

COMMON CAUSE

VOICE OF "COMMON CAUSE"

THE END OF NATURE

People have suddenly woken up during the last few years to frightening scenario of deteriorating environment of this planet on which life has evolved in its myriad facets over some billions of years. There is reason to be dismayed at the cumulative effect of man's depredation of the environment over the centuries and its impact on the future of human race. In writing on this subject the writer Bill McKibben of USA, in his book tellingly entitled THE END OF NATURE, about which mention has been made in the latest issue of SPAN MAGAZINE, says: "By the end of nature I don't mean the end of the world. The rain will still fall and the sun shine, though differently than before. When I say 'nature' I mean a certain set of human ideas about the world and our place in it. But the death of those ideas begins with concrete changes in the reality around us."

One of the horrendous realities the planet faces is the dramatic increase of carbon dioxide in the atmosphere through millions of smokestacks, furnaces and car exhausts all over the world. There has always been, at least since the start of life, a certain amount of carbon dioxide in the atmosphere, and it has always trapped a certain amount of sunlight to warm the earth. If there were no carbon dioxide, our world would resemble Mars-so cold and inhospitable as to be lifeless. The question is: how much carbon dioxide is too much. It is here that the specialists and environmentalists sound alarm.

The Earth's atmosphere is mainly nitrogen and oxygen; there is currently only about 0.035 percent carbon dioxide, hardly more than a trace. But if this carbon dioxide content, already having increased since the industrial revolution, were to rise even marginally to, say, .055 or .06 percent, it would have serious repercussions on the quality of life. The fact is that this level is rising, and at a growing rate. Bill McKibben convincingly argues: the average car driven the average distance 10,000 miles, in an average year, releases its own weight in carbon into the atmosphere. Imagine each car on a busy freeway pumping a ton of carbon into the atmosphere, and the sky seems less infinitely blue.

The essential reasons for this worldwide problem are stated to be demographic and economic and not chemical. The world's population has more than tripled in this century and according to latest U.N. statistics, is expected to double and perhaps nearly triple again before reaching a plateau in the next century. The implication is quite frightening. An increasing world population will generate ever greater amounts of carbon by consuming more and more energy in the years ahead. And when the world begins to run out of finite supply of oil, the problem will become more acute as people switch to coal, which will spew even greater amounts of carbon into atmosphere.

There is no doubt that mankind has defiled this planet to a degree that it is already affecting the quality of life everywhere. No wonder that the environmental crisis is engaging the world's attention as never before. It is necessary that we in India also wake up to the depredations that are being caused to the environment and raise people's voice to stem the tide and to reverse it for the benefit of future generations.

CONSUMERS PROTECTION ACT
NEW INSURANCE POLICIES
DRUGS POLICY OF GOVERNMENT
AIRLINES & AIRPORTS

THE PACKAGED FRAUD
LAPSES OF PUBLIC SECTOR
REFUND OF DEPOSITS
MISCELLANEOUS

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CONSUMERS PROTECTION ACT ITS IMPLEMENTATION DELAYS AND FAULTS

The Consumers Protection Act was hailed as a path-breaking legislation, panacea for solving the problems of the consumers. It undoubtedly had in it the elements of providing great succour to the consumers, as for instance, the provision in it for securing redress also against the public sector operations, the provision of providing redress in the shape of severe penalties as well as compensation, and the provision for establishment of quasi-judicial machinery in all the districts, states and at the centre.

The implementation of this important enactment has been poor. It was enacted in December 1986. Even after the lapse of more than three years the establishment of District Forums and State Commissions has been very tardy. This matter was taken by COMMON CAUSE to the Supreme Court. The Government of India as well as all the State Governments and Union Territories of the country have been impleaded in the Writ Petition. When the petition first came up before the Supreme Court in September '89 directive was issued by telex to all State Governments and Union Territories to set up the District Forums and State Commissions within a period of six weeks. When the matter again came up before the Supreme Court in November '89 the Supreme Court considered that the progress had not yet been satisfactory and issued another directive asking the State Governments and Union Territories to positively set up the District Forums and State Commissions within a period of another six weeks. Later, when the matter once again came before the Supreme Court in January '90 it was observed that whereas some effort had been made to expedite the establishment of District Forums and State Commissions the progress was still not totally satisfactory, and the Supreme Court once again directed that the process must be completed within one month and report submitted to the court. The total position presently is that the District Forums have started actually functioning only in 36 districts (out of which 23 are in Andhra Pradesh alone); notifications have been issued for the establishment of District Forums in 75 other districts; and approval has been accorded for the establishment of District Forums in 76 more districts. District Forums start functioning only after actual establishment; prior to that they are notified though not functioning; and prior thereto approval is accorded by the Government of India to the personnel for each of the District Forums (which we consider totally unnecessary). State Commissions are presently functioning in 7 states; 14 state Commissions have been notified and 5 have been "approved". When the matter now again comes up before the Supreme Court this total picture will be presented and further direction sought.

While on the one hand we have taken these steps to expedite the establishment of the quasi-judicial machinery we have also been highlighting the various shortcomings of the provisions of the Consumer Protection Act. We have written to the Minister of Food & Civil Supplies conveying specific suggestions relating to the powers and functioning of the District Forums and State Commissions. These are reproduced hereunder.

1. AGE OF PRESIDENT AND MEMBERS OF DISTRICT FORUMS

Existing provision in the Consumers protection Act under S.10(2) is that the President and members of a District Forum shall hold office for a term of 5 years or upto the age of 65 years whichever is earlier. As distinguished from this provision in the Act it is provided in the Rules, which have been framed under the Act, that the President and the Members of the State Commissions would have tenure of 5 years or the age of 70 years whichever is earlier. While, thus, the President and Members of State Commissions have been enabled to continue in operation till the age of 70 years, the age limit for the President and Members of the

Districts Forums has been prescribed as 65 years. Considering the difficulties that are being experienced in the various States in securing experienced retired persons of the level of the Districts Judges for acting as President of the District Forums, and also the difficulties which would be inevitably experienced in securing the services of experienced persons to act as Members of the forums, it is appropriate that the age limit for the President as well as the Members of the District Forums should be prescribed as for the President and Members of the State Commissions i.e. age limit should be 70 years. This would necessitate amendment of S.10(2) of the Act, and we strongly suggest that the government should act to effect this amendment.

2. POWER OF THE PRESIDENT

President of the State Commission, according to the Statute, is a person of the level of Judge of the High Court. Likewise, the President of District Forum is a person of the rank of District and Session Judge. In order to enable these functionaries to effectively operate we feel that they should be declared as heads of their offices and should be given equivalent ranks. They should be declared the appointing and disciplinary authority in relation to their staff. We are aware that without these powers the District Forums and State Commissions are feeling considerably handicapped in finding suitable personnel and ensuring their effective operations.

3. STAFF OF DISTRICT FORUMS AND STATE COMMISSIONS

It would be obviously preferable that the staff appointed to the state commissions and District Forums should be given to them on deputation from other departments and they should be made entitled to Deputation Allowance if permissible. The Presidents of the Forums and State Commissions should be given an opportunity to make selection of their staff and the appointment of the staff should not be restricted only to the area of the food and civil supplies department of the concerned State Government. Wider choice should be given to those Presidents to make selection and to utilise the powers as appointing authorities and administrative heads.

4. SUPERVISION BY THE NATIONAL COMMISSION

It would be desirable that suitable arrangements should be made whereunder the National Commission is in a position to effect supervision over the functioning of State Commission and District Forums in the matter of their administration as well as handling of the consumers grievances. Ostensibly, it will be difficult to envisage that the National Commission can be authorised to effect administrative and financial control over the state commissions and District Forums because they will be functioning as units established by the State Governments. However, Arrangements need to be made whereunder the District Forums and State Commissions should be enabled to seek the guidance and help of the National Commission in their operations.

5. POWERS TO DECIDE CASES

Certain difficulties have been encountered on

the grounds that sometimes all the three members of a District Forum or State Commission are not available on the days fixed for the hearing of cases. Rules should be amended, where necessary, to enable the District Forums and State Commissions to operate even with two members where a third member may not be in a position to attend on any particular day. It needs to be laid down that the decisions given by the District Forums and State Commissions, where these are signed only by two members including the President, would not be held ultra vires. Amendment may need to be made in S.14(2) of the Act for meeting these requirements. Where two members are taking decision it also needs to be provided that in the case of difference of opinion, the opinion of President or senior member shall prevail.

6. OTHER ADMINISTRATIVE MATTERS

It would perhaps be necessary that the Presidents of the Commissions/Forums should be provided with staff cars, and the drivers of vehicles should be placed under the Administrative control of the Presidents who should also be entitled to issue Coupons for Petrol.

