(2008) 05 NCDRC CK 0029

In the National Consumer Disputes Redressal Commission

SOCIETY OF CATALYSTS APPELLANT

Vs

Vodaphone Essar Mobile Services Limited RESPONDENT

Date of Decision : 16-05-2008

Acts Referred:

Citation : 2008 3 CPJ 42

Hon'ble Judges : J.D.Kapoor , Rumnita Mittal J.

Advocate : Omesh Saigal , Yatinder Vidyarthi , Navin Chawla

Judgement

1. THIS case demonstrates corporate greed.

2. VODAPHONE Essar Mobile Services Limited arraigned as opposite party (in short ''OP'') is a telecom company providing cellular connections to the consumers residing in different parts of India, including Delhi. In its cellular service, apart from voice, it has various value added services which include SMS (Short message service). It charges for all these services either on the basis of per call/per SMS or on the basis of various schemes. It also provides interconnectivity to cellular users of other telecom service providers. This is also a commercial company with shares being regularly quoted on the stock exchange. There are about 200 lacs Hutch users in the country. Op which is even otherwise having very roaring business indulged in highly unethical, unfair and deceptive trade practice to promote its business interests directly as well as indirectly by launching a scheme or contest through which it has garnered crores of rupees by offering prizes of few lacs in the form of gold coins and only one bumper prize of Maruti SX4. Condition to participate in the scheme was that only those subscribers shall be eligible whose talk-time on their cellphone is for more than 20 minutes in a day.

To become eligible people resorted to making unnecessary calls and data shows that every day large number of subscribers had gone out of the lower category and there was increase in even 23 minutes and above category.

3. ACCORDING to OP, object or purpose of launching such a Scheme or a contest

or lottery was three-fold. Firstly the scheme was for the benefit of its high-end users and secondly it also benefited the subscribers as a whole and thirdly to pay for their loyalty and usage and none of these purposes promotes the business interest, directly or indirectly. Can by any stretch of imagination such a scheme or contest or a lottery be deemed for the benefit of high-end users or paying for their loyalty and in the general interest of subscribers as a whole? Certainly not. It smacks of deceptive and unfair method of promoting business interests both directly and indirectly. Had it been for the benefit of high end users then every subscriber who had in the past called for more than 20 minutes a day or more would have been given prizes or gifts. If it was for general benefit of all the subscribers it should have been opened to all and not restricted to those who have talk time of more than 20 minutes a day. It was by way of draw of lots that very few and miniscule of subscribers were given prizes whereas lacs and crores were allured to make unnecessary calls to become eligible to participate in the scheme.

4. THUS it is beyond comprehension as to how such contest or scheme was either for the benefit of the subscribers as a whole or for the benefit of high-end users. Scheme floated by OP was as under: * "Baaton se banaiye sona, bees minute mein. * Har din jeetiye dus sone ke sikke. * Bumper inaam ek Maruti SX4. * Bhaag lene ke liye din mein apne hutch phone se karein bees minutes se adhik call. * Offer pre-paid aur post-paid par uplabdh." When translated into English it reads as under: * Earn gold through talk time of 20 minutes. * Win 10 gold coins every day * Bumper prize one Maruti SX4 * To participate make calls for more than twenty minutes a day on your hutch phone. * Offer is available both on pre-paid and post-paid.

Allegations of complainant-Society are a report was published in issue of 15.7.2007 of Hindustan Times that the Average Revenue Per User (ARPU) is going down, so every company is focussed on value added services (VAS), estimated to be worth Rs. 4,950 crore in March 2007 and is set to grow by 65% and generate business worth Rs. 8,200 crore by the end of this financial year, according to estimates made by the Assocham. In order to generate profit, OP announced a contest/lottery in July 2007 to its users and promised rewards of gold coins and a Maruti ZX4 car to a lucky winner. All Hutch users who have used the voice service for more than 20 minutes a day were eligible to participate. Participation was automatic for all users who fulfill this condition. The Society on enquiry about the said programme got the following message in reply: "Roz jeeto sona! Har din sirf bees minute se adhik baat karne par ap pa sakte hain mauka sona jeetne ka, yahi nahin aap saath mein jeet sakte hain ek Maruti SX4 bhi." Its English version is as under: "Win gold daily. You have an opportunity to win gold every day if you talk (on your cell) more than twenty minutes. Not only you can win gold coins, you can also win one Maruti SX4."

5. IN reply to an oral query it was confirmed by them that there was no charge for the contest, only the condition of 20 minutes applied. Thus the impression

given that the participation was free and the prize money was being given by the organizers of the contest from their pocket was highly misleading. The OP is a telecom company who is not supposed to perform such contest as the whole motive behind the contest was to generate profits which in view of the above referred report published in the issue of 15th of July, 2007 of Hindustan Times.

6. THAT the complainant-Society carried out a quick and short sample survey, through personal and telephonic contact and otherwise and found that almost every ten Hutch users out of a hundred were aware of this contest and they stated that if their talk fell marginally short of 20 minutes on any day, they would make up the difference by making an unnecessary call, if need be. This would mean that about 20 lacs Hutch subscribers were willing to make unnecessary calls of a few minutes a day to be able to participate in the contest. That there are an estimated 200 lacs Hutch users in the country, of these about 10% (i.e. 20 lacs) were aware of the contest and were willing to make marginal adjustments to be able to participate in the contest. As per its estimate on an average all of them have spoken an extra two minutes on any single day over the period of the contest.

That from the above facts, it is also clear that the contest/lottery is being held not with a view to enrich the phone users but merely to ensure that they make more calls and thereby generate more revenue and profits for the OP which amounts to unfair trade practice.

7. THAT Section 2 (1)(r)(3) of Consumer Protection Act, 1986 defines an ''unfair trade practice'' as under: "Unfair trade practice" means a trade practice which, for the purpose of promotion the sale, use or supply of any goods or for the provision of any service, adopts any unfair method of unfair or deceptive practice including any of the following practices namely: (1) .... (2) .... (3) Permits - (a) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction as a whole; (b) the conduct of any contest, lottery, game of chance or skill for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest; (NB : Italics to highlight the violations by OP Nos. 1 and 2).

