

**RECOMMENDATION OF THE  
EXPERT COMMITTEE CONSTITUTED  
BY THE  
DEPARTMENT OF CONSUMER AFFAIRS  
TO REVIEW AND  
SUGGEST BEST METHOD OF  
DECLARATION OF RETAIL SALE  
PRICE ON PRE-PACKED COMMODITIES**

**Chaired by**

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# RECOMMENDATION OF THE EXPERT COMMITTEE

## CHAPTER I

### INTRODUCTION

**The extant provision of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 provide that every package intended for retail sale is required to have certain mandatory declarations, namely i) the name and address of manufacturer/packer/importer, ii) name of the commodity, iii) the net quantity , iv) the month and year of manufacture / packing / import and v) the retail sale price in the form “Maximum Retail Price Rs.. inclusive of all taxes” and vi) Consumer care cell details.**

**In 1993, representations were made by different consumer organizations to the effect that quite often the maximum retail prices (MRP) declared by manufacturers on packaged goods were on a higher side and that the provision was used for profiteering instead of protecting the interests of the consumer. They represented that there was a need to prevent this and that the measure should not provide an opportunity for the wholesalers and retailers to exploit the consumer and make abnormal profits.**

**Accordingly, at the suggestion of various stake holders, an Expert Committee was constituted by the Ministry in February, 1994 to review and suggest the best method of declaration of retail sale price on pre-packed commodities. However, the Committee could not arrive at a unanimous decision and left the final decision of declaration of manufacturers price/First point price, along with the MRP to the Government. The majority of the Members, however, recommended that in addition to the MRP, the manufacturers of the products should be required to declare the First Point Price (FPP). The Committee however, recommended the continuation of the existing practice of retail sale price in the form “Maximum Retail Price Rs. inclusive of all taxes”. The Committee was of the view that there was no need for a separate agency to implement the provisions of the existing Rules.**

**The Government maintained the *status quo* and continued the practice of mandating the declaration of retail sale price in the form “MRP Rs...(inclusive of all taxes). In the event, the National Foundation for Consumer Awareness and Studies, Kochi ,Kerala , a voluntary consumer organization , filed an OP No.24559/98 in the Kerala High Court at Ernakulam praying the Court that they should mandate printing of the ex-factory price of the product on the packages, in addition to the MRP, as recommended by a majority of members**

**The High Court in its order dated 11<sup>th</sup> January ,2007 directed the Government to constitute an Expert Committee to make clear recommendations on the issue. Accordingly, the Union Government constituted an Expert Committee on 8<sup>th</sup> August, 2007. A copy of the order constituting the Expert Committee along with its Terms of Reference (TOR) is at Exhibit I.**

**\*\*                      \*\*                      \*\*                      \*\***

## CHAPTER II

**The Committee held meetings to deliberate on the issue. The first meeting was held on 24<sup>th</sup> September, 2007. The second meeting of the Committee was held on 17<sup>th</sup> October, 2007, wherein the Committee deliberated on the Terms of Reference. In the said meeting, the Committee took the following decisions:**

- i) to get the views of all the stake holders on the questionnaire prepared by the Committee (Exhibit II).**
- ii) To request the Government to modify the Terms of Reference (TOR) of the Expert Committee to exclude the portion “adequately reflecting the cost incurred by the producer in reaching the package to the end consumer” as otherwise, such normative price could be confused with ‘MRP’.**
- iii) To collect information about the prevalent practice of declaration of retail sale price in other countries.**

**Accordingly, the Committee decided that a reference should be made to the Government to modify the TOR.**

**However, the Govt. did not agree to the change in TOR for the following reason:**

**MRP., reflects the value that manufacturer puts on his goods or his expectation of price. It is left to the manufacturer to give the MRP., and no definite formula for arriving at MRP., has been prescribed. While costs would be a factor no doubt, quality, brand value, presence or absence of competition etc., would be other factors determining the MRP.**

**The term ‘normative price’ implies guiding standard or rule. Such a guiding standard should have a set of principles behind it. Accordingly the term “adequately reflecting the cost incurred by the producer in reaching the package to the end consumer in addition to the prevailing methods of manufacture and distribution of goods in the country and the prevalent international practices in this regard” has been included as the basis for normative price. The intention is to make the consumer aware of the cost of production and prevent the producers and distributors from exploiting the consumer by making abnormal profits.**

