 2. UNETHICAL BANKING PRACTICES IN VIOLATION OF RBI NOTIFICATION AND DIRECTIVES OF MINISTRY OF FINANCE- CHARGING OF SMS ALERT FEE BY BANKS

The banks both in PSUs as well as private sectors are charging for SMS on fixed rates per quarter except UCO Bank. Such charges are ranging from Rs. 15/- to Rs. 25/- per quarter irrespective of whether there has been any transaction done or not. As per regulations of Reserve Bank of India, the consumers are supposed to be charged on actual SMS usage basis. Based on an advocacy paper raised by Portal with Reserve Bank of India and Department of Consumer Affairs, Ministry of Finance issued directives to the banks to follow the regulations of Reserve Bank of India vide letter No. 7/72/2014-BOA dtd. 14<sup>th</sup> August 2014. However, such unethical business practice still continues. Project Manager, SCHKRMP initiated seeking information under RTI Act 2005 and it was reasonably assessed that State Bank of India alone had generated an amount of more than Rs. 400 crores per annum only on such account. The matter was again referred to Department of Consumer Affairs vide letter No. IIPA/SCHKRMP/Banking SMS/2015 dtd. 19/06/2015 for appropriate intervention in stopping such unethical business practices. The matter was continuously pursued with Department of Consumer Affairs.

**Action taken by Department of Consumer Affairs:** Department of Consumer Affairs has again taken up the issue with Reserve Bank of India on 3<sup>rd</sup> May, 2017 to intervene in the matter to address the same in the interest of consumer seeking issuing of binding directions to the banks i) to refund the excess charges on SMS in identifiable cases or credit to an appropriate fund for ensuring consumer welfare activities and ii) remove the unjustifiable debit card transactions.

The attention of Department of Consumer Affairs was also drawn towards charging of replacement fee by Banks for replacing defective ATM cards despite annual maintenance fee being charged for ATM cards.

## 3. Charging of VAT on discounted prices offering discounts on MRP-Unethical Trade Practices and Misleading Advertisements

Portal brought out some complaints pertaining to sales discount wherein the retailers announce discount on MRP. Most of the complaints were about consumers being charged additional VAT on the discounted prices. The consumer came to know about the additional VAT being charged on discounted price once she/he reached the billing counter. Some retailers use to display only the discount while some also mentioned "VAT Extra".

Under the relevant provisions of MRP rules, the MRP is inclusive of all charges including VAT and therefore any discounted price after discounting on MRP should also be inclusive of all charges including VAT. The Portal sought the intervention of Department

of Consumer affairs vide letter no. IIPA/SCHKRMP/2013-14 dated 17/04/2014. The Portal further requested the Department of Consumer Affairs through the same letter to:

- Issue an advertisement in national newspapers across the country under “Jago Grahak Jago” campaign to create public awareness.
- Advising all State Controller to have an audit of accounts on sampling basis so as to ensure that such practices are not resorted to.
- The sales tax authorities be requested to look into the possibility of tax evasion.
- DCA or any of its nominated agency may take a class action before Commission. This class action may also include unethical trade practices, misleading advertisements, non-disclosure etc.

DCA has requested the Controller of Legal Metrology (All States/UTs) vide letter no. WM-10(28)/2014 dated 23/06/2014 to take necessary action regarding the same. An awareness campaign was also being done through social media as well as requested to Trade Tax officials.

National Consumer Disputes Redressal Commission in a Revision Petition No. 3156 of 2016 (against the order dated 25/07/2016 in Appeal No. 948/2015 of the State Commission, Punjab) in its judgment on 9<sup>th</sup> February 2017 adjudicated with the same view point. It adjudicated as “Learned counsel for the petitioner in order to get rid of the aforesaid judgment has submitted the facts of the aforesaid case before Coordinate Bench were different because in the advertisement of the aforesaid case, flat discount of 40% was offered, whereas the words ‘FLAT’ is missing in offer of the petitioner. Merely absence of word ‘FLAT’ in the offer of the petitioner will not make any difference because the discount of 30% on MRP by itself means that discount is ‘FLAT’ discount on maximum retail piece. So far as judgments relied upon by the petitioner concerned, those judgments are not applicable to the facts of the case because those judgments relates to tax matters whereas in the instant case, we have to see whether the petitioner has indulged in unfair trade practice by giving misleading offer to the customers and thereafter overcharging them by charging VAT on discount price.

