



# MUMBAI GRAHAK PANCHAYAT

Public Charitable Trust Regn. No. F-7000, Mumbai • Society Regn. No. 417/8/GBBSD

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## COMMENTS/SUGGESTIONS OF MUMBAI GRAHAK PANCHAYAT ON UNGCP IMPLEMENTATION REPORT

(UNCTAD IGE MEET ON REVISION OF UNGCP  
11<sup>th</sup> and 12<sup>th</sup> July 2013 at Geneva)

### Introduction:

**Mumbai Grahak Panchayat (MGP)** is a registered voluntary consumer organization from Mumbai – India, active in the field of consumer protection, consumer education, study & research and policy advocacy since 1975. MGP is also a Full Member of **Consumers International (CI)**, which is a Global Federation of 240 consumer bodies from 120 countries. Consumers International (CI) also enjoys accreditation of UNCTAD & ECOSOC. MGP Chairman Adv. Shirish Deshpande is also on the Board of Directors and Governing Council of Consumers International. **Adv. Shirish Deshpande**, Chairman – MGP and **Mrs Shubhada Chaukar** – Managing Committee Member - MGP are attending the UNCTAD IGE Meeting on Revision of UN Guidelines for Consumer Protection being held in Geneva on 11<sup>th</sup> and 12<sup>th</sup> July 2013 as a part of Consumers International delegation.

### COMMENTS ON UNCTAD's IMPLEMENTATION REPORT ON UNGCP:

The latest Implementation Report of UNCTAD on UN Guidelines for Consumer Protection appears to be based on 58 responses on the initial draft. The initial draft report was based on survey results from only 27 countries. The latest Implementation Report which shows "All Is Well" and which is rather "over-optimistic" appears to be far from ground realities prevailing in several developing and under-developed countries.

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The Report only confirms existence of legal framework, if at all, and does not throw sufficient light on actual implementation of consumer protection legislations. On the other hand, the survey conducted by Consumers International around same time, on the same subject and which is based on responses from 72 members from 60 countries, and hence more representative, is “far less optimistic”.

The ground reality is that UN Guidelines for Consumer Protection are not being implemented in letter and spirit in several countries. The NGOs from several countries have expressed intense frustration concerning the non-application of Consumer Protection measures already in place.

Consumer organizations are keen to see revision of the existing UN Guidelines for Consumer Protection to address the new challenges in the market economies and to bring them in line with changing times. Consumers International (CI) organized a Global Conference in India in February 2013 to discuss the revision to the UNGCP. Suggestions made at the Delhi conference were circulated to all CI members from 120 countries and further on line comments thereon were invited. Based on all these responses, CI has finalized its demands for revision of UNGCP. A summary of these demands being made by CI for revision of UNGCP is enclosed herewith as Annexure. **Mumbai Grahak Panchayat (MGP) fully supports these demands for revision in UNGCP being made by CI and urges all UN member nations to support the same in wider consumer interest.**

Apart from the demands which are being made by Consumers International, there are **three important issues**, which MGP feels, **deserve serious attention of participating UN Member nations**. These three issues are:

- 1. Formal recognition of Consumer Rights in UN Guidelines,**
- 2. Constituting UN Commission on Consumer Protection,**
- 3. Converting UN Guidelines on Consumer Protection into UN CONVENTION on Consumer Protection.**

### **SUGGESTIONS OF MUMBAI GRAHAK PANCHAYAT:**

- 1. Formal recognition of Consumer Rights in UN Guidelines:**

It is too well known that US President John F Kennedy conferred four rights on US consumers on 15<sup>th</sup> March 1962 which are:

- a) Right to Safety,
- b) Right to Choice,
- c) Right to Information,
- d) Right to be Heard.