**The Government extended the term of the Committee initially by 3 months and subsequently by another 4 months vide letter No WM-7(11)/97 dated 21<sup>st</sup> February, 2008 and 4<sup>th</sup> July 2008 respectively. A copy thereof is at Exhibit III.**

**The 3<sup>rd</sup> meeting of the Committee was held on 14<sup>th</sup> March, 2008 wherein the Committee considered the replies received to the**

**questionnaire from various association of stake holders and the prevalent international practice of declaration of retail sale price.**

**The information collected from some of the countries on the prevailing international practice of declaration of sale price is at Exhibit IV.**

**The summary of the responses of stake holders to the questionnaire posted on the website of the Department is at Exhibit V.**

**\*\*                      \*\*                      \*\***



## CHAPTER III

### Deliberations of the Expert Committee

**The relevant provision in the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 provides *inter alia* that the retail sale price of the packaged commodity is declared in the form “MRP...Rs ..(inclusive of all taxes)”. The existing provision is only to declare the price; the Government can not ensure that the declared price is closely linked to the cost of production and distribution, let alone regulate the price. The extant provisions of the Rules prohibit the retailer from charging the consumer in excess of the price so declared on the package.**

**The Expert Committee noted that subsequent to the deliberation of the previous expert committee some time in 1994 , the following changes have taken place in the tax regime.**

- 1. The Central Excise Act was amended in 1997 to provide that in respect of certain notified commodities, the excise duty is charged based on the MRP declared on the package. This provides an automatic disincentive to declare a high price.**
- 2. VAT has been introduced in most of the States, bringing in a significant harmonization of tax rates among different states. Thus, in respect of most of the commodities, the rates are uniform across different states**

**and this obviates the need to increase the declared MRP on the basis of the highest tax rate.**

**The Committee also noted the Government's plan to introduce the Goods and Services Tax (GST) in 2010, which would significantly reduce the reason for inter-state variation in the tax rates, which is one of the elements of inter-state differences in prices. Of course, there can be a variety of other reasons for variations in prices from one state to another.**

**The most important reason for price variations between different regions in the country is the state of market development. There can be significant differences between the producers' cost/price and the final retail price among different commodities and between different regions depending upon factors such as market conditions, the number of intermediaries in distribution, the differences in the tax rates, magnitude of transportation cost from the production to the final (retail) sale point and local factors impacting on demand for and supply of various commodities. In fact, this can also be the reason for inflating the declared price relative to the cost of production and distribution, including the normal profits to the manufacturer and distributors. In a competitive market, to maximize their sales, sellers provide information on prices to the consumer and there is no need for the government to mandate that the manufacturer should print any price. In advanced market economies, information on prices is provided by the retailer and**

**the consumers make informed choices based on this information. The problem arises only when there are significant market imperfections with only a few producers dominating and information on the cost of production and distribution as well as the number of intermediaries in the chain from production to sale is difficult to obtain. The lasting solution to prevent the exploitation of the consumer lies in creating favourable conditions for healthy competition in the markets. Such conditions do not exist in Indian retail markets at present.**

**In the absence of well developed markets, mandating the declaration of MRP does not necessarily protect the interest of the consumer as is contended by various consumer groups. As already mentioned, there exists no mechanism to ensure that the declared MRP, in fact, include only the normal profits over and above the cost of production and distribution. Such a situation could lead to printing of inflated prices , which could mislead consumers. The 1997 amendment of the Central Excise Act by which the levy of excise is based on MRP., seems to have created a disincentive to inflate the MRP., At present the problem largely remains in the realm of products which are not subject to excise duty. The response to our questionnaire [ Q.No. 10 ] to the industry shows that the practice of declaration is prevalent in markets [ see Exhibit V ] .**

**It must be noted that a significant proportion of the goods consumed by the common man is not subject to any price regulation or control. Foodgrains, pulses, vegetables and fruits, by and large, are not packaged before sales, except in large stores where, in any case, the competition forces the seller to declare the retail price. The problem is particularly true in rural areas where, often, there is only one or two shops in a village. The scope for exploitation is more when the consumers are illiterate and even when literate, unaware of their rights. It is such consumers who are vulnerable and need to be protected the most, but ironically, the requirement to declare MRP fails to protect them, except in cases where the goods are subject to excise duty based on MRP., Often, to the uneducated consumers, the MRP may actually be misrepresented as the regular sale price and the mechanism can, in fact, serve as a tool to earn abnormal profits. It will, therefore, be erroneous to assume that a mere requirement of declaration of MRP will protect the interest of consumers. However, the Committee in its TOR has not been asked to go into the issue of whether the mandatory declaration of MRP by the manufacturer has served the purpose or not it was intended to serve and therefore, we do not make any recommendations on the usefulness of the declaration of the MRP in protecting consumer interests.**