In view of the discussion above, we do not find any jurisdictional error or material irregularity in the impugned order which may call for interference in exercise of revisions jurisdiction. Revision petition is, therefore, dismissed.”

State Commission has stated that “as per established law, on discounted Maximum Retail Price (MRP), Value Added Tax (VAT) cannot be charged. It was so said by this Commission in the following cases:-

- i. Shoppers Stop and others Versus Jashan Preet Singh Gill and Others, first Appeal No. 210 of 2015 decided on 01.09.2015.
- ii. Benetton India Private Limited Vs. Ravinderjit Singh, Appeal N. 61 of 2016 decided on 20.09.2016.
- iii. M/s Aero Club (Woodland) Vs. Harpreet Singh, Appeal No.318 of 2016 decided on 01.12.2016.

- iv. Ethnicity Vs. Heema Aggrawal, Appeal No. 331 of 2016 decided on 02.01.2017.”

#### 4. VALUE ADDED SERVICES -ALLEGED UNETHICAL TRADE PRACTICES OF ACTIVATION AND RENEWAL WITHOUT SEEKING SUBSCRIBER’S CONSENT- ANTI-CONSUMER PRACTICES BY TELECOM SERVICE PROVIDERS

One of the unethical practices being followed by the telecom service providers is the activation of certain Value Added Services (chargeable) without seeking the subscriber’s consent. As per TRAI Regulations, the Telecom Service Providers are prohibited from the activation of any VAS which is on a chargeable basis without seeking explicit consent of the subscriber. TRAI also stipulates for the Telecom Service Providers to refund the deducted amount towards activation of VAS within 24 hours, where the consumer denies activating such services.

However, in practice, the telecom service providers are activating the services without seeking consent and make refunds only after a rigorous follow up and that too only those consumers who can raise the voice. This problem gets further aggravated when the telecom service providers put such value added service on “auto renewal” on presumed consent basis. All such problems do occur mainly to prepaid consumers. Incidentally TRAI feels that most of the consumers want value added services to be renewed automatically without seeking explicit consent. This presumption gets negated with the opinion sought by the Portal.

The Portal sought the opinion of the public through online survey on our website [www.consumeradvice.in](http://www.consumeradvice.in). A question was posted “Do you feel telecom companies are activating Value Added Services on your mobile without your consent”. While more than 88% of the respondent stated that companies are activating the services without seeking the consent. 6% of the respondent stated that the companies are seeking the consent of the subscriber. Opinion was also sought on the auto renewal of value added services. To a question “Do you feel the telecom companies be allowed to auto renew the value added service without explicit consent”, more than 95% of the respondent expressed that the value added service should not be renewed automatically without seeking consent. This poll itself is against the belief of TRAI on auto renewal of value added services.

The opinion poll results along with this grievance of consumers were intimated to Department of Consumer Affairs for its intervention vides letters no. IIPA/SCHKRMP/telecom/2014-15 dated 09/09/2014, 30/09/2014 and 07/10/2014.

## 5. MISLEADING ADVERTISEMENT OF SENSODYNE TOOTHPASTE

Sensodyne has been advertising about their tooth paste in print and electronic media claiming 9 out of 10 doctors endorsing their product and the Doctors are shown on electronic media endorsing the use of their tooth paste. Endorsing of any product by Doctors is in violation of code of ethics for medical professionals. The advertisement by Sensodyne has been banned in Europe on the similar ground. ASCI have not taken the corrective action against the advertisement on the ground that the medical professionals are practising in UK. There are two issues viz. taking action against the medical professional and ban the advertisement. The 2<sup>nd</sup> part could have been taken immediately i.e to ban the advertisement for airing. However, the advertisements still continued to be aired on electronic media and also print media. The company i.e Sensodyne has failed to produce the documents to substantiate their claims despite our reminders. The attention of Department of Consumer Affairs was drawn for appropriate intervention vide letter No. IIPA/ SCHKRMP/ Medical/ 2014-15 dtd. 08/10/2014, No. IIPA/ SCHKRMP/ Medical/ 2015-16 dtd. 06/05/2015 and No. IIPA/ SCHKRMP/ Medical/ 2014-15 dtd. 08/03/2016.