That it is clear that the holding of the contest/lottery by OP is an unfair trade practice on both the counts. First, the impression that the participation in the contest is free of charge is false since the cost of organizing the contest including the prize money is fully covered in the ''transaction as a whole''. Second, it is clear that this contest was held for profit and for promoting the business interests of OP.

8. THE complainant has prayed to order for refund of the amount that the contestants have paid to the OP. However, since the loss has been suffered by a large number of consumers, who it may not be possible to identify conveniently,

order that the amount be recovered as per the provisions of Section 14(1)(hb) of the Act and also that costs not just to cover the costs of the proceedings as it may deem fit but also the cost of conducting the survey and other research to the tune of Rs. 1 lac be awarded. In its defence OP took the preliminary objections as to the locus standi of the complainant inasmuch as that though it proclaims itself to be registered society but lacks information as to any of the members of the complainant society being subscribers of the OP-services and also as to the lack of jurisdiction of this Commission to entertain the complaint being specifically barred by Section 14 of TRAI Act i.e. Telecom Regulatory Authority of India Act, 1997 as this complaint has been filed on behalf of group of consumers whereas Section 14 of the TRAI Act only permits complaint before the Consumer Forum by individual consumer and further that the proper jurisdiction to entertain this complaint more appropriately vests with the Monopolies and Restrictive Trade Practices Commission. On merits while explaining the scheme or contest or the lottery, the OP has admitted having launched the scheme for the subscribers who talk for more than 20 minutes on their cell phone to become eligible and would automatically participate in the draw of lots and stand to win gold coins and Maruti SX4 car and for this they have not paid any extra amount.

9. FURTHER that the cost of the gifts being offered under the scheme is in no manner added on to the price that the subscriber has to pay. As stated above, the tariff of the subscriber remains the same and there is absolutely no change in the same made only due to his participation in this scheme. Therefore, for no added cost the subscriber stands a chance to get exciting gifts and the scheme is nothing but in the interest of subscribers.

10. OP denied that the whole motive behind the scheme is to generate profit and also denied the contents of report published in the Hindustan Times for want of knowledge. According to it, no legal cognizance can be taken of such newspaper report. Rather the scheme is intended to give benefit to the high-end users of the OP and to honour their loyalty towards to the OP. Op also denied that the complainant-society carried out any quick or short survey through persons or telephonic contact or otherwise. Op denied that the complainant Society found that almost ten Hutch users out of a hundred were aware of this contest or that they stated that if their talk fell marginally short of 20 minutes on any day, they would make up the difference by making an unnecessary call, if need be and that about 20 lakh Hutch subscribers were willing to make unnecessary calls of a few minutes a day to be able to participate in the contest. Op wants that the complainant should be put to strict proof of the contents and material with respect to the alleged survey and the Op vehemently denied the genuineness of the survey.

Op denied that the scheme of the Op is being held not with a view to enrich the phone user but merely to ensure that he makes more calls and thereby generates more revenue and profits for the Op. According to the Op the Scheme is intended to honour and benefit the high-end users of Op''s services and is, therefore, in general interest of subscribers.

11. OP also denied that the cost of organizing the contest including the prize money is fully covered in the ''transaction as a whole''. There is no change made in the tariff plan of the consumer because of participation in the impugned scheme alone, therefore, participation is at no extra cost and the cost of running the Scheme is not a burden on such subscriber. The scheme is for benefiting the subscriber of the OP and to pay for their loyalty and usage. That the scheme of the OP is perfectly legitimate and legal and cannot be termed as "unfair trade practice". There is absolutely no basis for the figure of 40 lakh as alleged by the complainant. OP denied that any consumer has suffered any loss due to the scheme of the OP.

12. THUS in nutshell the object or purpose of launching such a scheme or a contest or lottery is three-fold. Firstly the scheme benefits its high-end users and secondly it benefits the subscribers as a whole and thirdly to honour and pay for their loyalty and usage and none of these purposes promotes the business interest, directly or indirectly nor the prizes have been offered with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction as whole. We have heard Mr. Omesh Saigal on behalf of the complainant-Society and Mr. Navin Chawla, learned Counsel for the OP at length. During the course of arguments, Mr. Saigal referred to a sample survey conducted by the complainant-Society and found that at least 10% of the Vodafone subscribers were aware of this scheme and were willing to make one or more calls to be able to participate in this contest and even otherwise when they did not want to make the call. Such a scheme is also a restrictive trade practice as there is a condition precedent for participating in the contest that one has to call for 20 minutes or more on a particular day to become eligible to participate. The O.P. has not questioned the survey but has not come out with the actual number as well as the number of participants or money earned by them through the said scheme.

13. WHILE demonstrating from the data and details provided by OP and filed during the proceedings which is Ex. RW 1/1, Mr. Saigal, appearing for the complainant contended that as per this data there are four segments of subscribers; who called between 1-18, 19-20, 20-21 and 21 minutes and above. These are for pre-paid and post-paid subscribers. Therefore, the random survey showed more than 4 crores subscribers who participated in this contest. In the pre-promotion period for the pre-paid category there was 0.9 % decrease in the average subscribers of 1-18 minutes and promotion period 0.9% decrease in the number of people who called between 1-18 minutes and there is an increase 0.86% who has called more than 21 minutes.

14. THUS, according to Mr. Saigal, there was an increase of 0.91% in the 23 minutes and above category and in the lower category of 1 to 18 minutes there

was a decrease of 0.86%. This works out to 8,00,516 subscribers every day who have shifted from the lower category to higher category to be eligible. In the first three days promotion period it works out to 3,06,054. The number of minutes called extra by people works to 10,026,160.00 i.e. (one crore twenty-six thousand and one sixty) by pre-paid category only. Almost same trend was there in the post-paid category. According to Mr. Saigal during the pre-promotion period out of approximately 67.57%, 57.85% were in the 1 to 18 minutes category and 36.16% were in category of above 22 minutes. During the promotion period these figures went down to 50.12, a decline of 0.33% and those in 23 minutes and above went up to 36.71% which is an increase of 0.35%. This works out to 1809 people every day having shifted from lower to higher category and the total number of minutes called by them comes to 2,60,496. In both categories the figures comes to 14,86,656 minutes. Therefore, there is one call per subscriber extra by people to enable themselves to participate in the contest which works out to at least Re. 1 per call which is the lowest rate that any one charges.