7. APPROVAL OF GOI FOR DISTRICT FORUMS/STATE COMMISSIONS

In the Consumers Protection Act provision had been made that prior approval of the Government of India has to be taken by the States before establishing a District Forum or the State Commission. We feel that it is unfortunate that the provision for this "prior approval" was incorporated in the Act. Certainly, the State Governments can be relied upon to select the appropriate personnel for manning these District Forums and State Commissions. The act needs to be accordingly amended for deleting the requirement of prior approval.

8. SPECIAL CASE OF DELHI

Delhi Forum has been in operation for over one year. One Forum for the entire Delhi is obviously much too inadequate for meeting the requirements. The existing Forum has already received more than 2800 cases, dates of 3/4 months are now being given for the hearings, which is obviously an unsatisfactory state of affairs. It is necessary that at Delhi there should be atleast three Forums. The other two should be established in suitable areas of Delhi and New Delhi so that they are more easily accessible to the residents of their respective areas.

TWO NEW INSURANCE POLICIES

Two new important Insurance Policies have been introduced. These are operated by General Insurance Company and its subsidiaries The National Insurance Company, The New India Assurance Company, The Oriental Insurance Company and The United India Insurance Company. We considered it appropriate to disseminate basic information about these policies so that readers are aware of their main features. For this purpose, on our request, Mr. Kamesh Goel, who is an officer in The New India Insurance Company, has been kind enough to prepare the material, furnishing in brief the basic features of these new policies. There have been comments on certain features of the Mediclaim Insurance and we have taken up these comments with the Insurance Division of the Ministry of Finance, Government of India, but at the present stage we would like to meet the objective mainly of disseminating information about these policies. We would welcome any comments that readers may have in respect of operation of these policies.

MEDICLAIM INSURANCE

Mediclaim is a policy relating to regular hospitalisation or domiciliary hospitalisation, enabling the insured to secure reimbursement of the expenses incurred by him for treatment subject to certain terms and conditions. Any person between the ages of 5 to 70 years can take this policy. The basis of the contract is a proposal form to be filled in by the insured. In the form the insured is required to furnish data regarding any major disease he is suffering from during the previous 12 months and also regarding details of any ailment existing at the time of insurance which may require medical attention in the immediate future. These details are obviously very important in order to prevent misuse of this policy and also to prevent hardships to the insured at the time of making claim of payment.

There are five categories of this policy from I to V depending upon the premium and the benefits entitled under each category. The premium ranges from Rs. 250 to Rs 1500 per annum. The benefits differ accordingly. For example, while categories IV and V do not cover domiciliary hospitalisation benefits, these are covered under categories I to III. Similarly, Category V does not cover major surgical benefits whereas these are covered in the other categories. The limits under various heads of treatment are also different. While under category V the insured will be indemnified for an expenditure on a hospital room upto Rs 250 per day the reimbursement will be of Rs 550 per day under category I. The total amount payable also differs, from Rs 17,500 under category V to Rs 94,000 under category I. If the insured person selects any of the categories I, II and III he has an option of choosing a cover

which also includes personal accident insurance. The personal accident insurance indemnifies the insured in the case of any permanent disablement and payment is made to the nominee in the event of demise.

The benefits of MEDICLAIM can be available only when the treatment is taken within the country and payment made in the Indian currency. A family discount of 10 percent in the total premium under Schedule 'A' or 'B' is allowed for insurance of a family comprising the insured and any one or more of the following, namely, spouse, two dependent children and dependent parents.

Premium upto Rs 3000 per annum paid under the scheme 'A' or 'B' is eligible for deduction as per provisions under section 80-D of the Income Tax Act. As required by the Income Tax Act the premium has to be paid only by cheque.

Cumulative Bonus : The limits of benefits under the policy are increasingly increased by 5 percent in respect of each claim-free year of insurance but the overall amount of such increase cannot exceed 50 percent of the limits stated in the Table of benefits. In the case of a claim under the policy in respect of the insured person who has earned cumulative bonus the increased percentage is reduced by 10 percent of the table of benefits at the next renewal. The benefits, however, are not less than the benefits indicated in the table of benefits. The cumulative bonus operates separately for insured person in case of the family.

When the claim has to be made the notice, with particulars relating to the policy number, name of the insured, name and address of the nursing home

etc., have to be given to the insurance Company and should be sent preferably by registered post. After the treatment has been completed the insured person is required to submit all medical bills, cash memos for the purpose of medicines, doctors prescription etc. He is also required to fill the claim form. All expenses are reimbursed subject to the limits prescribed under each head of the

selected categories.

These days quite a few private hospitals are coming up with package proposals where they charge a lumpsum amount for a particular treatment. In these types of cases the insured is indemnified upto 75 percent of the total various heads.

HOUSEHOLDERS INSURANCE POLICY

There are various types of insurance such as for fire, burglary, all risks, personal accidents etc. If a person wanted to get the benefit of these various policies he had to take all these policies. In recent years the insurance companies in India have come up with a comprehensive cover which takes care of all the needs of a person under one policy which is called "HOUSEHOLDERS POLICY". This policy has ten sections and the rates of premium vary from Rs0.60 per thousand to Rs 10 per thousand. If a person opts for more than four sections he is entitled to discount of 15 percent and if he asks for more than six sections he is entitled to a discount of 20 percent. Brief account of the various sections of the "Householders Policy" appears in the paragraphs that follow.

Section I(A). This section relates to the fire insurance of the building. The building, for the purpose of this insurance, should be of class-I construction. The sum insured should be equivalent to the amount which will be spent to build a similar building at the time of the insurance.

Section I(B). This Section relates to fire insurance of the contents excluding jewellery and valuables. Here a comprehensive list of articles to be insured has to be submitted. Cost of each item has to be stated. Clothes, furniture, etc. can be clubbed together. At the time of mishap it is necessary that FIR should be lodged. Report of the Fire break up and Police report need to be submitted to the insurance company.

Section II. This relates to burglary, house breaking, including larceny and theft. List of articles has to be submitted unless the list of articles submitted under Section I(B) is accepted to be operative. In the event of theft it is necessary that the police should be immediately informed about the event and list of the missing should be reported. A final untraced report of the police

is essential before finalisation of the claim.

Section III. This all risks insurance relates to jewellery and valuables. Each item needs to be separately mentioned alongwith its appropriate weight and value. In the case of diamond jewellery number of diamonds in one articles have to be mentioned. If the total value in this section is substantial it is advisable for the insured to give photocopies of cash memo or obtain a valuation certificate. Any loss occurring in relation to these items should be immediately reported to the police.

Section IV. This section relate to plate glass insurance. Any glass which is fixed or mounted is covered under this section. Dimensions of the glass need to be mentioned.

Section V. It relates to the break-down of all types of electrical, electronic and mechanical appliances. This section relates only to loss arising out of mechanical and/or electrical break-dow. The cost of each appliance should be equivalent to the replacement value of the similar type of a new appliance.

Any loss occurring in relation to these items should be immediately communicated to the insurance company and nothing should be done unless the appliance has been inspected by the surveyor of the company. After the repair has been carried out the cash memos of each repair will need to be submitted.

Section VI. This section is for insurance of TV/VCR/ VCP. Any loss or damage to the TV set or such appliance by fire, lightening, explosion of gas, bursting or overflowing of water tanks, aircraft and articles dropped therefrom, fire, flood, cyclone, riot, strike or malicious act, burglary or housebreaking or theft, accidental break-down etc are covered under this section. Sum insured should be equivalent to the value of similar type of new appliance. The difference in this section and the one preceding it is that no depreciation is deducted

under this section from the claim amount. The loss should be immediately reported to the company and nothing should be done with the appliance till this was inspected by the surveyor of the company.

Section VII. The provision under this section relates to pedal cycles.

Section VIII. This relates to baggage insurance. Any loss or damage to insured's accompanied baggage by accident or loss during travel on tour or holiday anywhere in India is covered by this section. Loss needs to be immediately reported to the Police.

Section IX. It relates to personal accidents including death or bodily injury by accidental, violent, external or visible means to the insured person, subject to the limits specified in the schedule. The major benefit under this section is of TTD i.e. Temporary Total Disablement. When the insured is unable to perform his duties in the normal course he is entitled to 1% of the

sum insured (maximum not exceeding Rs 1500) till this disablement lasts, maximum upto 104 weeks. Under the family package cover 5% discount is given on the premium to the person insured, if he is earning member, or the spouse if earning, 100% of the sum insured is given, and 50% of the insured amount to spouse if not earning, or Rs 1 lac, whichever is lower. In the case of children, from the age 5 to 19 years, 25% of the sum insured or Rs 50,000, whichever is lower, per child. In the case of children they are not entitled to the TTD weekly benefits.

Section X. This section relates to public liability.

In relation to each of these sections the notice of claim requires to be sent immediately to the insurance company. Even in cases of burglary or fire the effort should be made to get the loss assessed by the surveyor at the earliest so that the circumstances of the loss can be properly adjudged. In others the affected article should be kept aside for inspection by the surveyor.