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International Organization of Consumers Union - IOCU (now known as Consumer International) further interacted with ECOSOC and four more consumer rights were recognized. They are:

- a) Right to satisfaction of basic needs,
- b) Right to Redressal
- c) Right to Consumer Education
- d) Right to Healthy Environment

Thus the above 8 rights were agreed to be recognized as Consumer Rights. However, the UN Guidelines for Consumer Protection, as approved by the General Assembly of **United Nations in April 1985, did not formally recognize these 8 Rights as “Consumer Rights” but preferred to term them as “legitimate needs” of the consumers.** Several Consumer Groups present in Global Conference held in India to discuss revision of UNGCP, expressed their strong desire that these so-called “legitimate needs” be formally recognized in UNGCP as **“Consumer Rights”**.

We are of considered view that there is strong justification for these so-called “legitimate needs” to be formally recognized as “Consumer Rights” in the UNGCP. The opposition or objections to formal recognition of Consumer Rights are devoid of any merit.

To begin with, it is a matter of record that American President John F Kennedy himself referred them as “Consumer Rights in his speech in the American Senate on 15<sup>th</sup> March 1962. Even IOCU, while lobbying with ECOSOC for additional four Rights, was quite clear in its thinking that these are basic consumer rights. So much so that after the UN General Assembly approved the UN Guidelines for Consumer Protection in April 1985, the whole consumer community across the world, recognized them as 8 Consumer Rights. They were accordingly being referred to also as Consumer Rights by consumer groups all over the world.

India was one of the first countries to formally recognize them as Consumer Rights in its national legislation Consumer Protection Act which was passed by the Indian Parliament on 24<sup>th</sup> December 1986 which was enacted basically in compliance with the aspirations and expectations reflected in UNGCP. Several other countries have followed the suit and formally recognized them as “Consumer Rights” in their national consumer policies and legislations. In fact, some countries have gone to the extent of

giving these Consumer Rights a Constitutional status by incorporating them in their national Constitutions.

Under such circumstances, it is rather difficult to understand why there should be any opposition to the so-called “legitimate needs” of consumers to be formally recognized as “Consumer Rights” during the exercise of revision of UNGCP?

Further, one is at loss to understand that when UN can formally recognize Human Rights, Labour Rights, Women’s Rights, Child Rights, what is the difficulty in recognizing the Consumer Rights which are being termed as “legitimate needs” of consumers? **It is therefore strongly urged that UN member nations be pleased to formally recognize the above-mentioned 8 Consumer Rights in UNGCP, without any further loss of time.**

### **2. Constitute UN Commission on Consumer Protection:**

Although UN General Assembly approved UN Guidelines for Consumer Protection in April 1985 and expanded them in 1999, there is **no monitoring mechanism created** to ensure that there is a regular, periodic monitoring of the implementation of these UN Guidelines. As a result, there are still some countries where the Consumer Protection legislation is not in place. There are many more countries, where such Consumer Protection legislations are passed but the implementation thereof is not quite satisfactory. As a result UNGCP have become merely ornamental articles having only display value in national statutes but not adequately effective to protect gullible consumers in market place.

Consumers International has recognized the need for such UN Commission on Consumer Protection and has demanded setting up of such UN Commission on Consumer Protection.

There is therefore an **urgent need to constitute UN Commission on Consumer Protection on lines of UN Human Rights Commission or UN Commission on Sustainable Development. We therefore urge that the UN member nations be pleased to set up the UN Commission on Consumer Protection with a view to regularly monitor the progress on implementation of UNGCP.**

**3. Convert UN Guidelines on Consumer Protection into UN CONVENTION on Consumer Protection:**

The Survey conducted by CI in 60 countries shows poor implementation of UN Guidelines for Consumer Protection. Survey conducted by UN in 2004 revealed that many countries did not even know inclusion of Sustainable Consumption chapter in UNGCP in 1999. The 2012 Survey conducted by UNCTAD appears to be “too optimistic” and far away from dismal ground realities. In the CI survey, the members have expressed their “intense frustration” concerning “the non-application of Consumer Protection measures already in place”. In fact, UNCTAD survey largely captures if the countries have the Consumer Protection measures in place. It is silent on implementation part of the UNGCP.