**The mandate of the Committee is, “Taking into consideration the prevailing methods of manufacture and distribution of goods in the country, as well as the prevalent international practices in this regard, examine the feasibility of declaring a normative price on a pre-packaged commodity, as applicable for the entire country, adequately reflecting the cost incurred by the producer in reaching the package to the end consumer”. As mentioned above, there are no uniform systems and methods of manufacture and distribution of goods. As regards international practices, the information summarized in Exhibit IV shows that only Sri Lanka besides India has mandated the declaration of MRP. The requirement is not found in any other country. In Pakistan, in respect of a few commodities, the sales tax law requires the manufacturers to print the MRP including the sales tax rate. Similarly in Malaysia, some of the essential food items are subject to control, but there is no requirement that the MRP should be declared. In most market economies, the retail price is exhibited by the retailer and that is done more as a competitive market practice rather than as a matter of regulation. In advanced market economies like Canada, the Competition Bureau has been established to promote competitive markets and excessive profiteering through cartelisation by the producers/sellers invites severe penalties under the Competition Act.**

**Considering the fact that there are significant variations in market conditions, patterns of trade, transportation costs and taxes on various commodities and in different regions, the Committee is of the view that it would be infeasible to declare a “normative price”. It is not possible to determine uniform margins. Of course, the principle for the “normative price” is that only “normal” profits should be included. However, for the reasons explained above, it is not possible to operationalise the principle. The concept of a “normative price” which reflects the cost of production, distribution and sale, including normal profits and is applicable to the entire country, is not just tenable..**

**The pertinent question from the viewpoint of protecting the interests of the consumers is what measures can be taken to prevent exploitation of the consumers by inflating the MRP. As mentioned above, the lasting solution to the problem lies in the orderly development of the market and therefore, measures should be taken to prevent cartelisation and ensure broader and deeper penetration of the markets. This would, inter alia, involve creation and strengthening of the regulatory system for market development, supervision and monitoring. As in developed market economies, the Competition Commission is the appropriate institution to undertake this task and the Commission should be empowered not only to provide the necessary incentives but also to**

**penalise errant behaviour to ensure that the interests of the consumers are adequately protected. This however may happen only in the long run.**

**In respect of commodities covered under Section 4A of the Central Excise Act, however, the incentive to inflate the MRP does not exist as higher MRP automatically attracts higher tax liability. In respect of such commodities, the declaration of MRP should provide adequate protection. However, problems would arise in the case of commodities produced in the small scale sector as the producers with a turnover of less than Rs. 1.5 crore, are exempt from the tax. Nevertheless, in respect of Section 4A commodities, the MRP fixed by the organised sector provides the norm automatically as small scale manufacturers have to compete with manufacturers with turnover of more than Rs. 1.5 crores.**

**The introduction of Value Added Tax (VAT) at the State level, has brought in an additional indirect check to ensure that the MRP is not unduly inflated. As the VAT is extended all the way up to the retail stage, the sales tax authorities can undertake a detailed scrutiny of cases where the final retail sale price is vastly different from the MRP. The possibility of a detailed scrutiny provides an indirect check, though, the deterrence effect of this would depend upon the number of cases opened up for scrutiny based on the difference between the retail sale price and MRP. However, the issue should get substantially resolved when the Goods and Services Tax (GST) replaces the prevailing Central and State**

**domestic trade taxes. As the tax becomes fully destination based and the invoices are issued, it will be easy to find the price on which the tax is paid and a higher invoice price will attract a higher tax. At that stage, it may be necessary to review the practice of printing the MRP altogether; instead, the seller will have to print not the *maximum* but the *actual* retail price, though the transacted value may even be lower than this when a commodity or a service is sold at a discount.**

**Until the time the GST is introduced, the problem will remain and will need to be addressed. As stated above, the declaration of MRP in respect of goods covered under Section 4A of the Central Excise Act, there is no additional measure needed to protect the consumer from exploitation. In respect of the remaining commodities, two Members viz., Mr. K. K. Jaswal of Common Cause and Prof. Sri Ram Khanna of Delhi University are of the view that in addition to the MRP, the manufacturers should be required to print the First Point Price (FPP) on the packages. The FPP is defined as the first sale price at which the manufacturer/importer sells a commodity. Mr. A. K. Saha, the Member representing the Tariff Commission, Government of India, is of the view that in addition to the MRP, the manufacturers should display information on the cost of sales (sum of manufacturing cost, selling and distribution cost and taxes and duties), manufacturer's margin and margins of wholesalers and retailers.**