THE DRUGS POLICY OF GOVERNMENT

Recently the Government of India, in the Ministry of comments of various organisations on the Government's Drugs Policy which lays down guidelines etc for the manufacture, quality inspection, pricing etc. of drugs and pharmaceuticals. COMMON CAUSE also received their communication alongwith the basic document of 1986 embodying the Drugs Policy of the Government.

We have sent our comments. These contain strong expression of views on certain aspects of the policy of drugs and pharmaceuticals which caused us considerable concern. In forwarding these comments we have requested that these should be considered by the Ministry of Chemicals & Pharmaceuticals in consultation with the Ministry of Health and the Ministry of Industry because all these ministries are concerned with the problems relating to the manufacture, pricing and proliferation of drugs.

We have also addressed a letter for publication in the National Medical Journal of India, highlighting these various problems relating to drugs and pharmaceuticals. We reproduce hereunder the note forwarded to the Ministry.

OUR VIEWS ON DRUGS POLICY

of Chemicals & Pharmaceuticals and also the letter for reproduction in the National Medical Journal of India.

1. We feel that for various reasons, including the strong lobbies of the manufacturers of drugs and pharmaceuticals in the country, it has not been possible for the Government to evolve and implement policies which would ensure larger emphasis being laid on the larger manufacture and supply of essential drugs and priority drugs which are of paramount importance for safeguarding the health of vast masses of the people, at prices which they can afford.
2. It is most unfortunate that sufficient attention does not appear to have been paid to the larger adoption and promulgation of generic names and to the removal of legal impediments if they exist in the interest of utilisation of the generic names. It appears from the Drugs Policy document of 1986 that some cases were at that time pending in the Supreme Court which were obviously thwarting the extensive use of the generic names of the medicines. It is not clear whether the Government has taken any special steps to get the decisions of the pending cases in Supreme Court expedited, to enable more extensive use of the generic names of the medicine being used.
3. In this context we feel that it is to the extreme detriment of the interest of the consumers and the general public that the manufacturers are allowed to go on proliferating the formulations and flooding the markets with these formulations. It is gathered that there are now about 78,000 formulations in the market, causing utter confusion to the users. The multiplication of the formulations is obviously working to the advantage only of the proliferating manufacturers whose number has now increased apparently to over 8,000. No effective control is being exercised on this proliferation, of the manufacturers as well as the formulations, with the result that there is inadequate emphasis on quality, price, and the general public interest. It is often being complained by the people that the entire system is being guided by the requirements of corruption, including the licensing of manufacturing units, the approval of formulations, the fixation of price, and the fixation of margins in the sales channels. These allegations of corruption cannot obviously be lightly brushed aside in the face of unchecked licensing of manufacturing units and unchecked numbers of formulations. This is evident, for instance, in the multiplying formulations of a simple requirement such as of cough mixtures; there are now dozens of cough mixtures in the market, each one vying with the other in price and yet competing with each other in ineffectiveness. In this context we would like the government to examine the result of the unique experiment which is stated to have been launched in Bangladesh where they are stated to have restricted the marketing of drugs only to 250 odd generic medicines, effectively checking the proliferation of brand names of medicines.
4. Prices of drugs and medicines have, in the view of general public, gone completely out of hand. There are now, for instance, certain anti-biotics in the market which are atrociously priced at Rs 6 per capsule and above, and certain cough mixtures which are priced at Rs 15 and above for 120 ml. General public feels aghast and enraged at such escalation of the prices; nobody is aware whether any machinery really exists in the determination of these prices and what this machinery is doing checking the prices. General impression prevails that the prices are fixed arbitrarily by the manufacturers, for only extracting the maximum out of the ailing patients.
5. There is also a general feeling that the doctors are ostensibly being well "cultivated" and "looked after" by the manufacturers, for prompting them to prescribe the medicines of their manufacture, with the result that for the treatment of exactly similar ailments and symptoms the doctors prescribe totally different formulations. It is very unfortunate that this type of impression prevails and is continuously expanding, blaming the present conditions on the unholy alliance between the licensing authorities, the inspectorate of drug controllers, the pricing mechanism, manufacturers and the doctors, to the extreme detriment of interests of the patients and the general public.
6. It has now come to a stage where any medicine can be secured from any chemist without any prescription. Any official of the Drugs Controllers Offices in the country can try it out at any shop of chemist. No difference whatsoever is in practice noticeable between the over-the-counter drugs and prescription drugs. This is obviously a very unhealthy development.

7. Invariably the chemists charge the local taxes because the manufacturers are taking advantage of the option given to them under the Packaged Commodities Rules of Printing the "Maximum Price. Local Taxes Extra". Because no buyer normally ever asks for receipt, he is never sure whether the local taxes charged by the chemist actually go to the exchequer. This prencious practice needs to be stopped, at least as a first step in the pharmaceutical industry. The manufacturers should be directed to use only the second option provided under the packaged Commodities Rules which is to the effect that the manufacturer should mark: "Maximum Retail Price....Inclusive of all Taxes". Certainly the retail price can be determined by the manufacturer, and the Government can adopt measures to see that the retail price is correctly calculated.

8. There is an equally strong feeling that there is no check on the continuously expanding manufacture of useless drugs which have no therapeutic value, and of vitamins and tonics. The people are being beguiled by all sorts of advertisements into consuming these various vitamins, tonics and useless drugs, and no attempt is at any stage made by the Government to educate them about their utility.

9. On the question of hazardous and banned drugs, likewise, there has been considerable criticism of the lack of effective control by the Government machinery. It is unfortunate that such drugs which are declared to be harmful or dangerous are not effectively eliminated from the market, and that the Government has not taken any steps to educate people about these through the strong medium such as TV and Radio.

The facts stated above lead to an inescapable conclusion that the Government at the Central level has not taken effective lead, and that the Governments of the States have been lethargic apathetic, in recognising the importance of implementing an effective drugs policy. Impression does widely prevail that these Governments are obviously not impervious to the lobbying efforts of the multinationals as well as other manufacturers and that these manufacturers are in a position to utilise various means to influence the policy makers as well as the doctors, and that the interests of the people are not given the primary consideration in matters of importance in the drugs policy.

The Editor
THE NATIONAL MEDICAL JOURNAL OF INDIA
All India Institute of Medical Sciences
New Delhi

Through the columns of your esteemed journal we from COMMON CAUSE would like to highlight an issue which is of paramount importance from the viewpoint of consumers and which should also be of concern to the prestigious organisations of medical profession, namely, the Medical Council of India, Indian Medical Association and the Indian Council of Medical Research. It might be contended by these organisations that this issue concerns the Government of India, but we feel that although it involves problems relating to the Drugs Policy of the Government it cannot be left only to the Government to rectify the aberrations in it and that the medical profession should take note of the views of the consumers and should express their own opinions and convey these to the concerned Ministries of the Government of India.

The Drugs Policy of the Government of India contains in it a number of elements which cannot but provoke adverse criticism. Its implementation leads to an impression that there has been failure to produce required larger quantities of essential and priority drugs, to check the proliferation of formulations which have now reached the enormous number of about 78,000, to maintain adequate control over the quality of production because of the proliferation of the manufacturers who now number over 8000 and who continue being multiplied by generous licensing in the states, to provide for adequate staff in the states for maintaining any satisfactory control over quality and price, and to have failed in particular to enforce any satisfactory price fixation mechanism which would keep the prices of medicines under some check. Result of these failures is evident in the market. There are complaints that the entire system is being guided by the requirements of corruption, including the licensing of manufacturing units, the approval of formulations, fixation of price, and fixation of margins in the sales channels. In the shops the medicines can be procured without prescription, the prices have become atrociously high, the multiplicity of formulations bring about utter confusion and it is generally being said that doctors are being "cultivated" and "looked after" by the manufacturers. There is continuous proliferation of cough mixtures, vitamins, tonics and elixirs, often of doubtful effectiveness. There is no check on the manufacture and sale of useless drugs which have

no therapeutic value. There has been lack of control on the sale of hazardous and banned drugs; drugs which are declared harmful and dangerous are not eliminated from the market, and no effort is being made to educate the people about these.

The total scene of drugs and pharmaceuticals, their manufacture, quality, inspection, pricing and marketing, as well as the intermediacy of the doctors in presenting the confusing multiplicity of these, is replete with transgressions, inadequacies and failures, although it can of course be claimed that the production in this field has vastly expanded. Lessons have not been learnt in the matter, for instance, of restricting the production and marketing of drugs to the generic names (Bangladesh is reported to have ordained to manufacture and sale only of

generic medicines, restricting the medicines to only about 250), and to curb the multiplication of brand names.