Thus, according to Mr. Saigal O.P. has made roughly two crore rupees during the promotion period through unnecessary calls made by people to enable them to participate in the contest. As against this, the offer of the O.P. was to give one SX4 car as bumper prize which is Rs. 5 lacs or so and even if they give one gold coin to every eligible person/per day it would work out to another Rs. 4 lacs as only ten coins were being given everyday. Out of 2 crores people only about seventy odd people would get about Rs. 10 lacs.

15. MR. Saigal also contended that the terminology used by the OP is "pre-promotion" and "promotion" period. Thus promotion of business is inherent in the scheme and also in the evidence produced by the OP itself. Nothing prevented the OP by making a further increase in the duration of the calls i.e. say for 25 minutes, and thereby earn huge money and deprive the callers of previous months who had called more than twenty minutes from the benefit of high end use. The general impression given was as if the participation was free and the prize money was being given by the organizers of the contest from out of their pocket and participation is free whereas it is fully covered in the amount charged for the transaction as a whole and the whole motive was to generate profits through such contest in an unfair manner indulging in unfair trade practice involving unfair and deceptive method.

16. ACCORDING to Mr. Saigal on the face of it, the whole motive was to generate profit through unfair practice and deceptive methodology which amounts to ''unfair trade practice'' as contemplated by Clauses (a) and (b) of Sub-section (3) of Section 2(1)(r) of the Consumer Protection Act as defined above. Mr. Saigal contended with vehemence that the prohibitory Clauses (a) and (b) are attracted in the scheme floated by the O.P. in as much as they have given the impression that the participation is free whereas it is fully covered in the amount charged for the transaction as whole and also it is a contest for the purpose of promoting the

sale, use or supply of any product or business interests. They are promoting their business interests both directly as well as indirectly in as much as that the customers may use their phone even when they do not need to use it so that they can participate in the contest and this amounts to unfair trade practice as contemplated by Section 2 of the Act. He further contended that OP admitted that the scheme floated by it was that only those users who use the voice service for more than 20 minutes in a day were eligible to participate in the contest and that in the said contest only 10 lucky winners out of lacs would be able to win one gold coin a day and one bumper prize of Maruti SX4 Car and therefore the presumption is that any person can win a gold coin or a Maruti Car. Since there are numerous consumers having the same interest involved or have participated in the scheme announced by the O.P.-Vodafone punitive damages be imposed on the O.P and O.P. be directed to refund the money received by them. According to Mr. Saigal it is clear that the general impression given is as if the participation is free, the prize money is being given by the organizers of the contest from out of their pocket whereas the whole motive was to generate profits through such contest in an unfair manner indulging in unfair trade practice involving unfair and deceptive method.

17. AS regards locus standi of the complainant-Society Mr. Saigal relied upon provisions of Section 12(1)(b) that provides the locus standi to a recognized voluntary association to file the complaint whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not to file the complaint. Section 12 of the Act prescribes as under: Sec. 12. Manner in which complaint shall be made-(1) A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by- (a) The consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided; (b) Any recognized consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not; (c) One or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; (d) the Central or the State Government, as the case may be, either in its individual capacity or as a representative of interests of the consumers in general. Explanation-for the purposes of this Section "recognized consumer association" means any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force.

18. AS regards the locus standi of office-bearer of such an organization to represent the Society, Mr. Saigal who is Treasurer, referred to Regulation 16(iv) of the Consumer Protection Regulations, 2005 providing that "voluntary consumer associations can engage a Counsel or Advocate of its choice or it can itself represent through one of its officer bearers as per rules governing it".

Regarding jurisdiction of the State Commission, Mr. Saigal has referred to Section 14 of the Telecommunication Regulation Act as relied by the OP which gives authority to the TDSAT to adjudicate a dispute between licensee and licensor or between two service providers or service provider and consumers and only those disputes are covered that emanate or flow from the provisions of TRAI Act i.e. Sections 11 and 12 and contended that the complainant is not a group of consumers but represents a large number of individual consumers running into lacs as the calls have been made by individual consumers and the billing is in their name and extra charge if any has also been made from them.

As regards the remedy under the Consumer Protection Act, Mr. Saigal has referred to provisions of Section 3 prescribing that it is an additional remedy and not in derogation of any other law for the time being in force. Section 3 prescribes as under: Sec. 3 Act not in derogation of any other law-The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

19. IN support of this contention Mr. Saigal has relied upon the recent decision of Supreme Court in Secretary, Thirumurugan Co-operative Agricultural Credit Society v. M. Lalitha (Dead) Through L.Rs. & Ors., I (2004) CPJ 1 (SC)=I (2004) SLT 200=C.A. No. 92 of 1998 decided on 11.12.2003 (SC & NC Consumer Cases 1996-2005) wherein the Supreme Court has referred to the scope of Section 3 of the Consumer Protection Act, 1986 and the statements, objects and reasons for the Act which is to provide better protection of the interest of the consumers and therefore the remedy of 1986 Act is in addition and not in derogation of any of any other law for the time being in force. Observations of the Supreme Court are as under: "10. IN Section 3 of the Act in clear and unambiguous terms it is stated that the provisions of 1986 Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force."

From the statement of objects and reasons and the scheme of 1986 Act, it is apparent that the main objective of the Act is to provide better protection of the interest of the consumer and for that purpose to provide better redressal, mechanism through which cheaper, easier, expeditious and effective redressal is made available to consumers. To serve purpose of the Act, various quasi-judicial Forums are set up at the district, State and National level with wide range of powers vested in them. These quasi-judicial Forums, observing the principle of a specific nature and to award, whenever appropriate compensation to the consumers and to impose penalties for non-compliance of their orders. Supreme Court further observed that- Despite various other statutes such as Indian Contract Act, 1972, Sale of Goods Act, 1930, the Indian Penal Code, 1960, the Standard of Weights and Measures Act, 1976 and the Motor Vehicles Act, 1988, etc. being in operation very little could be achieved in the field of consumer protection. Though the MRTP Act, 1969 and the Prevention of Adulteration Act, 1954 provide relief to the consumers yet it became necessary to protect the consumers from the exploitation and to save them from adulterated and sub-standard goods and deficiency in services and to safeguard their interest.