## 6. UNETHICAL ADVERTISEMENT IN VIOLATION OF CODE FOR MEDICAL PROFESSIONAL/INSTITUTIONS- METRO HEART INSTITUTE WITH MULTISPECIALTY, FARIDABAD - ISSUE RAISED TO MEDICAL COUNCIL OF INDIA, HARYANA MEDICAL COUNCIL AND DEPARTMENT OF CONSUMER AFFAIRS

An advertisement of Metro Heart Institute with multispecialty, Faridabad appeared in Navbharat times dtd. 15/08/2015. The advertisement solicits patients for angioplasty, stenting and bypass surgery by offering a special discount of Rs. 25,000/-. The discounts as offered in the medical practices induce the public to rush in for the treatment and thus can be termed as "soliciting the patients". Soliciting the patients for treatment by offering discounts is in violation of rules and regulations and code of ethics for medical professional and Institutions laid down by Medical Council of India. ASCI vide their email dtd. 15<sup>th</sup> August stated that the said advertisement is not in contravention of the ASCI code. The matter was referred by IIPA to

- Haryana Medical Council vide letter No. IIPA/SCHKRMP/ Medical/2015 dtd. 18/08/2015
- Department of Consumer Affairs vide letter No. IIPA./SCHKRMP/ Medical/2015 dtd. 17/08/2015
- Medical Council of India vide letter No. IIPA/SCHKRMP/ Medical/2015 dtd. 18/08/2015

The Department of Consumer affairs has taken up the matter with Ministry of Health and Family Welfare vide letter No. K-28/16/2015-Pub dated 09/09/2015. Medical Council of India referred the matter to Haryana Medical Council vide

letter No. MCI-211(2)(127)(Gen.)/2015/-Ethics/ dtd. 14/09/2015.  
Haryana Medical Council has directed an inquiry through the Civil  
Surgeon, Faridabad as intimated vide letter No. HMC/2015/7408 dtd. 04/12/2015

**7. NON-PROVIDING OF ESSENTIAL DETAILS AS PER LEGAL METROLOGY (PACKAGED COMMODITIES RULES )  
ON CURA RAS PACKING- ISSUE TAKEN UP WITH UP STATE LEGAL METROLOGY**

The necessary details like batch numbers, mfg. date, MRP are not mentioned on the packet. It mentions only Exp. Date as 2 years from mfg. date. In absence of details about mfg. date, the statement about expiry date becomes irrelevant. Similarly in absence of MRP, it is difficult access the prices to be paid.

**8. CHARGING OF PRICE MORE THAN MRP AS WELL AS OVERWRITING ON STICKERS IN PACKAGED  
COMMODITIES. ISSUE TAKEN UP WITH MAHARASHTRA STATE LEGAL METROLOGY THROUGH MAHARASHTRA  
STATE CONSUMER HELPLINE AND DEPARTMENT OF CONSUMER AFFAIRS**

The retailers at the plaza on Mumbai-Pune Highway are selling the packaged commodities like biscuit, cakes, namkeen and similar items at the prices more than MRP by overwriting on the packets or hiding the price information with marker. They are also refusing to issue cash memos if demanded by the consumers. Surprisingly the retailers pretend not to be bothered even if someone states of complaining against them.

**9. COMPLAINT OF BRITANNIA GOOD DAY BISCUIT IN VIOLATION OF LEGAL METROLOGY ( PACKAGED  
COMMODITIES), RULE, 2011**

One of the consumer activist has shared with IIPA a wrapper of Britannia Good Day biscuit packet reflecting packing to be 66g in violation of the Legal Metrology (Packaged commodities Rule, 2011. The said rules in its second schedule at S.No.3 stipulate the packing of the biscuit to be in standard packing of 25g, 50g, 75g, 100g, 150g, 200g, 250g, and 300g and thereafter in multiples of 100g up to 1kg. The attention of Department of Consumer Affairs was drawn vide letter no. IIPA/SCHKRMP/LM/2015 dated 02/07/2015. However, Department of Consumer Affairs clarified that packing of biscuit in non-standard packing on value based package in any quantity is allowed under sub-rule (3) of rule 5 of the Legal metrology (Packaged Commodities) Rules 2011. vide its letter no. WM-10(36)/2015 dated 5/8/2015.