We feel that the medical profession has an important part to play in this entire field. The institutions and organisations of the medical profession need to inform themselves about the Drugs Policy of the Government of India and its inadequacies and failures, for determining what measures they should adopt for influencing the formulation and implementation of the Policy.

Yours faithfully

H.D. Shourie
Director

AIRLINES AND AIRPORTS

OUR SUGGESTIONS TO GOVERNMENT

Recently the Ministry of Civil Aviation approached COMMON CAUSE for suggesting interaction of consumers representatives for the objective of effecting improvements at the airports and in the functioning of airlines. This had ostensibly arisen from the initiative which we had taken to put the Indian Airlines and airport authorities in the dock before the National Commission for Consumers Disputes Redressal in relation to various elements of their operations which showed areas of inefficiency.

Arising from the discussions held with the Ministry of Civil Aviation we have given to them a suggestion of instituting a system of SPECIAL VISITORS selected from among responsible and experienced citizens, including senior retired officers, who should be given the authority to occasionally visit the airports and make their reports and suggestions highlighting the lapses and areas which need improvement. In making this suggestion we had envisaged that operation of a system of this nature can indeed be a beginning of the attainment of the objective of involvement of people in the work of public sector enterprises for improvement of their functioning from the public viewpoint.

The Ministry of Civil Aviation has welcomed these suggestions and is expected to put them into effect. The unfortunate crash of Airbus A-320 at Bangalore and its aftermath has ostensibly delayed the implementation of these suggestions, and we hope that it will now be done soon. We have given to the Ministry the names and addresses of the persons whom we considered to be well suited for being designated SPECIAL VISITORS to the three airports of Delhi, namely, international airport and the domestic terminal airport and domestic arrival airport. In course of time we hope that similar arrangements will be made for the various airports in the country. The Ministry has agreed to the names suggested by us for Delhi.

We reproduce below the letter in which the suggestions were conveyed to the Secretary to the Government of India, Ministry of Civil Aviation.

Dear Secretary,

Mr. P.C. Sen was kind enough to come over for a discussion. He was desirous of exploring the possibility of associating some persons for over-seeing the operations of airports from the viewpoint of consumers.

This is an excellent idea. It would involve the people in efforts of improvement of the services at the airports. This can in fact be the beginning of the attainment of objective of involvement of the people in the work of public sector enterprises for improvement of their functioning from the public viewpoint.

Arising from the discussion I write to spell out suggestions which I made; following are main features of the suggestions:-

- (i) Beginning of this experiment may be made at Delhi, with the three units of domestic airport which comprise the departure unit for airbus aircraft, the departure unit of other aircraft including Vayudoot, and the arrival unit. Within about 3/4 months it should be possible to assess the effect of this experiment, and then the scope of its expansion to other airports and to the international airports can be examined by the Ministry.
- (ii) Instead of posting any outside persons at the airports for the purpose a better approach to the problem would be to instal a system of "SPECIAL VISITORS". These Special Visitors should be selected from among public spirited, seasoned and experienced non-political persons who are or have been users of the airlines and can be depended upon to objectively note any particular problems from the general viewpoint of passenger convenience and passenger safety. They should not be of the type who may be likely to throw their weight about, but who would be genuinely interested in the measures which need to be taken to effect improvements. Names of some senior retired defence officers, administrators and ambassadors come to my mind in this connection.
- (iii) I have mentioned in the above that these Visitors should have the opportunity to look out for problems in the areas of passenger convenience and passenger safety. Let me hasten to add in the area of passenger safety their role will have necessarily to be limited, they should not be expected to go into the engineering and technical problems. I envisage that, for instance, in the area of passen-

ger safety they should be able to examine problems relating say to bird menace. Other such non-technical problems in the area of passenger safety can be identified.

(iv) I would suggest that initially five "Special Visitors" should be selected for the above mentioned units of the domestic airports. they should be persons of such status who have telephones at their residences, and who would be willing to spare time for a visit say three to four times to these units of domestic airports in a month. Their visits must not be perfunctary; normally I expect that each visit should take atleast about one hour and possibly even somewhat more. they should be given special identity cards embodying words "SPECIAL VISITOR" with photograph on it. The visitor should, where necessary, meet Duty Manager and seek the assistance of an official to accompany him round to places of his interest for assessing the operations; perhaps in course of time the Visitor will prefer to go about in the airport on his own for identifying any problems and defaults.

(v) The Visitor should record his visit in a register maintained for the purpose. He should have the option to record any particular observations in the register or to later send a note to a designated officer in the Ministry, conveying any specific observations and suggestions for action.

(vi) For facilitating the task of the visitors they should initially be given orientation by some officers connected with the work of airports of the Ministry. The Visitor should, if possible, be provided a proforma on which he can record his observations and suggestions in relation to specific areas of operations, for instance, of passenger booking, information desk, dissemination of information through public address system installed in the airports, passenger waiting halls, baggage clearance, baggage inspection, functioning of baggage belts, trolleys and taxi availability, etc.

(vii) We feel that the visitors should be given an allowance of Rs 150 per visit to cover transport expenses and so that they may not feel inhibited in this effort of public interest. An indication can be given that each visitor would be expected to pay not more than three to four visits in a month. If each visitor makes say the average of three visits approximate expenditure involved on five visitors would be Rs2250 a month. With this much expenditure it

will become possible to secure the assistance of persons of status and experience in this important task.

(viii) Guidelines should be preferably worked out in detail by the Ministry as to what the Visitors will be expected to look for when they go round the airports. We would be most willing to assist in the preparation of guidelines. The letters should issue from the Ministry to the selected Visitors to give them the feeling that the Government of India, in recognition of their status and experience, has specially selected them for this purpose and intrusted to them this responsibility.

(ix) In the process of selection we from COMMON CAUSE would be most willing to put forth suggestions for the consideration of the Ministry. The final selection will be made by the Ministry. We feel that it will be a good public relations exercise for the Ministry to publicise the initiative of appointment of Special Visitors for visiting the airports.

This will give idea to some other Ministries and Departments to take similar initiatives.

I earnestly hope that these suggestions, in the context of my discussion with Joint Secretary Mr. P.C. Sen, will help the Ministry in launching this experiment. I will certainly be available for any other help that may be needed in this connection.

Kind Regards,

Yours sincerely,

H.D. Shourie
Director

Secretary to the Govt. of India
Ministry of Tourism and Civil Aviation
(Deptt. of Civil Aviation)

THE PACKAGED FRAUD

We reproduce below an article of the Director of COMMON CAUSE which appeared in The Hindustan Times of Delhi under the heading of "Packaged Fraud". It deals with the matter of "MAXIMUM PRICE....LOCAL TAXES EXTRA" through which a serious fraud is being perpetrated by the manufacturers and traders on the consumers all over the country, and on which COMMON CAUSE has been maintaining a campaign for effecting the change in the relevant rules.

We have addressed letters on this matter to the Prime Minister, Food & Civil Supplies Minister, and to the Ministers who have been nominated as members of the Prices Committee constituted by the Prime Minister.

The new prime minister and the new Government have laid particular emphasis on the need to check prices. A cabinet Sub-Committee has been set up to tackle this important issue. The main task entrusted to this Cabinet Sub-Committee is to check the rise in the prices of sugar and edible oils.

These commodities are no doubt essential. But on prices front there is immediate need for taking a comprehensive view. There is a very serious lacuna in the relevant laws which is being blatantly exploited to the detriment of the people and about which the previous government, despite repeated demands, failed to take action, obviously on account of the lobbies and pressures of the manufactures. A serious fraud is being perpetrated on the entire people and there is leakage of revenue to the extent of at least Rs. 2,000 crores annu-

ally.

Main obligations

Almost 90 percent of products presently sold in the market are now in packaged form. Goods sold in the markets are of the aggregate value of about Rs. 80,000 crores annually. In relation to packages there are certain statutory obligatory requirements which the manufacturers have to meet. These obligations are spelt out in the Packaged Commodities Rules promulgated under the standards of Weights & Measures Act of the Government of India. These obligations interalia include: the name and address of the manufacturer, quantity, month of manufacture, batch number etc. and the very important requirement of the price. On Price there are two options provided in the Rules. It is necessary that people should know the particulars of

these two options because the whole mischief and manipulation on the prices front is being perpetrated through the factum of availability of these two options. The manufacturers of the products can mark on the packages either of the following in respect of the price:

- (i) "Maximum Price..... Local Taxes Extra"; or
- (ii) "Retail Sale Price..... Inclusive of Local taxes".

Almost invariably the manufacturers use the first option. That is why on your toothpaste, shaving blades, soap, tea, edible oils, medicines and packed condiments and even matchboxes, you find the price written in the first option: "Maximum Price.... Local Taxes Extra". You do feel that something is definitely wrong about "Local Taxes Extra", but because you do not ask for the receipt the local taxes are most likely going into the pocket of the seller. And everybody considers it is too much bother to complain about it, and in any case, who will ever listen! This attitude is general, and natural, in the existing system as it has prevailed over the years.