20. MR. Navin Chawla, learned Counsel for OP has at the outset contended that the core issue to be considered is whether the service provider has adopted unfair practice or deceptive method for the purpose of supply or use of any service as Sub-section (3) also gets included in the unfair trade practice if the service provider or the trader promotes the following: (a) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction as a whole; (b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest.

Mr. Chawla further contended that even if it is assumed that the O.P. has offered prizes or gifts but still the intention of not providing those goods or prizes is utterly wanting. Another requisite is that whether the trader or service provider has created an impression that something is being given or offered free of charge whereas it is fully or partly covered by the amount charged in the transaction as a whole. According to Mr. Chawla in the instant case there is no such allegation that the O.P. has increased its price or charged so as to cover the prizes of gifts in the scheme or has charged anything extra from the consumer for being eligible to participate in the scheme for the purpose of receiving gifts or prizes. Thus in the view of Mr. Chawla the essentials of Sub-clause (a) of Sub-section (3) do not get attracted. As regards Clause (b) of Sub-section (3) the requirements are that the service provider who promote the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interests. According to Mr. Chawla the scheme does not fall within the ambit of lottery, contest or game of chance or skill as the only condition for taking part in the contest was that any person who is making a call for more than 20 minutes a day would automatically become eligible for the contest. Therefore, he does not spend anything or do anything extra for entering into contest. While interpreting Clause (a) of Sub-section (3) the learned Counsel has contended that if a mere offer of prize or gifts or other items as offered would have been covered under unfair trade practices it was immaterial whether the result of the scheme is published or not. Therefore it was with the intention to take out the mere offer of prizes or other items floated in any such scheme that the Legislature introduced Sub-section (3A) by providing that "withholding from the participants of any scheme offering gifts prizes or other items free of charge, on its closure the information about final results of the scheme free of charge on its closure the information about the final results of the scheme" as unfair trade practice.

21. IN nutshell, the contention of the O.P. is that by offering such goods or prizes to those persons who are high end users of phone in normal course uses the phone without being burdened of the time taken by them in each and every call

is not with a view to induce them to make more calls so as to get some gifts and prizes. If in ordinary course also a person makes a call for more than 20 minutes he automatically becomes eligible and mens rea or deceptivity projected by the complainant does not exist at all. Thus it is the underlying object of any scheme floated by the O.P. or the kind of the one in question which determines as to the practice falls under unfair trade practice or not as defined in Section 2(i)(r).

22. MR. Chawla, also contended that unless and until loss or injury is proved the provisions of Section 2(1)(r)(3)(a) and (b)cannot be invoked and since the complainant has failed to prove any such loss or injury to large number of consumers whom it is representing, it cannot take advantage these provisions. In support of this contention MR. Chawla has referred to the view taken by the Supreme Court in few cases arising from the unamended definition of ''unfair trade practice'' provided by Section 36A(3)(b) of MRTP Act whereby the essential ingredient of holding a practice as unfair trade practice was causing loss or injury to the consumers. Some of the judgments referred by Mr. Chawla are as under: (a) Colgate Palmolive (India) Ltd. v. MRTP Commission & Ors., III (2002) CPJ 18 (SC)=VI (2002) SLT 543=(2003) 1 SCC 129. "15. Section 36A(3)(b) as it stood at the relevant time reads as under- 36A. Definition of unfair trade practice.-In this part, unless the context otherwise requires, ''unfair trade practice'' means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provisions of any services, adopts one or more of the following practices and thereby causes loss or injury to the consumers of such goods or services, whether by eliminating or restricting competition or otherwise, namely- (3)(b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest."

16. A bare perusal of the aforementioned provision would clearly indicate that the following five ingredients are necessary to constitute an unfair trade practice- (i) There must be a trade practice [within the meaning of Section 2(u) of the Monopolies and Restrictive Trade Practices Act]. (ii) The trade practice must be employed for the purpose of promoting the sale, use or supply of any goods or the provisions of any services. (iii) The trade practice should fall within the ambit of one or more of the categories enumerated in Clauses (1) to (5) of Section 36A. (iv) The trade practice should cause loss or injury to the consumers of goods or services. (v) The trade practice under Clause (1) should involve making a ''statement'' whether orally or in writing or by visible representation." (b) H.M.M. Ltd. v. Director General, Monopolies & Restrictive Trade Practices Commission, VI (1998) SLT 621=(1998) 6 SCC 485-

10. "9. For holding a trade practice to be an unfair trade practice, therefore, it must be found that it causes loss or injury to the consumer. Insofar as prizes are concerned, there has to be the intention of not providing them as offered or creating the impression that they are being given or are being offered free of charge when in fact they are fully or partly covered by the amount charged in the

transaction as a whole. The conduct of a lottery for the purpose of promoting the sale, use or supply of a product is an unfair trade practice." (c) Nirma Industries Ltd. v. Director General of Investigation & Registration, II (1997) CPJ 10 (SC)=(1997) 5 SCC 279-

"14. On careful analysis of unfair trade practice defined in Section 36A, it is quite clear that the trade practice which is undertaken by the company for the purpose of promoting the sale, use or supply of any goods or for the provision of any service/services adopts one or more following practices and thereby causes loss or injury to the consumers of such goods or service whether by eliminating or restricting competition or otherwise would amount to unfair trade practice. The above key words used in Section 36A while defining the unfair trade practices have laid emphasis on ''thereby causes loss or injury to the consumers of such goods or services whether by eliminating or restricting competition or otherwise''. It must, therefore, follow that any such unfair trade practice which causes loss or injury to the consumers of such goods or service either by eliminating or restricting competition or otherwise would attract the penal consequences as provided under this Chapter."