It is our considered view that poor implementation of UN Guidelines is attributable to the very nature of this instrument being in the form of “Guidelines” (a soft option). Given the magnitude of violation of consumer rights across the world by powerful business houses as well as by some Governments, it is vitally necessary that these UN Guidelines are converted into UN Convention for Consumer Protection.

The history of various Conventions such as UN Convention on Human Rights, UN Convention on Labour, UN Convention on Women’s Rights, UN Convention on Child Rights, UN Convention on Sustainable Development and many more /UN Conventions will prove that **Conventions ensure better compliance than mere Guidelines**. After passage of more than 28 years, **it is high time that these UN Guidelines for Consumer Protection are converted into and upgraded as UN Convention on Consumer Protection. UN member nations may therefore be pleased to upgrade existing UN Guidelines alongwith further additions thereto into UN CONVENTION ON CONSUMER PROTECTION.**



Adv. Shirish V. Deshpande  
Chaimran – Mumbai Grahak Panchayat (India)  
Director – Consumers International (London)

19<sup>th</sup> June 2013



## **Summary of recommendations for the revision of the UN Guidelines for Consumer Protection**

The United Nations Committee for Trade and Development (UNCTAD) has embarked on the revision of the UN Guidelines for Consumer Protection (UNGCP) with a view to bring them up to date in light of new developments in technology, business practices and new consumer concerns.

Consumers international (CI) is the international federation of consumer organisations with more than 240 members in 120 countries and has been recognised by UNCTAD as a named stakeholder in the revision process of the Guidelines.

CI proposes amending the Guidelines rather than the development of a completely new document as there is much in the existing Guidelines that is still valuable and have served well as the reference point for consumer protection since its formulation in 1985.

These are some of our key recommendations for the revision of the UN Guidelines for Consumer Protection that need to be strengthened and updated to help protect today's consumers:

### **The needs of *all* consumers should be recognised**

- Acknowledgement that protection should extend to all consumers not just those in the formal economy
- It should be stressed that disadvantaged consumers live in rural *and* urban areas
- Recognition that state-owned enterprises, as well as corporations, have responsibilities to consumers
- Access to essential goods and services should be acknowledged as 'a legitimate need of consumers'

### **Digital consumption should be acknowledged**

- Respect for online privacy should be emphasised
- Acknowledgement that a consumer has equal protection regardless of how a purchase is made, or whether the product is in a digital format
- Provide scope to recognise the internet as an essential service for consumers, alongside food, water, energy and sanitation

### **More emphasis needed on fairness in the market**

- Contracts and terms of service should be free of lengthy and complex small print, and should not lock consumers in to unreasonable commitments nor contain unfair terms or restrictions
- To promote fair competition, governments and regulators should have the powers to tackle market structures as well as abusive practices
- Collective legal action against abusive practices should be acknowledged as an essential tool for seeking redress

### **Acknowledge health as a cornerstone of responsible marketing**

- Restrictions should be placed on the marketing of food and beverages to children and bans or severe limits placed on the advertising of tobacco and alcohol

### **Improve guidance in specific sectors**

- **Financial services:** providers should abide by the general principles of consumer protection, and meet specific provisions including support for access, competition and systemic stability
- **Water:** sanitation and the principle of universal service should be included. Subsidies should support improvements to access
- **Energy:** the impact of consumers' energy use on climate change should be addressed, while also stressing the need for greater access
- **Food:** measures to promote sustainable food production, reduce price volatility and tackle waste should be supported
- **Pharmaceuticals:** generic competition should be promoted as a means of providing better access to affordable healthcare

### **Ongoing support to the implementation of the Guidelines**

- **A UN International Day for Consumer Protection.** To raise awareness and generate support we call for the UN to give official **recognition to 15 March** as the annual world day for consumer protection.
- **A new standing conference on consumer protection.** To monitor implementation of the Guidelines.

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Consumers International is the only recognised consumer body accredited to UN Economic & Social Committee as a 'class 1 NGO'