But, equally greater mischief is in the word "Maximum" prescribed in this option. This one word has literally played havoc in the markets all over the country, enabling enormous manipulations of prices. Try to find for yourself how this one word contributes to be unholy alliances between the manufacturers and wholesalers and between the wholesalers and retailers. Pick up a tin of white acrylic paint in any shop for the painting of your walls. Now-a-days the price printed on it is in the neighbourhood of Rs. 111.50. It was Rs. 87.50 a few months ago, but that is a separate matter. Ask the shopkeeper: what price should you actually pay (against the printed price of Rs. 111.50). If he feels that you are a wary buyer he will ask for Rs. 86.00 and be content with it, a margin of nearly 25 percent less. Pick up the shaving cream and the tooth-paste; the price printed on the packs is Rs. 15.80 and Rs. 15.50 respectively; ask the shopkeeper for charging the proper price, and if you are known to him he will likely to charge you a rupee less. The price printed even on a match-box of 50 sticks is 30 paise, but the shopkeeper will charge you paise 25.

Costly option

word "Maximum" in the option exercised by the manu-

facturer out of the two options incorporated in the above mentioned statutory Rules. This word provides an enormous leeway to the manufacturer, to charge you any price that you would perform pay. It provides the means of an understanding between the manufacturer and wholesaler, and between the wholesaler and retailer, to extract the maximum from the consumer. The loot is shared between them on principles they evolve among themselves. There is nothing which you individually, or any organisation of consumers, can do about it, because the government has not hitherto been willing to listen to the people for changing the Rules.

We have been urging that the government should modify the rules only to the small extent of deleting above-mentioned first option. There were previously four options available to the manufacturers, including in the price also of the cost of transport, etc; public opinion made the government to reduce the four options to these two, and now the manufacturers' lobby and willingness of the concerned government functionaries to abide by its dictates has hitherto stood in the way of deletion of this option.

Let us see what will be the consequences of deletion of this first option. By this small alteration the manufacturer will be under obligation to print: "Retail Sale Price...Inclusive of Local Taxes".

Printed value

When you see these words printed on the package you know that this is the correct price you have to pay; that this price includes also the sales tax etc. and that there will be no room for the seller to pocket the taxes. Surely, every manufacturer is in a position to calculate the retail price in relation to any particular batch of production, taking into account the cost of manufacture, transport costs, and the margins of wholesalers and retailers. There cannot be any excuse on the part of manufacturer on this account. Some manufacturer have on their own started using the second option.

In relation to this suggested change apprehension is exaggerated on another account. The manufacturers say that sales tax varies from State to State. (This is very unfortunate, and one hopes that this distortion in the system will some day be remedied and

uniform sales tax will prevail all over the country. The Prime Minister, the Finance Minister and Planning Minister need to pay attention to this matter soon). Apprehension is expressed, and gets voiced also through pliant consumers organisations, that an unscrupulous manufacturer will include the maximum sales tax and base the retail sale price thereon. This is a false premise. It ignores the realities of market competition. In any case, the rules can prescribe that in determining the retail sale price manufacturer should average out the levy of sales tax on the basis of his all-India sales, and that, alternatively, he can print the price in relation to two or three groups of states, taking into account the sales tax prevailing in them. The "Local Taxes" comprise only the sales tax and octroi, and surely, prescription of the adoption of one and only option of "Retail Sale Price ...Inclusive of all Taxes" can be based on these alternatives. The sales tax should be charged only at the first point as has already started being done in some states. The government can surely come down on manufacturer who prints the price which is out of proportion with the cost of manufacture.

You will observe, therefore, that a very slight modification of the rules and deletion of only word "Maximum" can make a sea change on the prices front. It will save the leakage of Rs. 2,000 crores in local taxes and the effect of reduction of prices will be at least Rs. 5,000 crores in a year. There is no reason whatsoever why this alteration should not be effected, in the interest of all the people. The Prime Minister, the Finance Minister, and the Minister in charge of Civil Supplies Department (the latter looks after the interests of consumers) should take this matter immediately in hand and overcome the lobbies which have hitherto thwarted this change. This does not require any change in the legislation. It requires only slight modification of the Rules which even an Under Secretary can notify for government enforcement. It will eliminate the leakage of sales tax and will reduce the prices to what they appropriately should be.

A ruse

There are three other matters connected with these rules. One relates to a ruse played by the dealers that prices do not need to be marked on imported products. This is totally wrong. I have secured court orders that prices have to be marked on, for instance, imported

photographic films. The second relates to another small change which has been apparently lying on the table of previous Minister incharge of Civil Supplies for over six months. The present Rules state that unit price should also be printed where retail sale price is printed. This is an absurd requirement. For instance, the price per gram of biscuit must also be printed if the packet shows retail sale price. Absurdity of this Rule has been recognised by the government, and also that it inhibits the manufactures from adopting the second option, but the proposal for the modification of this rule has continued to languish for months. The third problem relates to a provision that prices need not be marked on certain products like milk, beverages, cold drinks etc; there is no reason why these should be excluded because technology for marking on bottles etc. on rapid production lines have now sufficiently developed.

Dear Prime Minister,

Consumers Protection Act is a very important legislation passed by the parliament in December 1987. This was hailed by people all over the country as a charter for protecting the interests of consumers.

There have been lapses in the actual implementation of this act. We filed a Writ Petition before the Supreme Court about its non-implementation, particularly about the excruciating delay in the establishment of quasi-judicial machinery in the Districts and the states, which constitutes the main plank of this legislation. The Supreme Court, in September last, directed all the states and Union Territories to set up the contemplated District Redressal Forums and State Commissions within a period of six weeks. As the orders had not been satisfactorily compiled with the Supreme Court directed on the 15th November'89 that this must be done within another six weeks.

Consumers attach very great importance to the establishment of these District Forums and State Commissions for redressal of their grievances. The National Commission at the apex has already been set up and is operating. There are certain matters relating to the functioning of these bodies, and certain defects and omissions in the legislation which are now coming to light. We will take up these matters separately.

But, we write this to bring to your notice one matter which is of immediate importance for rectification. The quasi-judicial machinery contemplated for establishment under the Act consists of the following, as specified in Section 9 of the Act:

- (a) A consumer disputes Redressal Forum to be known the "District Forum" established by the State government with the prior approval of the Central Government in each district of the State by notification;
- (b) A consumer Disputes Redressal Commission to be known as the "State Commission" established by the State Government with the prior approval of the Central Government in the State by notification; and
- (c) A National Consumer Disputes Redressal Commission established by the Central Government by notification."

We feel that it is an unnecessary hurdle and a pernicious principle incorporated in the above provisions wherein the State Government are required to seek prior approval of the central government for the establishment of District Forums and State Commissions. This requirement of "prior approval" obviously cuts at the root of the basic necessity of decentralisation, and also subtly introduces the requirement of approval by the political party in power at the Centre before the State Governments can constitute the District Forums and State Commissions. Ostensibly, the personnel to comprise the District Forums and State Commissions have, under the present provisions, to secure the approval of the Central Government.

The factum of "prior approval" has caused excruciating delays in the establishment of the District Forums and the State Commissions as has become evident to us from the replies which are being submitted by the State Governments to the Supreme Court in relation to our above mentioned Writ Petition. We feel that the State Governments should have the authority

to set up the District Forums and the State Commissions, and determine their composition, without the need of securing "prior approval" of the Central Government. While the statute may need to be modified for this purpose we suggest that Government of India should issue general instructions to the State Governments and Union Territories that they need not resort to the requirement of "prior approval" before setting up this quasi-judicial machinery which is obviously the basic essence of this legislation.

Another very important matter relating to the functioning of this quasi-judicial machinery is that it has been experienced that quite often the three members of District Forum and the three members of State Commission, wherever established, do not always have the time to operate together, with the result that the District Forums and State Commissions are reported to have been functioning on many occasions with only one or two members. It needs to be notified, in the Rules and also later incorporated in the Act, that the District Forums and State Commissions can exercise the authority of functioning even if two members are present and that any orders passed by them will not be deemed illegal merely on account of the fact that all the three members could not be present.

The matter of presence of all the members of these quasi judicial bodies, during the hearing of any particular case, assumes importance also in relation to the functioning of the National Commission which, under the Act, consists of five members. We feel that on account of the requirement of the presence of five members the regular sittings of the National Commission would inevitably remain handicapped, particularly when larger number of appeals emanate against the decisions of State Commissions as well as the expansion of the number of original petitions comes about. We consider, therefore, that similar provision needs to be made in regard to the functioning of National Commission, that any order passed by the National Commission by not less than three members including the President will not be considered illegal merely on the ground of all the five members not being present.