10. CHANGE IN IVR SYSTEM IN BOOKING FOR LPG REFILL RESULTING IN GIVING UP SUBSIDY- ISSUE TAKEN UP WITH DEPARTMENT OF CONSUMER AFFAIRS

The news item appearing in a local newspaper "Haribhoomi News", Panipat brought out a story that consumers who are booking LPG refilling cylinder have to forego subsidy due to wrong pressing of key in the IVR at the time of booking refill. The IVR system earlier being used has a first option to press "1" for booking refill. Now the IVR system has been introduced with a first option to press "0" to give up subsidy. Most of the consumers of the LPG are under privileged and are taught to hear first option and press the key to book the refill. This has led to unwillingly giving up subsidy. The matter was brought to attention of Department of Consumer Affairs vide letter no. IIPA/SCHKRMP/LPG/2015 dated 15/07/2015.

11. BASED ON THE COMPLAINT ESCALATED BY THE PORTAL, HALDIRAM STOPPED CHARGING SERVICE TAX ON TAKE AWAY ITEMS. SUCH CHARGING OF SERVICE TAX ON TAKE AWAY ITEMS IS IN VIOLATION OF SERVICE TAX RULES

A specific complaint was raised w.r.t charging of service tax on take away order at Haldiram, Crown Interiorz, Faridabad vide Invoice no.99142 dtd.29/08/2015.

12. COMPLAINT TO MEDICAL COUNCIL OF INDIA AGAINST DOCTORS ENDORSING THE PRODUCTS IN VIOLATION OF CODE OF ETHICS FOR MEDICAL PROFESSIONAL IN RELATION TO SENSODYNE ADVERTISEMENT FOR TOOTHPASTE

Based on our complaint to ASCI on unethical advertisement by Sensodyne tooth paste in violation of Medical Council of India directives, ASCI vide email dtd. 01/10/2015 conveyed that the advertisement by medical professional per se is not in contravention of the ASCI Code unless the advertisements are making misleading claims.

While the complaint against the medical professionals / institutions is the subject matter of Medical Council of India/ State Medical Councils, ASCI was requested vide email dtd. 02/10/2015 to take appropriate action in putting a ban on the advertisements being shown in violation of the respective regulations on the similar lines of showing any advertisement of motor bike being driven without helmet. ASCI has already agreed advertisement of EMI Free Car in contravention of regulations of Motor vehicle Act. The advertisement of Sensodyne tooth paste need to be looked into two parts: - (a) Endorsing a product by the practicing medical professionals: This is in violation of code of ethics laid down by Medical council of India for medical professionals and institutions. However the 2nd part is where ASCI is being requested for appropriate action i.e. advertising a product endorsed by medical professional wherein the doctors or medical institutions are not allowed to endorse the product, the advertisement of such product endorsed by the medical professional/ institutions need to be banned.

### 13. CHARGING OF UNETHICAL VAT AND UNETHICAL BUSINESS PRACTICES BY RESTAURANTS LE-CHEF, FARIDABAD

The restaurant charged VAT@28.13% instead of applicable rate of 13.13% by adapting to unethical business by adding service charge of 15% in the VAT pretending it to be Govt. levies. The diner in the complaint under reference also paid tips to the restaurant presuming that no service charges have been charged. The matter was raised through Haryana state consumer helpline. The issue was further escalated to Additional Commissioner, Excise & Taxation Department, Haryana vide letter no. SCH\_HRY\_2015/18914 dtd. 09/06/2015. However, the Trade and Taxation Department, Haryana preferred to maintain silence on the issue. A complaint was also mailed to the concerned department through an email dtd. 6th October 2015 and the matter was also brought to the perusal of Department of Consumer Affairs vide email dtd. 06/10/2015.