At this stage itself we may observe that facts of cases relied upon by Mr. Chawla were entirely different. Here contest is for winning 10 gold coins and one Maruti SX4 and eligibility for participants is that they shall have to talk on their cellphone for more than 20 mintues a day. In the above referred case bottles of Horlicks contained a slip of paper which entitled the buyer to a prize and it was held to be not a lottery in the ordinary sense.

23. FURTHERMORE, the ratio of aforesaid authorities is not applicable in view of the definition of ''unfair trade practice'' as provided by Section 2(1)(r)(3) (a) and (b) of the Consumer Protection Act, 1986. In the MRTPC Act, Section 36A defined the unfair trade practice in a manner that for holding a trade practice to be unfair, it must be found that it causes loss or injury to the consumer whereas in the Consumer Protection Act no such ingredient is necessary. It is pertinent to mention that subsequently the definition of ''unfair trade practice'' was also amended and brought on the same parameter as defined by Section 2(1)(r) of the Consumer Protection Act. Since definition of ''unfair trade practice'' provided by Section 2(1)(r)(3)(a) and (b) does not contain the ingredient of ''causing loss or injury to the consumers of goods or services'' the ratio of the above referred authorities relied by Mr. Chawla is not attracted.

24. MR. Chawla further contended that complainant claims to have carried out quick and short sample survey through telephonic and personal contact and otherwise and found that almost every ten Hutch users out of a hundred were aware of the contest but the complainant has not produced any document in support of its evidence and if the survey had actually been done, it should have produced the same before this Commission otherwise this plea is totally incorrect. According to Mr. Chawla, OP has discharged its onus to show that the scheme in question did not promote its business or sale of goods or service and

did not have the actual effect to that effect nor did it cause any injury or loss to the subscriber. In this regard the OP has placed reliance on RW-1/1 which shows actual consumption pattern for the period prior to the launch of the scheme, during the scheme period and thereafter and it has not shown any perceptible change in the subscriber usage due to the scheme. The complainant has tried to take undue advantage of the statement filed by the OP in as much as that he has only shown the pre-18 minutes and above-22 minutes category. Therefore the figures represented in the maximum are incorrect. Further that actual statistics have been provided by O.P whereas the statistics provided by the complainant was on a random survey basis and, therefore, OP''s statistics assume significance for coming to the conclusion whether or not the scheme was only for promoting business through unfair means and through element of deceptive practice.

25. LASTLY, Mr. Chawla challenged the jurisdiction of this Commission to entertain this complaint as according to him jurisdiction is exclusively vested in the Telecome Disputes Settlement and Appellate Tribunal constituted under Telecom Regulatory Authority of India Act, 1997 as Section 14 of the TRAI Act ousts the jurisdiction of Consumer Forum if the dispute is between group of consumers and licensee. Section 14 of the TRAI Act provides as under: "14. Establishment of Appellate Tribunal.-The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Telecom Disputes Settlement and Appellate Tribunal to- (a) Adjudicate any dispute- (i) between a licensor and a licensee; (ii) between two or more service providers; (iii) between a service provider and a group of consumers:

Provided that nothing in this clause shall apply in respect of matters relating to- (A) The monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under Sub-section (1) of Section 5 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969); (B) The complaint of an individual consumer main-tainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commis-sion established under Section 9 of the Consumer Protection Act, 1986 (68 of 1986); (C) The dispute between telegraph authority and any other person referred to in Sub-section (1) of Section 7B of the Indian Telegraph Act, 1885 (13 of 1885). (b) Hear and dispose of appeal against any direction, decision or order of the Authority under this Act."

26. WE have accorded careful consideration to the rival contentions. So far as the locus of the complainant is concerned, the complainant being voluntary consumer association is entitled to file a complaint by way of public interest litigation. Consumer Protection Act of 1986 appears to be the only statute that has provided statutory recognition to public or consumers interest litigation. Even under Sub-clause (c) one or more consumers can file complaint where there are numerous consumers having the same interest, on behalf of, or for the benefit of all consumers so interested.

The complainant is the Treasurer and office bearer as per Certificate signed by the President of the Society. The complainant has produced a copy of Certificate of incorporation of the complainant association. Regulation 16(iv) of the Consumer Protection Regulation, 2005 provides that ''voluntary consumer association'' can engage a Counsel or Advocate of its choice or it can itself represent through one of its office bearers as per rules governing. As contemplated by Sub-section (b) of Section 12 even if it is assumed that the society of the complainant is not recognized when there are more than one consumer having the same interest, any one person can file a complaint on his behalf as well as other numerous consumers having the same cause of action or interest for the benefit of all the consumer who are interested.

27. AS regards provisions of Section 14 of TRAI Act the complainant is not a group of consumers but represents a large number of individual consumers running into lacs as the calls have been made by individual consumers and the billing is in their name and extra charge if any has also been made from them. Under Section 14(1) of the TRAI Act, C.P. Act of 1986 is an omission and not exclusion. Had it not been so the C.P. Act would not have defined ''unfair trade practice'' as well as ''restrictive trade practice'' by way of Section 2(1)(r) and (nnn). What is excluded is ''monopolistic trade practice'' and as such for any ''unfair trade practice'' or ''restrictive trade practice'' consumer is entitled for additional remedy as prescribed by Section 3 of the Act 1986 seeking many kinds of relief as prescribed by Section 14(1) which includes compensation for mental agony, harassment and other such injury and injustice suffered by him which no other law provides.

28. THOUGH the MRTPC Act and the Prevention of Adulteration Act, TRAI Act and other Acts provide some remedy to the consumers yet it became necessary to bring the C.P. Act of 1986 on the statute book to protect the consumers from exploitation and to save them from adulterated and sub-standard goods and deficiency in service, unfair and restrictive trade practice and to safeguard their interests by way of compensation. There is distinction between ''complaint'' defined under Section 2(1)(c) of the C.P. Act and ''dispute'' referred in Section 14(1)(a) of the TRAI Act. Under the TRAI Act what is referred is ''dispute'' and not ''complaint''. ''Complaint'' is defined by Section 2(1)(c) which means any allegation in writing made by a complainant as to the unfair trade practice or restrictive trade practice or the service availed being deficient or charging in excess of price fixed by or under any law for the time being in force or any package containing such goods or displaced on the price list exhibited, etc., etc. Section 2(1)(e) of C.P. Act clearly defines ''consumer dispute''. According to it where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint it becomes a ''consumer dispute''. Unless denial of the allegation is there it does not obtain the character of ''consumer dispute''.