We earnestly hope that the above matters relating to this important legislation of Consumers Protection Act will receive your urgent consideration. I am separately sending a copy of this letter to the new Minister of Food & Civil Supplies under whose jurisdiction the Consumers Protection act operates.

Kind regards,

Yours sincerely,

(H.D. Shourie)
Director

The Prime Minister of India
South Block, Secretariat
New Delhi-110011

Lapses of Public Sector

We recently wrote to the Minister of Industry, Government of India, Mr. Ajit Singh, bringing to his personal notice the lapses on the part of two public sector companies, namely, Maruti Udyog Ltd., New Delhi, and Hindustan Photo Film Manufacturing Company Ltd., Udhagamandalam. We reproduce hereunder the letter, the reply of the Minister with which he enclosed comments given by the Maruti Udyog Ltd., and our reply to these comments. These are self-explanatory and would be of interest to the readers about the lapses of public sector, which is expected to set examples to the private sector.

December 13, 1989

Dear Mr. Ajit Singh,

Through this letter I bring to your notice instances of serious lapses on the part of two public sector enterprises, namely, Maruti Udyog Limited and the Hindustan Photo Film Manufacturing Company Ltd. Ostensibly, both these manufacturing enterprises come within the purview of your Ministry and accordingly I am referring these lapses to you for consideration and appropriate action.

For facilitating your examination of these matters I am incorporating the relevant information in the attached two notes dealing with these two respective enterprises.

You might be aware that COMMON CAUSE has been taking up matters of public importance for securing

redressal by referring these to the concerned government departments and ministries and failing that taking these to courts. The enclosed printed note will furnish you an idea of the composition as well as the activities and programmes of COMMON CAUSE.

We would be happy to furnish any other information that may be required in connection with the defaults mentioned in the enclosed two notes relating to the mentioned public sector enterprises.

Kind regards,

Yours sincerely,

(H.D. Shourie)
Director

Mr. Ajit Singh
Minister of Industry
Government of India

MARUTI UDYOG LTD.

Recent invitation of applications by Maruti Udyog Ltd. for their advertised new model car Maruti 1000, from the viewpoint of general public, constitutes almost a serious scandal. Public sector enterprises are expected to function with such moral rectitude that they set example for the others. Following facts relating to the invitation of applications by this public sector enterprise speak for themselves :

(i) Public announcement was made inviting the applications from 15th November 1989. It was announced that the last date was 28th November 1989. It was also announced that the application forms for the purpose were available through the agents appointed all over the country. Our information is that the total number of agents is about 60.

(ii) Copy of the application form is attached. From its "Terms and Conditions" it will be noticed that it was explicitly announced that the Company will exercise the right to close the receipt of above 25,000 applications. Indication given through the press has been that the total number of cars of the new model Maruti 1000, which will be made available, is expected to be of the order of 25,000. It has not explicitly been stated as to when the 25,000 cars will become available, but general indication given to the press is that these 25,000 cars will become available in three years period.

(iii) Applicants were asked to make advance deposits of Rs. 25,000 each along with the applications. Advance deposit, thus, was asked for in relation to a product about which the people have not yet been informed as to what the ultimate price would be, nor have they been informed what its specifications will be. This by itself is tantamount to an unfair trade practice.

(iv) The reports appearing in the press show that the company printed as many as 4.5 lakh applications in the first instance and ordered the printing of another 2.5 lakhs applications. Ostensibly these application forms were distributed to the agents all over the country.

(v) The company was positively aware that there would be an enormous demand for this new model car,

based on the experience of the previous models, and that there is a great likelihood of people seeking allotments for re-selling on premium. General reports are that the agents of the company had received a very large number of applications, much more than the stipulated 25,000, even before 28th November. Despite this, the company has extended the date for receipt of applications till 14th December.

(vi) It has generally been said that through this stratagem the company has secured applications running into a few lakhs and has secured deposits amounting to hundreds of crores. We do not have any positive information about the number of applications so far received by the company. Our information is that some agents in Delhi have received as many as 10,000 each. If the total number of applications received by the company is of the order, say, of 200,000, the company will have by now collected Rs. 500 crores in the shape of these deposits.

(vii) In the printed instructions it will also be noticed that it is stipulated that the company will give seven percent interest on the deposits of those 25,000 applicants whose applications eventually succeed, through the computerisation process of allotment which is proposed to be adopted. The deposits of all the remaining applicants will be refunded, without interest, and the refund will take place after three months from the closing date. This implies that the amount of almost about Rs. 500 crores comprising deposits of the people, will remain with the company for a period of at least four months or even more, taking into account the period of invitation of applications. This in itself is also tantamount to serious perpetration of unfair trade practice.

(viii) Within the availability of 25,000 cars the company will remain under obligation to meet the requirements of certain categories of persons as adjudged by a previous Supreme Court decision and recorded in the application form. The company has also reserved its rights to make allotments of the cars upto 15 percent of production to defence organisations, government departments, public sector organisations, fleet customers for use as taxis, etc. To this extent the availability even of the total number of 25,000 cars will be reduced.

HINDUSTAN PHOTO FILM MANUFACTURING

COMPANY LTD

NOTE: CONTAINING INFORMATION REGARDING DECEPTION EXERCISED BY THE PUBLIC SECTOR ENTERPRISE "HINDUSTAN PHOTO FILM MFG CO. LTD."

AGAINST CONSUMERS OF THE FILMS MARKETED BY IT

Hindustan Photo Film Manufacturing Co. Ltd. is marketing photographic films and photographic and printing paper. This note particularly deals with certain unfair trade practices being utilised by this public sector enterprise in the marketing of photographic films. In particular, reference made to the photographic films of the variety of 35 mm and 120 mm, which are sold all over the country through the photographic dealers and others.

The company is causing a serious violation of the statutory provisions of packaged Commodities rules promulgated under the Standards of Weights & Measures Act. These Rules inter alia provide that the manufacturers are under obligation to print on the packages of their products specific information containing the name and address of the manufacturer, description and quantity of contents, month/year of manufacture, etc. In particular, the rules provide that the price of the product contained in the package must be printed thereon. Two options of the price printing have been given in the rules. One option is to print: "Maximum price Local Taxes Extra". The other option is to print: "Retail sale Price..... Inclusive of all taxes". This is an obligatory requirement and there cannot be any escape from it.

This public sector company is not printing the price on the film packages. This will be evident from the enclosed package.

COMMON CAUSE referred this matter to the company. An interim reply was sent by the company stating that the matter was being considered. Instead of complying with the statutory requirement of printing the price the company has resorted to a subterfuge which is indicative of the blatant violation of the statutory requirements.

In the Packaged Commodities rules there is a provision that where a product is for use as raw material by an industry the package containing it need not bear the price marking on it. It will be observed from the enclosed film package of this company that they have gone to the extent of printing on it that the film is "specially packed for the exclusive use by photographic industry as a raw material". The film is being sold to anybody who wants it for use in his camera, irrespective of whether he is a amateur or professional. It is positively not for use by the "photographic industry" and is certainly not used as "raw material". By using this Strategem, thus, the company is blatantly violating the statutory requirements of printing the price.

It is singularly unfortunate that a public sector undertaking has resorted to this subterfuge. COMMON CAUSE has already taken up the matter relating to the non-printing of price on the imported film packages, such as, of KODAK and KONIKA. We have noted with satisfaction that another company in India which is now marketing the film SUPER-PLUS is marking the price on it. A sample of the package of SUPER-PLUS film is also enclosed herewith. While the agents and companies importing the films of KODAK and KONICA are violating the law, for which we have already initiated action under the consumers Protection Act, it is a matter of great concern that the public sector undertaking Hindustan Photo films Manufacturing Co. Ltd. has resorted to the above mentioned strategem and subterfuge to meet the statutory requirement of price printing.

D.O.NO. 23(2)/89-PE-VI/MUL/1007

INDUSTRY MINISTER
INDIA
UDYOG BHAWAN, NEW DELHI-110011

February 27, 1990

Dear Shri Shourie,

Please refer to your letter dated 13th December, 1989 regarding alleged serious lapses on the part of two public sector undertakings, namely, Maruti Udyog Ltd. (MUL) and Hindustan Photo Film Manufacturing Company Ltd. The alleged serious lapses on the part of Maruti Udyog Ltd. were looked into. Point wise comments on the alleged lapses relating to Maruti are enclosed.

With regards,

Yours sincerely,

(Ajit Singh)

Point wise comments on the alleged lapses on the part of Maruti Udyog Ltd. (MUL)

1. MUL did not announce that the last date was 28.11.89. It was stated that bookings may be closed any time after 28.11.89 at the Company's discretion.
2. MUL did not say that the Company will exercise the right to close the receipt of applications after receipt of 25,000 bookings. In fact, condition 17 of the terms and conditions of the bookings clearly states that MUL reserves the right to close bookings any time after 15 calendar days from the date of commencement of booking, provided at least 25,000 booking applications had been that 25,000 cars will be produced in 1 1/2 years from the time of commencement of production.
3. The final price of the Car was not indicated and

the reasons for doing this were announced to the press. MUL had stated that the price would be announced after the budget. To the best of their knowledge, no automobile maker, who made bookings many months before start of delivery had ever announced a firm price at the time of bookings.