### 14. NON-GRANTING OF SUBSIDY BY DELHI DISCOMS

In Delhi, in violation of DERC Tariff Schedule Order dtd.24/09/2015 - Based on a complaint of non-granting of subsidy to an electricity consumer in Delhi and further analysis of the regulator's rules and regulations and tariff order, it came to the notice of IT Portal that all three DISCOMs namely BSES Rajdhani Power Limited, BSES Yamuna Power Limited and Tata Power Delhi Distribution Limited have been generating the electricity bills as well as non-granting of subsidy to the eligible consumers by manipulating the calculations in their software in violation of DERC Tariff Order dtd.24/09/2015. This calculation which was alleged to be in violation of DERC Tariff Order dtd 24/09/2015 was not only affecting the subsidy to be given to the eligible consumers but was also resulting into the excess billing for all the electricity consumers in Delhi. The allegation of unethical raising of electricity bills was centered on the definition of month as defined in the said Tariff Schedule dtd. 24/09/2015. Such unethical amount as alleged being collected by all three DISCOMs might have been falling in the range of 40-50 crores per year and there was a need for refund to all affected consumers. The portal had drawn the attention of Delhi Electricity Regulatory commission (DERC) vide letter no. IIPA/SCHKRMP/ELECTRICITY/2016 dtd.08 July 2016 and vide letter no. IIPA/SCHKRMP/ELECTRICITY/2016 dtd.11July 2016, a copy of which was referred to Secretary, Department of Power, Govt. of NCT of Delhi and Department of Consumer Affairs. Prior to taking up the issue with DERC being regulator in Delhi, the issue was also taken up with DISCOMs directly as well as assisting the consumer for taking up complaint with BSES and CGRF. DERC vide their letter No. F.3 (353)/Tariff/DERC/2014-15/4237/12/94 dtd. 22/08/2016 intimated that the Commission has removed the definition of month from Tariff Schedule dated 24/09/2015 issued clarification vide their letter No. F.3(353)/Tariff/DERC/2014-15/42371/1949 dated 12/10/2015. The said letter was nowhere available on their website at the time of taking up the issue with DERC and surprisingly the DISCOMs also did not refer the said clarification letter in their response to the Portal. While the CGRF did not respond to the consumer complaint, the responses of DISCOMs also did not refer to the said

clarification letter dtd. 12/10/2015 in their responses. The initial response of DERC dtd. 12/07/2016 to the issue escalated by the Portal also did not refer to the said clarification letter dtd. 12/10/2015. A corrigendum dtd. 12/10/2015 as downloaded from the DERC website did not have any reference of the amendment of the said Tariff Schedule on the definition of month.

#### 15. UNETHICAL BUSINESS PRACTICES BY DHBVN- CHARGING FEE FOR SENDING BILL BY EMAIL INSTEAD OF HARD COPY BILL

Dakshin Haryana Bijli Vitran Nigam (DHBVN), an electricity distribution company under Govt. of Haryana operating for southern region of Haryana has announced charging of Rs. 10/- for opting out for email bill in place of hard copy bill. At an outset, the charging of fee for mailing bills by email instead of delivering bill in hard copy at consumer's premises looks to be unfair and hence Govt. of Haryana through Haryana State Consumer Helpline was requested to take up issue with the concerned Electricity Distributors as well as Haryana Electricity Regulatory Commission. Food and Civil Supplies, Govt of Haryana has also drawn the attention of Department of Consumer Affairs.

#### 16. UNETHICAL BUSINESS PRACTICES BY DHBVN- RAISING ELECTRICITY BILLS ON AVERAGE BASIS

Project Manager, SCHKRMP noticed unfair business practices of DHBVN by raising electricity bills on average basis despite installation of meters on poles outside the residential premises. Further analysis reflected charging of huge money from the consumers and using it for months. He himself had taken up his complaint with Consumer Grievance Redressal Forum (CGRF) wherein the excess amount of more than Rs. 8,800/- was charged and used for more than 6 months through such practices. While the amount has been adjusted now after 6 months, the complaint is still being contested with CGRF for charging of necessary penalties and interest as per provisions laid down in the Electricity Act 2003 and regulations of Haryana Electricity Regulatory Commission. Number of consumer have been narrating their experiences that even such amount being charged in some cases exceeds Rs. 1.00 Lakh or so. The attention of the Discom was drawn vide letter No. IIPA/SCHKRMP/DHBVN/2015-16 dtd. 13/01/2016, a copy of which was referred to Department of Consumer Affairs and Haryana Electricity Regulatory Commission. However, the approach to CGRF was ineffective as the CGRF is owned by the Company itself, the complaint was taken up with Electricity Ombudsman, Haryana. The Electricity Ombudsman, Haryana in the first meeting itself was in concurrence to the appeal and informed the Company to settle the case before next date of hearing as an alternate dispute redressal. The Company has not only paid the penalties as laid down in the regulations but also paid the expenditure incurred till the time of hearing at Electricity Ombudsman.