29. DESCRIPTION ''any dispute'' in Section 14(1) of TRAI Act mainly confines to

those disputes that stem from the functions of TRAI which are recommendatory as well as obligatory or statutory as contemplated by Sections 11 and 12 of TRAI Act whereas under the C.P. Act there are varied kinds of ''consumer disputes'' and offences which no other law recognizes and if it recognizes the remedy provided under the C.P. Act is additional and independent remedy and not in derogation of the provisions of any other law for the time being in force. For instance the offences that are recognized under the C.P. Act are manufacturing and sale of defective goods, hazardous goods, deficiency in service, unfair trade practice and even restrictive trade practice etc.........

30. ACCORDING to the complainant he has filed complaint only before this Commission and no other complaint of the subject matter has been filed either before TDSAT or any other Forum. In our view TDSAT has no jurisdiction over the disputes which are consumer disputes as defined by Section 2 of the C.P. Act and even if it has jurisdiction the dispute arising from the provision of TRAI Act still remedy by way of compensation and other directions to the opposite party as contemplated by Section 14 of the C.P. Act, 1986 are additional remedies and not in derogation of any other law for the time being in force.

Tdsat may have jurisdiction over the disputes arising out of Sections 11 and 12 of the TRAI Act whereas this complaint is filed on behalf of numerous individual consumers as contemplated by Section 12(b) of the C.P. Act and not as a group of consumers as referred in Section 14 of the TRAI Act. The word ''group'' has limited connotation whereas word ''numerous'' means large number of consumers whose interests are similar and therefore complaint has to be treated as having been filed by individual consumers or subscribers and even if the Tdsat has the jurisdiction still the jurisdiction of the Consumer Forum and Commissions is not barred. What is barred is jurisdiction of Civil Court as Section 3 of the C.P. Act, 1986 provides alternative and additional remedy and not in derogation of any other law for the time being in force including TRAI Act and MRTPC Act, etc. as referred above.

31. MOREOVER, Hon''ble Supreme Court has ruled that even if other forums say TDSAT have jurisdiction, consumer has additional remedy under Section 3 of the Consumer Protection Act because of the element of compensation for mental agony, harassment, physical discomfort, financial loss, emotional sufferings, etc. which no other statute provides including TRAI Act. In Lucknow Development Authority v. M.K. Gupta, III (1993) CPJ 7 (SC)=1994 (1) SCC 243 Supreme Court has, on the question of jurisdiction of the Forums and Commission under the Consumer Protection Act, 1986 categorically held that despite the fact that other Forums/Courts have also jurisdiction to adjudicate upon the lis still these Forums have jurisdiction as remedies under the Act are wider and include compensation for mental agony, sufferings, harassment, etc. which cannot be given under any other Act. Observations are as under: "On the question of jurisdiction it is stated that the Forums under the Act have jurisdiction to entertain a complaint despite the fact that other Forums/Courts would also have

jurisdiction to adjudicate upon the lis."

"Remedies that are available to the aggrieved party under the 1986 Act are wider. For instance in addition to granting a specific relief the Forums under the 1986 Act have jurisdiction to award compensation for the mental agony, suffering, etc. which possibly could not be given under the Act in relation to any other dispute under any other law."

32. THIS view was fortified by the Supreme Court in another case Smt. Kalawati & Ors. v. Unitedvaish Co-operative Thrift & Credit Society Ltd., I (2002) CPJ 71 (NC)=R.P. No. 823 to 826 of 2001, SC & NC Consumer Law Cases (1886-2005) 275 with the following observations: "4. Section 3 is worded in widest terms and leaves no one in doubt that the provisions of CPA shall be in addition and not in derogation of any other law for the time being in force. Thus even if any other Act provides for any remedy to litigant for redressal by that remedy a litigant can go to Dist. Forum if he is a ''consumer'' under CPA. That remedy exists in any other law which creates the right is no bar to District Forum assuming jurisdiction."

Another decision of the Supreme Court in this regard was referred in Spring Meadows Hospital & Anr. Etc. v. Harjol Ahluwalia Through K.S. Ahluwalia & Anr., I (1998) CPJ 1 (SC)=III (1998) SLT 684=1998 (4) SCC 39, holding that the jurisdiction of the District Forum is not barred even if other Forums or Courts have jurisdiction. Observations of the Supreme Court in this case are as under:- "On the question of jurisdiction it is stated that the Forums under the Act have jurisdiction to entertain a complaint despite the fact that other Forums/Courts would also have jurisdiction to adjudicate upon it. It is also noticed that the Act provides for a further safeguard to the effect that in the event a complaint involves complicated issues requiring recording or evidence of experts, the complainant would be at liberty to approach the civil Court for appropriate relief."

So much so the Supreme Court has even gone to the extent of extending the jurisdiction of Consumer Forum and Commissions even if there is an Arbitration clause in the agreement between the parties as according to the Supreme Court the Legislature intended to provide a remedy in addition to the remedies available under any other law for the time being in force. The observations of the Supreme Court in Fair Air Engineers Pvt. Ltd. and Anr. v. N.K. Modi, III (1996) CPJ 1 (SC)=1996 (6) SCC 385 are as under: "It would, therefore, be clear that the Legislature intended to provide a remedy in addition to the consequent arbitration which could be enforced under the Arbitration Act or the civil action in a suit under the provisions of the Code of Civil Procedure. In view of the object of the Act and by operation of Section 3 thereof, we are of the considered view that it would be appropriate that these Forums created under the Act are at liberty to proceed with the matter in accordance with the provisions of the Act rather than relegating the parties to an arbitration proceedings pursuant to a contract entered into between the parties. The reason is that the Act intends to relieve the consumers of the cumbersome arbitration proceedings or civil action unless the Forums on their own and on the peculiar facts and circumstances of a particular case, come to the conclusion that the appropriate Forum for adjudication of the disputes would be otherwise those given in the Act."