4. MUL printed 8.5 lakhs application forms.

5. It was decided not to close the booking before 14.12.89 in order to enable all potential customers to have the opportunity to book the car. This became necessary because when bookings were started, there was an unexpectedly heavy rush and there was a shortage of booking forms. Therefore, the bookings were continued to assure that the booking forms would become available and they would be able to book later.

6. Needs no comments. Actual bookings received were about 2,50,000.

7. The Govt. guidelines on bookings of cars are that no interest has to be paid where the deposit remains with the Company for less than a year. This practice was followed by Maruti Udyog previously and by other companies also. Therefore, the non-payment of interest for the period during which Maruti retains the booking amounts is in accordance with the Govt. guidelines. It may also be added that Maruti is retaining bookings only equal to one and a half years production, although under Govt. guidelines, MUL could have retained bookings upto five years of production. Maruti would have gained far more interest by retaining booking for five years production and paying 7%, than by returning the money to the customers within three months from the date of close of the booking.

8. Common Cause seems to believe that production will cease with 25,000 cars. It is not so. Production will continue and all those whose bookings are accepted by Maruti will be supplied cars against these bookings. As such the question of the total number of cars being reduced does not arise.

March 8, 1990

Dear Mr. Ajit Singh,

I have received your letter no: 23(2)/89-PE-VI/MUL/1007 of 27th February'90 for which I am grateful. Maruti Udyog Ltd. has submitted comments on the points made in our letter. These need to be examined by the Ministry in the light of following :

(i) It is stated that MUL did not announce that the last date was 28.11.89 but that it was stated that bookings may be closed any time after 28.11.89 at company's discretion. It is strange that this public sector company has resorted to these semantics. What is important in this context was the impression created in the public mind by the announcement i.e. that the last date was 28.11.89.

(ii) Once again, in para 2, the company has resorted to mere semantics. The public was clearly given the impression that the booking would be closed when the minimum of 25000 applications had been received. It is accepted by the company that indication was given to the press that 25000 cars would be manufactured in 1 1/2 years; the press said that the period would be two years, but that does not alter the problem.

(iii) Public sector company is expected to set examples for the private sector and not to follow them. If the private sector companies resort to unfair trade practice, of not announcing the price of the product before inviting applications, the public sector company should have at least stay out of such practice.

(iv) MUL accepts that they printed 8.5 lakh application forms. They must be asked to explain why such large scale printing of forms was resorted to when it was known that not more than 25000 cars would be manufactured in 1 1/2 years. There has been positively, through the admission of this fact, an attempt to dupe the public and to draw funds from the public in a manner which was based on grounds which cannot but be called immoral.

(v) Our contention is that MUL's agents had re-

ceived applications for many more than 25000 cars by the closing date, and despite this the date was extended. obviously for the purpose of exploiting the public.

(vi) The company admits to having received about 2,50,000 booking. Estimates appearing in the press are that the company raised in about Rs. 600 crores, which has given it about Rs 16 crores sheer interest for the period for which the advances given by the applicant remained with the company without payment of interest.

(vii) We are not convinced by the mere fact that guidelines enable the company to keep the money upto one year without payment of interest. Our contention is that in this particular case the company adopted a deliberate measure for securing large funds from the public for an unlawful gain and thereby caused loss to the applicants by depriving them of the interest on their deposits for a substantial period.

(viii) We have not based our contentions on any such belief that the manufacturer of these cars would cease after 25000 cars. The thrust of our arguments is evident from what we have said, based on the facts which lead to the conclusion of adoption of unfair trade practices by the company.

It is unfortunate that the Ministry appears to have merely passed on to us, through your above-mentioned letter, the para-wise comments of the company, without stating their own views on these comments. I earnestly hope that you will kindly ask for the explanation of the concerned officers in the MUL who have been parties to the perpetration of this unfair trade practice on the public.

Kind regards,

Your sincerely,

(H.D. Shourie)
Director

Mr. Ajit Singh
Minister of Industry
Govt. of India

REFUND OF DEPOSITS

Often we receive letters from persons who made certain deposits with companies for earning interest and the companies do not readily respond to their request for refund of the amounts on maturity. In this connection the Government of India has issued a notification. We reproduce hereunder a report which appeared recently in the Financial Express. This matter would be obviously of interest to all who are feeling the difficulty in securing refund of their deposits from companies. Persons whose deposits with companies have matured before or after September 1, 1989, and who have not been repaid can now move the Company Law Board (CLB).

The Department of Company of Company Affairs has issued a notice to this effect in view of number of complaints received from the public about defaults by companies in repayment of deposits and interests. Depositors can make an application to any of the CLB branches located at Delhi, Bombay, Calcutta and Madras depending on the situation of the registered office of the company.

The application can be made in a prescribed form known as form 11 along with Rs. 50 by bank draft in favour of the Pay and Accounts Officer, Department of Company Affairs. Section 58 A of the Companies Amendment Act 1988 which came into force on September 1 last year protects the interests of the depositors and empowers CLB to direct a company to make repayment of the deposits within such time and subject to conditions specified in its order after giving a reasonable opportunity of hearing to the company and others interested.

Non-compliance of the order is a punishable offence attracting rigorous imprisonment upto three years and a fine of not less than Rs. 50 for every day till such non-compliance continues. The relief available under the Section is in addition the action that can be taken against such companies under normal civil laws. Certain deposits are however exempt from the provisions of the section. Among them are the deposits made for booking or purchase of scooters etc.

DEGENERATION OF OUR CITIES

Resulting from causes of avariciousness, greed, black money, and malpractices our cities are in many ways being fast converted into congested agglomerations, often replete with cubby holes which accomodate mushrooming and multiplying business offices of all descriptions and hues. This is obviously a matter which should concern all citizens, for raising their voice against the depredations which are being caused by the flouting of municipal regulations by unscrupulous builders and owners. In this context we reproduce below an article of Shirish Nadkarni which appeared recently in THE SUNDAY OBSERVER furnishing chilling description of what is happening in Bombay.

ROARING BUSINESS IN CUBBYHOLES

They say, you can't get office space in Bombay for love: but you can certainly get it for money! If you are willing to spend the right kind of money, you don't need to buy an office that would hit your pocket at Rs. 4000-5000 per square foot; you can rent a reasonably swanky cabin at one of the business centres that have mushroomed in the city in the second half of the 1980s.

Commercial space in downtown Bombay commands perhaps the highest premium in India. Even when compared with values of space in the heart of business districts of New

York and London (of course, this is when taken in the perspective of the purchasing power of the relevant currencies), these steep rates can more than hold their own.

At Nariman Point, the current going rate for ownership premises varies between Rs 4,000 and Rs 5,000 per square foot, depending on the building, the builder and the floor on which the premises are situated. Even the constituted Appropriate Authority of the Income-tax department got this kind of figure at the recently held auctions of pre-emptively purchased premises! Rates for tiny ground-floor premises go as

high as Rs 6,500 per sq.ft.

There are other considerations, too. What one actually gets at the end of a transaction is perhaps 70-75 percent carpet area of the super-built up area one has actually purchased. This last concept encompasses not just the thickness of the walls, but also apportions the common passage to each office on the floor and the elevator area, and charges the new owners for it.

In the more congested heart of the business district, around the Flora Fountain area, it is virtually impossible to get ownership premises. Most of the present occupants, aided and abetted by Bombay's antiquated rent laws, have been sitting tenants on top of some of the most centrally located offices, paying as little as Rs.25 per 100 sq. ft. in rent!

When the present occupant decides to vacate his premises, he charges the new occupant a 'pugree' or goodwill amount, which is roughly equivalent to 70-75 percent of the market price for ownership in the area (in some cases, this is higher, even going up to 90 percent of the ownership value). The landlord, incidentally, has a cut in this transaction, negotiable from 25 to 50 percent of the sum. Only then will the rent receipt be transferred to the new occupant.

With the inordinately high prices, and with quality office space often not being available, several entrepreneurs have made good money by offering commercial space, either by way of table space, with a common telephone in hall or cabin space in a business centre. The latter comes with such basic business requirements and services as phones, secretarial and peon services, telex, fax, photocopying etc.

Diners club were the pioneers in this latter activity, setting up the now well-known Diners Business Services (DBS) at Nariman Point. But today, business centres have mushroomed all over the commercial district, offering virtually the same services as Diners started out with, and charging far less.