#### 17. UNETHICAL BUSINESS PRACTICES BY DHBVN- CHARGING OF ADDITIONAL FEE FOR ONLINE APPLICATION FOR NEW CONNECTION

Dakshin Haryana Bijli Vitran Nigam( DHBVN) would be charging an additional amount of Rs. 50/- per application for online application for getting electricity connection. The DISCOMs site also mention charging of 1% surcharge plus service tax for making online payment of electricity bill by DISCOMs in Haryana. Such charging of additional amount for online application for electricity connection and surcharge for online payment of electricity bill is anti-consumer practices (as well as unethical business practices in violation of RBI regulations). Portal had drawn the attention of DHBVN vide email dtd.17 June 2016 and vide letter No. IIPA/SCHKRMP/ELECTRICITY/2016 dtd. 22/06/2016,05/09/2016, a copy of which was referred to Secretary, Haryana Electricity Regulatory Commission.

Portal has also drawn the attention of Department of Consumer affairs vide letter no. IIPA/SCHKRMP/ELECTRICITY/2016 dtd. 18/07/2016,12/09/2016 and Reserve Bank of India vide letter no. IIPA/SCHKRMP/ELECTRICITY/2016 dtd. 17/08/2016. RBI is looking into the matter.

#### 18. CHARGING OF TRANSACTION FEE BY DHBVN FOR ONLINE PAYMENTS/DEBIT CARDS ETC.

Dakshin Haryana Bijli Vitran Nigam (DBHVN), a state PSU Electricity Distribution Company in Haryana has been charging additional amount for payment of electricity bills through their online payment system using credit/ debit and cash cards. The additional amount being charged is 1% of the bill amount if the consumers prefer to pay online using their debit cards and Rs.4/- for each transaction if the payment is made using internet banking services. Such charging of additional amount for online payment of electricity bill is anti-consumer practices (as well as unethical business practices in violation of RBI regulations). Portal had drawn the attention of Department of Consumer Affairs vide letter no.IIPA/SCHKRMP/ELECTRCITY/2016 dtd.18 July 2016, Reserve Bank of India vide letter No. IIPA/SCHKRMP/ELCETRICITY/2016 dtd.17 August 2016 and vide letter No. IIPA/SCHKRMP/ELECTRICITY/2016 dtd.02 September 2016. While on above, the issue was also taken up directly with Dakshin Haryana Bijli Vitran Nigam and Haryana State Electricity Regulatory Commission. Reserve Bank of India vide their email dtd. 01/09/2016 sought additional details and supporting documents. These additional details and documents were provided to Reserve Bank of India vide our email dtd. 02/09/2016 and letter No. IIPA/SCHKRMP/Electricity/2016. RBI vide their email dtd. 27/09/2016 intimated that the issue has been forwarded to Department of Payment and Settlement System (DPSS), RBI for taking necessary action. While there is no further response from RBI, the latest information as downloaded from the DISCOM website still states charging of transactional fee at the rate of 0.65% for making payment of electricity bills through debit cards. Department of Consumer Affairs have been requested to

intervene in the matter vide our letter No. IIPA/SCHKRMP/Electricity/2016 dtd. 12/09/2016.

#### 19. FRAUDULENT BUSINESS PRACTICES BY E-COMMERCE AND FINANCIAL FRAUDS

The Portal brought out some of the fraudulent business practices through E-commerce and Finance Frauds sought appropriate intervention of Department of Consumer Affairs vide letter No. IIPA/SCHKRMP/e-commerce/2016 dtd. 04/05/2016. Some of the problems being faced by the shoppers while making online purchases are: (i) Most of the e-commerce sites do not have details like postal address, Mobile No., Telephone no., emails Ids of their consumer grievance system on their “contact us” page. Even many sites do not have a system of acknowledging the complaint. In absence of details about consumer grievance system, it becomes difficult to escalate the complaint. (ii) Many sites are turning to be frauds. The payment is taken from the consumer and then the company vanishes away and becomes untraceable or their mobiles switched off or change to new numbers. (iii) Many sites intentionally either do not deliver the product or deliver the defective material and keep on replacing the product. Many complaints have been seen on various public domains that the company stops responding to complainant after sending useless or defective items especially in garment and allied items. The companies either do not refund the money paid by consumer or take inordinate time in making the refund. Many complaints of such nature keep on being reported. Thus the companies retain huge amount of consumer’s money for unethical gains. (iv) The fraudulent activities are on the increase disproportionately and there is inadequate system to address such complaints. (v) Sometimes the products are ordered on special occasions but marketing companies fail to deliver the product to suit the need of special occasions thus defeating the very purpose of ordering. (vi) Unbelievable discounts or prices are being offered to attract the consumers to order and pay the amount and later on disappear after getting payments.