33. TO the same effect is the decision of Supreme Court in M. Lalitha''s case (supra).

34. ON the concept of compensation under Consumer Protection Act, the Supreme Court in Ghaziabad Development Authority v. Balbir Singh, II (2004) CPJ 12 (SC)=III (2004) SLT 161=(2004) 5 SCC 65 has observed that it encompasses in its fold each and every element of sufferings like mental agony, harassment, emotional sufferings, physical discomfort etc. The observations are as under: "The word compensation is of a very wide connotation. It may constitute actual loss or expected loss and may extend to compensation for physical, mental or even emotional suffering, insult or injury or loss. The provisions of the Consumer Protection Act enable a consumer to claim and empower the Commission to redress any injustice done. The Commission or the Forum is entitled to award not only value of goods or services but also to compensate a consumer for injustice suffered by him. "

Thus, Consumer Protection Act of 1986 provides additional jurisdiction to the Consumer Forum/Commission to entertain the complaint under Section 12 of the Act and does not exclude its jurisdiction. Section 3 of the C.P. Act, 1986 in clear and unambiguous term states that provisions of 1986 Act shall be in addition to and not in derogation of any other law for the time being in force which means that despite various other statutes such as Indian Contract Act, 1972, Sale of goods Act, 1930, The Standard of Weights and Measures Act, 1976, Motor Vehicles Act, 1988, MRTPC Act, Arbitration Act and Consumer Protection Act, 1986 provides remedy to the consumes, still the remedy contemplated by Section 14(1) of the C.P. Act is unique and for better protection of interests of consumers which no other statute provides as the word ''compensation'' appearing in Section 14 has a wide connotation and includes compensation for the injuries suffered by a consumer on account of mental agony, harassment, emotional sufferings, physical discomfort, etc., etc. besides actual loss and several other reliefs as referred in Section 14 of the Act.

Thus TRAI Act has no applicability as remedy being additional remedy provides compensation and punitive damages to the loss or injury suffered by innumerous consumers running into crores because of the unfair trade practice and discontinuation of such a practice. TRAI Act does not provide the relief of compensation for loss or for mental agony, harassment or punitive damages as envisaged by Section 14 of the Consumer Protection Act, 1986. Thus remedy or relief sought is additional, if any and is not available under TRAI Act or MRTPC Act. Section 14(1) of the Act provides as under: S. 14. Finding of the District Forum-(1) If, after the proceeding conducted under Section 13, the District Forum is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are provided, it shall issue an order to the opposite party directing him to do one or more of the following things, namely- (a) To remove the defect pointed out by the appropriate laboratory from the goods in question; (b) To replace the goods with new goods of similar description which shall be free from any defect; (c) To return to the complainant the price, or, as the case may be, the charges paid by the complainant; (d) To pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party: [Provided that the District Forum shall have the power to grant punitive damages in such circumstances as it deem fit]. (e) To remove defects in goods or deficiencies in the services in question; (f) To discontinue the unfair trade practice or the restrictive trade practice or not to repeat them.

35. THUS what is barred is jurisdiction of Civil Court as Section 3 of the C.P. Act, 1986 provides alternative and additional remedy and not in derogation of any other law for the time being in force including TRAI Act and MRTPC Act, etc. as referred above. Moreover, Hon''ble Supreme Court has ruled that even if other Forums say TDSAT have jurisdiction, consumer has additional remedy under Section 3 of the Consumer Protection Act because of the element of compensation for mental agony, harassment, physical discomfort, financial loss, emotional sufferings, etc. which no other statute provides including TRAI Act. Complaint under Section 12(1)(b) of the Consumer Protection Act, 1986 filed on behalf of numerous consumers is not barred by provisions of Section 14 of the TRAI Act on the premise that is a dispute between licensor and group of consumers. The word ''group'' has limited connotation whereas word ''numerous'' means large number of consumers whose interests are similar and therefore complaint has to be treated as having been filed by individual consumers or subscribers and even if the TDSAT has the jurisdiction still the jurisdiction of the Consumer Forum and Commissions is not barred.

36. AS regards the locus standi of the complainant a voluntary consumer association has by virtue of Section 12(1) (b) of the Consumer Protection Act the locus standi to file the complaint for the offences of unfair trade practice, deficient services, sale of defective, hazardous goods among many more things. AS per Rule 16(iv) of Consumer Protection Regulation, 2005 any of its office bearers can represent it. Mr. Omesh Saigal holds the office of Treasurer and has therefore locus standi to file the complaint. Now comes the question whether the scheme launched by OP comes within the mischief of ''unfair trade practice'' as contemplated by Clause (r) of Sub-section (1) read with Sub-sections 3(a) and (b) of the Act of 1986 or not. Bare perusal of the provision of clause (r) of Sub-section (1) of Section 2 referred above shows the main premises for determining or branding a particular trade practice as ''unfair trade practice'' are two-fold and as under: (i) that such a trade practice should be practised for the purpose of promoting sale or use or supply of any goods or the provision of any service; and (ii) that either the method adopted should be unfair or practice adopted should be deceptive.

37. AS regards the offering of gifts, prizes or other items or conducting of any contest, lottery or game of chance or of skill, any of the following additional ingredients are required: (i) That the gifts, prizes or other items should be offered with the intention of not providing them as offered or with the intention of creating the impression that something is being given or offered free of charge whereas it is fully or partly covered by the amount charged in the transaction as a whole. (ii) That the conduct of any contest, lottery, game of chance or skill should be for the purpose of promoting directly or indirectly either the sale or the use or the supply of any product or any business interest.

38. OP calls it ''contest'' which it is not. ''Contest'' in common parlance means, "putting some questions and getting answers from more than one options". However, the scheme in question, can be in broad sense termed as a game of chance or lottery. Dictionary meaning of word ''lottery'' is - "1. a means of raising money by selling numbered tickets and giving prizes to the holders of numbers drawn at random. 2. an enterprise, process, etc. whose success is governed by chance."

Broadly the scheme or so-called contest in question comes within the ambit of lottery in as much as several lacs out of two crore subscribers who have made calls for more than 20 minutes duration a day are eligible to take part in it. Out of them a lot is drawn and one will get a car and a negligible or miniscule people, that is only ten, will get one gold coin each. This is what is lottery all about which OP was promoting and calling upon consumers to make more calls in order to be eligible to participate in the contest.