In the Fort-Flora Fountain area alone, it is estimated that there are about 28-30 business centres, which offer a minimum of ten cabins on rent. There would be at least another seventy with a floor area of less than 500 sq. ft. Nariman Point alone has around 20 such small

centres.

Some of the bigger centres, like DBS, have been tastefully decorated, and offer well-lit, air-conditioned, carpeted cabins, with extension telephones in each cabin leading to the central switchboard. Some have a dial-it-yourself system, with calls being metered automatically. Members pay as much for the convenience as for the good impression that boasting such an address makes on clients.

At the other end of the scale are tiny, ill-lit airless cubbyholes where even breathing in Bombay's sultry mid-afternoon heat becomes difficult. Only musty, stuffy air swirls around these virtually unventilated death-traps, and the 'member' of the centre (a euphemism for the person who rents the place) has to walk down to a common instrument to make a phone call.

With or without municipal connivance, many occupants of old buildings with 14-16 feet high ceilings have managed to put up mezanine floors to double their floor space. On the upper floors of many such premises, a six-footer cannot stand erect.

The floorings and cabins are all made of wood or plywood, with narrow serpentine corridors leading to them, and rickety ladders going off at tangents into the dark. One short-circuit, one careless smoker; and there would be a holocaust that could well consume a hundred lives!

These are rented out for Rs. 800-1000 per month. No grown man could stretch his limbs in these little cubbyholes both elbows would hit the walls! Small fans whirl busily, trying ineffectually to dispel the malodorous miasma of sweat, food and body odour.

"I agree the space is very small, but where else can we get space in Bombay?" is the rhetoric question posed by D. Samuel, who runs a small cyclostyling and photocopying business on the third floor of this unedifying building. "In the afternoons, it gets very hot and uncomfortable. Sometimes I feel like just leaving everything, and running away! But I have no alternative - I have to operate from this area; I simply could not afford the rents charged at ground floor level in this area".

The owners or tenants of the residences are

being offered munificent amounts by 'developers' to clear out to Borivili, or Nalla Sopara, or some such distant suburb, where they could purchase much larger flats, and still have something left over.

In one case, a tenant (who has requested anonymity) in Hanuman Building was offered Rs. 7.5 lakh in cash to vacate his premises, measuring 275 sq. ft. The prospective owner wanted to build a mezzanine floor, and convert the place in which he felt he could squeeze between 15 and 20 cabins!

The choice of centre and location for someone wishing to rent a cabin at a business centre is dictated by what he can afford to shell out. Diners Business Services, the most expensive in town, charge Rs. 1,350 merely as membership fees, although the hoarding they have put up along Marine Drive does not exactly say that!

Behind DBS, one of the better known business centre organisations is TSP services, who run a centre in the immediate vicinity of Diners. Their rates for daily and weekly hire of cabin are lower than diners, but they charge a much higher security deposit, the interest from which adds to the income of the centre. The centre also levies additional air-conditioning surcharge of Rs. 65 per week on all types of cabins.

TSP Services also runs a consultancy division, which advises those who are interested in starting up a business centre, and gives senior executives on loan to help start up the new centre. One such centre started up by them is the R R Business Service Centre, located at Horniman Circle, in the very heart of the business district.

R R has twenty tiny cabins. The smallest of them measures 27 sq. ft. and fetches a weekly rent of Rs 375. the largest measures 50 Sq.ft. and carries a weekly charge of Rs 550-600. In comparison with several non-descript small centres in the area, R R offers decent facilities-carpeted floors, air-conditioning during office hours (indeed, it would be impossible to sit in the cabins

without air-conditioning, since there is no ventilation).

Both these centres make prospective clients sign agreements that are initially valid for a week, and are then renewed by additional signatures for every subsequent week. This is done to prevent the members from gaining any legal rights to the place. A new agreement is signed after eleven months, as if the client is occupying the premises afresh. This is done to stay out of the clutches of the Bombay Rent Act.

"You know how it is in Bombay-we don't want to be in the position of the Arab who felt sorry for the camel and invited it into his tent, only to be thrown out of it himself!", says Jadhav. "Our members are given one key to their cabins, but one key remains in our possession at all times. However, the keys to the wall cupboards inside the cabins are given to the members for their exclusive holding until they remain members of our centre."

Business centres often squeeze out additional money from their customers by levying a non-refundable entrance fee, collected at the time of signing the agreement, and an annual membership fee. The former varies from Rs. 1,000 (DBS) to Rs. 500 (most others), while the latter works out to Rs. 350 (DBS) to Rs. 100 for the rest. Most of the newer centres have virtually copied the agreements originally drafted by the lawyers of DBS, and made minor modifications.

Though owners are cagey about the income from their centres, it is relatively easy to make a shrewd estimate. A centre having a floor area of about 1,000 sq ft. can construct around twenty cabins of various sizes on it. If they are air-conditioned and carpeted, such cabins can fetch a cumulative weekly rent of between Rs. 18,000 and Rs. 20,000 with full occupancy.

That works out to a minimum of Rs. 80,000 a month on rent alone services charged extra. If one deducts the costs of running the centre including telecommunication costs, employees' salaries, electricity bills, and the like, one is still left with a net monthly income of Rs. 40,000.

GAZETTED OFFICER'S ATTESTATION

One of the most galling legacies of our colonial past is the requirement of getting forms and copies etc. "attested by a gazetted officer". Millions of hours of hundreds of thousands of persons, particularly of students are wasted in trying to get various forms and copies thus attested merely because some officials, following past precedents, unthinkingly incorporate this requirement in the forms they prescribe.

We recently wrote letters in some newspapers in various parts of the country drawing attention of the people to this pernicious requirement and asking them to send us instances of harassment and difficulties they encounter

in meeting this requirement., for enabling us to take up this matter with the Government of India and State Governments for issue of appropriate instructions. We are literally overwhelmed by the response. Numerous persons have brought to our notice how they often knock from pillar to post and how they suffer humiliation to get attestation of gazetted officers and how they often have to pay for getting the attestation.

We would like the readers to transmit to us other instances of such silly and meaningless requirements which hang on because nobody takes the trouble to remove or modify them. For instance, we see no point in the extant practice and requirement of affixation of "revenue stamp" on receipts, affixation of court-fee stamp of 20 paise or 40 paise etc. on form for securing copy of birth certificate or death certificate, certain absurd requirements of certification by a notary public, etc. We would be grateful for transmission of such instances from the readers.

Meanwhile, we reproduce below our letter which has appeared in certain newspapers.

"One of the most galling legacies of the colonial past, which is still persisting, is the requirement of securing "attestation of a gazetted officer" on all sorts of documents, copies, forms, applications etc. This requirement continues to be blindly incorporated in the forms prescribed for various purposes. It is made obligatory for securing copies of any certificates, be they of university degrees, or of births and deaths, or whatever, or for applying for registration of scooters, vehicles etc. Nobody at senior levels in the central government or state governments appears to have applied his mind to substituting this requirement by one which would be more suitable in the present context, keeping in view the extreme difficulties that are caused, particularly to the weaker sections of society and the ruralites, in having to go round to courts and offices, authorised to affix stamp, for securing the attestation.

We would like to take up this issue with the central government and state governments, and make concrete suggestions for adopting suitable and effective alternative. We request readers to write to us instances of such requirement which cause harassment, at the address: COMMON CAUSE, C-381, Defence Colony, New Delhi-110024"

FOR PENSIONERS

Pre-1973 Pensioners

It is unfortunate that we have not yet have any satisfying news for the Pre-1973 pensioners. The case is still pending in the Supreme Court. We have taken certain other steps relating to this pending demand of the Pre-1973 pensioners and await further developments. If and when something concrete emerges from these efforts we will report to the pensioners. Meanwhile, we can only assure them that we keep pursuing the problem and hope some day the final decision will soon be taken.

Same Pension For Same Rank

There is so much talk these days about the demand of same Pension for same Rank. The party in power at the centre stands committed to accept this demand, having incorporated its acceptance in its election manifesto and in subsequent government declaratios. This demand had emanted in relation of defence pensioners. Now the civil pensioners all over the country have raised the voice that this principle should apply aslo to the civil pensioners and they have put it in the shape: Same Pension for same Post. Thousands of letters have been addressed by the pensioners to the Prime Minister from all over the country. We are literally flooded with copies of these letters which the pensioners have been kind enough to send to us. In their representations they have given detailed reasons why the Government must avoid causing discrimination and inequity by depriving the civil pensioners of this benefit. We now look forward to further developments in this matter.

Other Pensions Cases in Supreme Court

The Cases filed in Supreme Court in regard to various other demands of older pensioners, including the parity with post-1986 pensioners and the demands of railway pensioners, are still awaiting hearing in the Supreme Court. They have been referred to the Constitution Bench of the Supreme Court and continue to await their turn for the hearing. When decisions on these cases are taken the pansioners will obviously come to know about through the newspapers.

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