#### 20. MISLEADING ADVERTISEMENTS- ZERO PERCENT FINANCE, FREE INSURANCE ETC.

The Portal brought out some of Misleading advertisements of retailers – 0% finance, free insurance etc. being offered in purchase of high value items specially electronics computers/laptops and automobiles. There are several pertinent points that the consumer could be at a loss if he buys the product on getting misled, prominently if the motor vehicle are insured by the dealer on the pretext that no insurance premium is chargeable, the primary reason of the loss is foregoing of no claim bonus accruing to them from their old vehicles. SCHKRMP have been doing mystery shopping and has sufficient reason to substantiate the claims that such advertisement are not only misleading but also adapting to unethical business practices. A case study on recent advertisement of Sargam Electronics advertising availability of 0% finance was taken up. The attention of the Department of Consumer Affairs was drawn by the portal Vide letter

No. IIPA/SCHKRMP/Misleading/2016 dtd. 21/06/2016 regarding misleading advertisement in such retail business.

#### 21. UNETHICAL BUSINESS PRACTICE OF ADDITIONAL TRANSACTION FEE FOR ONLINE PAYMENT THROUGH DEBIT CARD/E-WALLETS/CREDIT CARDS ETC.

The Portal brought to the notice of Department of Consumer Affairs vide letter no. IIPA/SCHKRMP/Debit Cards/ dtd. 09/12/2016 that some merchant establishments levy fee as percentage of the transaction value as charge on customers who are making payments through debit cards/credit cards etc. Such fees are not permissible as per the bilateral agreement between the acquiring bank and the merchants.

Some of the problems being faced by the consumers while making online payments through credit/debit cards are:

- Charging of additional fee by Petrol Pumps and merchants for accepting of payment through Debit Cards
- Additional fee being charged by fasttag.org and some other online portals on payment through debit cards/NEFT/internet banking. As per the information on their website, following additional amount on a/c of transaction is being charged:
  1. NEFT : Rs.15.00 per transaction
  2. RTGS : Rs.25.00 per transaction
  3. Credit Card : 1.10% of transaction value
  4. Debit Card : 0.95% of transaction if equal to or less than 2,000/- and 1.20% if it is more than Rs.2,000/-
  5. Net Banking: Rs.13.00 (through ICIC and Axis Bank and 1.20 % through all banks.

Banks like SBI are even charging transaction fee for transacting at Railway Stations, Restaurants, IRCTC and even SBI has started charging 2.5% for transaction using State Bank Debit Cards on other banks, POS terminals.

#### 22. MISLEADING ADVERTISEMENT OF DABUR CHYAWANPARAKASH IN TIMES OF INDIA DTD.28/12/2015- "SAFE FOR DIABETICS"

M/s Dabur India Limited has been advertising on their website (in FAQs) as well in print media that their Chyawanprakash is Clinically Tested –**safe for Diabetics**. Portal has been seeking the clinically test report from the company as a consumer has reported increase in blood sugar level due to consumption of the product .However ,the company neither confirmed nor responded to share the relevant reports despite several reminders. The portal drew the attention of Department of Consumer Affairs vide letter no. IIPA/SCHKRMP/Dabur/2016 dated 18/02/2016.

### 23. UNETHICAL BUSINESS PRACTICES BY OLA/UBER CABS- CHARGING OF TOLL TAX FROM PASSENGERS BEING DROPPED AT AIRPORT

Ola / Uber cabs have been adapting to unfair business practices in Bangalore wherein the passengers are being charged toll tax from the passengers for dropping the passengers at Bangalore Airport despite no such charges applicable. The issue was taken up with both cab operators during Feb/ March 2016. However, the operators continue to charge the toll tax which otherwise is not chargeable being not applicable. The issue was later taken up through Grahak Suvidha Kendra at Bangalore with Govt. of Karnataka and Addl. Commissioner of Police (Traffic).