Such a lottery or scheme comes within the mischief of ''unfair trade practice'' as defined by Sub-section 3(a) and (b) of Section 2(1)(r) of the Consumer Protection Act of 1986 as it was launched with the sole objective of promoting the business interest directly as well as indirectly by adopting unfair and deceptive method. This way OPs are not only selling the product but they are also selling the services and promoting business interests.

39. THERE is no consumer interest involved. Interest of the consumers means that those interests or benefits should reach every consumer and not a few or ten or eleven amongst lakh. Even this comes within the mischief of ''unfair trade practice'' as defined by clause (a) of Sub-section (3) of Section 2(1)(r), as the O.Ps. are giving an impression that something is given for free whereas they are exhorting or alluring the consumers to make unnecessary extra calls to become eligible for the participation and it is fully covered in the amount charged for transaction as a whole. The first category of callers having the duration between 1-20 minutes is out of the contest and only callers of duration of 21 minutes and above are eligible to participate in the contest. Thus, in the pre-contest period 72.3% of the subscribers were in the 1-18 minutes category and 20.74% in the category of above 22 minutes.

40. FROM the data it is apparent that to become eligible people resorted to

making unnecessary calls showing that large number of people have gone out of the lower category. There was an increase of 0.91% in the 23 minutes and above category and in the lower category of 1 to 18 minutes there was a decrease of 0.86%. This works out to 8,00,516 subscribers every day who have shifted from the lower category to higher category to be eligible. In the first three days promotion period it works out to 3, 06,054. The number of minutes called extra by people works to 10,026,160.00 i.e. (one crore twenty-six thousand and one sixty) by pre-paid category only. Almost same trend was there in the post-paid category. In the data as referred above, in both categories the figure comes to 14,86,656 minutes. Thus, O.P. has made roughly two crore rupees during the promotion period through unnecessary calls made by people to enable them to participate in the contest. As against this, the offer of the O.P. was to give one SX4 car as bumper prize which may be approximately of the value of Rs. 5 to 6 lacs or so and even if they give one gold coin to every eligible person/per day it would work out to another Rs. 4 lacs as only ten coins were being given everyday. Out of 2 crores people only about seventy odd people would get about Rs. 10 Lacs. By no stretch of imagination, it can be accepted that this contest or lottery or scheme is in the interest of subscribers as a whole and that the price money has been given out of their pocket. The money collected by the O.P in such a manner amounts to highly unfair trade practice as gifts or prizes are offered only to a miniscule portion of the participants whereas lacs and crores are tempted or allured to make unnecessary calls everyday to become eligible to participate in the lottery or contest.

41. ONLY 1% of the users have been allowed to participate in the lottery or in the contest by the O.P. whereas the rest of 99% also called for extra time. The O.P. has floated a scheme or a contest which per se is unfair trade practice done for business promotion. The terminology used by the O.P. is "pre-promotion" and "promotion" period. Thus promotion of business is inherent in the scheme and also in the evidence produced by the O.P. itself.

42. TO say that the purpose of the scheme was to confer benefit on persons who were high end users and pay for their loyalty and not with a view to promote business interests is wholly fallacious and tantamount to logic-chopping. Had it been so then every subscriber who had in the past called for more than twenty minutes a day or more would have been given prizes or gifts. If scheme or contest was for the general benefit of the subscribers the scheme should have been opened to one and all and not the chosen few who will make calls for more than 20 minutes a day. But it is not so because the O.P is picking and choosing by way of lottery from a few people whom they call high-end users. Had there been such an intention the O.P. would have given benefit to every caller or high-end users of the previous months. Nothing prevented the O.P. by making a further increase in the duration of the calls, i.e. say for 25 minutes, and thereby earn huge money and deprive the callers of previous months who had called more than twenty minutes from the benefit of high-end use. As is apparent no such high-end user was ever given any prizes or incentive. It was by way of draw

of lots that very few and miniscule in lacs were given prizes.

A highly misleading and false impression was given that the participation in the contest is free of charge whereas cost of organizing the contest including the prize money was fully covered in the transaction as a whole. Thus, this contest was held solely for profit and for promoting business interest directly as well as indirectly.

43. WHAT else is it, if it is not unfair trade practice or deceptive method of floating such a scheme or lottery for promoting business interests directly as well as indirectly? Otherwise they would not have put an eligibility condition of calling beyond twenty minutes and would have instead advertised that every subscriber is free to participate in the lottery or scheme without putting any condition precedent. By putting such a condition OPs have promoted their business interests unethically and to the detriment of crores of consumers by encouraging them to make unnecessary calls to get prizes, gifts or anything else knowing that the prizes are for very few and miniscule. In view of the foregoing reasons, we hold the OP guilty for indulging in highly ''unfair trade practice'' affecting crores of subscribers by adopting unfair and deceptive method to promote its business interests directly as well as indirectly.

44. FOR unfair trade practice on such a high scale affecting crores of subscribers we propose to impose punitive damages as provided by Sub-section 1(d) of Section 14 of the Consumer Protection Act and also to give direction to discontinue the practice as prescribed by Sub-section 1(f) of Section 14 of the Act. In view of the facts and circumstances of the case we impose punitive damages of Rs. 50 lacs out of which Rs. 1 lac shall be paid to the complainant-Society as compensation and cost who has taken up the cause on behalf of crores of consumers and balance shall be deposited in favour of "State Consumer Welfare Fund (Legal Aid)" established for providing legal service free of charge to those consumers who have no means to fight their battle against the rich and mighty organizations, powerful business houses, service providers, traders and manufacturers. Op and all other Cellular operators are also directed in terms of Section 14(1)(f) to discontinue such a practice forthwith and not to repeat it.

45. AFORESAID order shall be complied with, within one month from the date of receipt of this order.

46. COMPLAINT is disposed of in aforesaid terms. A copy of the order as per the statutory requirements be forwarded to the parties free of charge and thereafter the file be consigned to Record Room. Complaint disposed of.