### 24. FRAUDULENT BUSINESS PRACTICES THROUGH TELE-CALLING/INTERNET ETC.

The Portal brought out some of the fraudulent business practices through tele-calling/internet and sought appropriate intervention of Department of Consumer Affairs vide letter No. IIPA/SCHKRMP/ advocacy/2016 dtd. 03/03/2016.

### 25. AN ANTI-CONSUMER POLICY – PROPOSED MOVE OF IBA FOR WITHDRAWAL OF FREE NON-HOME BANK ATM TRANSACTIONS

News articles were published in The Economic Times dated 14<sup>th</sup> March 2014 and again in Business Standard dated 03/06/2014 wherein “Indian Banking Association (IBA) wants free use of other-bank ATMs to end in metros”.

The portal submitted view points to the RBI and Department Of Consumer Affairs vide letter no. IIPA/SCHKRMP/ATM /2014-15 dated 04/06/2014.The views are as following:

- Indian Banking Association is learnt to have requested RBI to allow banks to charge customers in the metros to pay for accessing ATMs of other banks but continue with the current cap of five free transactions a month for rural customers. The IBA also says that banks are losing Rs. 400 crores a month because of the excess security requirement at 1.4 lakh ATMs.
- IBA also need to consider following factors before the request of IBA to the regulator RBI is considered for allowing them to charge fee from the customers on transactions through ATMs.
- Use of ATMs has definitely reduced the burden on the banks as it has also resulted into reduction in man-hours for dispensing cash from its cash counters. Indirectly it has facilitated for diversion of resources and increased business avenues and efficiency.

- In fact some banks are charging annual card fee which also need to be withdrawn as the cost of operation has not increased due to providing of ATMs. The technology always reduces the cost of operation. It further surprises as to while the banks are charging annual fee for ATM cards, banks are also asking the consumers to pay a fee for replacement of the card if it becomes defective.
- One can see the situation in the market that most of the ATMs are without any security guards.
- Most of the ATMs are housed annexed with the branch itself so there is no additional expenditure towards provisioning of security requirement.
- As far as transaction fee for other bank ATMs is concerned, it gets neutralized as those banks also charge fee from the customers of other branches if they transact through their ATMs. An example is being quoted in last point hereinafter.
- If the customers are using a card at other bank ATMs, it is due to the inadequate infrastructure of banks for either not having sufficient ATMs in the desired localities or not having cash in the machine or even the ATM is not working. All these factors are attributable to the bank's in-efficiency for which IBA is proposing to burden the consumers. Banks are also required to be accountable for such deficiencies.
- As far as inadequate availability of ATM in a locality is concerned, the banks are saving on the infrastructure cost. In fact this point highlights the strong need of resource pooling and in fact all the transactions done in other ATMs should be free as the cost of infrastructure get shared among banks.
- Let us consider an example where a customer of bank "A" goes and transact at bank "B" the bank "A" is required to pay a fee of Rs.15/- to bank "B". But the similar situation may also arise if a customer of bank "B" is transacting at ATM of bank "A", then bank "B" would also be required to pay fee of Rs. 15/- to bank "A". So in the end there would be more or less no flow of fee from one bank to other banks unless and until there is a huge difference in the number of ATMs of the Banks or a huge difference in number of transactions. In both the scenario, it is the inefficiency of the bank for not having sufficient number of ATMs or machines remaining without cash due to inefficient system of cash replenishment by the agencies or the machines not working. A basic question arises as to why any consumer should be burdened with fee for inefficiency of the Banks?

In view of the above, Portal requested Reserve Bank of India not to impose the burden of transaction fee on to the consumers at the same time RBI may consider infrastructure sharing among banks to further reduce cost of providing services instead of asking the customer to pay for.



26. UNETHICAL BUSINESS PRACTICE OF CHARGING REPLACEMENT FEE FOR DEFECTIVE ATM/DEBIT CARDS  
BY PSU/PRIVATE BANKS

The portal, vide its letter no. IIPA/SCHKRMP/ATM/2014-15 dated 27/06/2014 brought to the attention of Reserve Bank of India and Department of Consumer Affairs about the unethical business practice pursued by PSU/Private Banks where they are charging a replacement fee for defective ATM/Debit Cards. The banks already charge “Debit Card Annual Maintenance Charges”, therefore there is no logic in charging any additional fee if the card has gone defective (neither lost nor tempered or broken). It is an unethical financial burden on the consumers.

-----