**The Chairman and the remaining Members are of the view that requiring the manufacturers to declare the FPP will not help in ensuring that the MRP declared is not inflated. There is no standard difference between the FPP and the MRP since the rate of margins and the number of transactions can vary from one commodity and another and from one region and another due to the variations in the market structure. There can also be variations due to tax rate differences, transportation costs, local factors impacting on demand and supply. It is therefore, difficult to infer that for a given FPP, there is a unique value or a band of MRP. In fact, printing the FPP in addition to the MRP can confuse the consumers. In other words, it is impossible to enforce accurate declaration of MRP by requiring the manufacturer to declare the FPP in addition to MRP.**

**The Chairman and other Members are also of the view that declaration of the cost of sales and margins by manufacturers' wholesalers and retailers in addition to the MRP may, rather than serving the purpose of educating the consumer, may add to the confusion which may turn out to be an additional instrument for exploitation. In effect, requiring the declaration of the additional information is equivalent declaring the FPP and MRP as the difference between the two indicates the additional costs, taxes and margins. There can be significant variations in costs, number of trade channels as well as**

**margins and there is no way to objectively determine them. In the event, there is nothing that prevents the manufacturer from exaggerating the costs and margins and this will not prevent the exploitation of the consumer.**

**In the ultimate analysis, it is the competition in the market that ensures protection to the consumer. Surely, educating the consumer about his rights will also help in empowering her.**

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## Chapter IV

### Recommendation of the Committee

**The TOR does not require the Committee to go into the desirability or other wise of requiring the manufacturers to declare the MRP and therefore, the issue has not been considered by the Committee. The Committee is mandated to recommend how the declaration of MRP can be made more useful and effective. In other words, whether in addition to the MRP, the manufacturers should be mandated to declare a “normative price” to empower the consumer to make judgement regarding the fairness of the price. If that is feasible, how is it to be done and which agency should determine and monitor the “normative price”? If not feasible, are there other remedies available?**

#### **Is declaration of “normative price” feasible?**

**After detailed deliberations on the TOR, the Committee unanimously recommends that requiring the manufacturers to declare a “normative price” is neither feasible nor desirable. “Normative price” by definition should include the cost of production and distribution**

**undertaken in an efficient manner and normal profits. There are no uniform systems and methods of manufacture and distribution of goods and the margin between the producers' price and the final sale price can vary widely, depending upon market conditions, pattern of trade, transportation cost and taxes on various commodities as well as in different regions. Therefore, the implementation of a uniform "normative price" reflecting the cost of production, distribution and sale, including the normal profits, is not feasible.**

**Not surprisingly, there is no requirement to declare the "normative price" in any country in the world. Even the declaration of MRP is mandated only in India and Sri Lanka. In most market economies, the retail price is exhibited on the package of the commodity and that is done as a competitive market practice. In these economies, prices are determined in the market and the Competition Commissions/Bureaus monitor the markets to ensure that they do not adopt non-competitive practices, such as cartelisation and predatory competition.**

**The only way to determine the "normative price" is to take the maximum margin between the producer's and the final sale price. In such cases, uniform "normative price" based on highest cost will result in the exploitation of the consumers in places where there are fewer trade**

**channels, lower transportation cost and lower taxes. In other words, the benefits of efficient markets and lower taxes will go to the traders rather than to consumers.**

**In view of the foregoing the Committee recommends that it is not feasible to declare the “normative price” for various consumer goods because there are no universally acceptable methods to determine the “normative price”. Therefore, there is no need to identify the institutions to determine the normative prices and monitor the same. However, consumers’ interest will be well served by the government taking a proactive role in creating and deepening the markets and empowering the institutions such as the Competition Commission to monitor the market conditions to promote healthy competition.**

**Should there be declaration of any other price in addition to MRP?**

**Given that there is a scope for exploiting the consumers even when the MRP is declared, the question is whether the manufacturers should be required to declare any additional information that would educate the consumers and empower them in regard to the fairness of the price. One of the measures suggested is the declaration of the FPP in addition to MRP. Two of the Members, Mr. K. K. Jaswal, and Mr. Sri Ram Khanna recommend that except for the items covered under the Schedule 4A of**

**the Central Excise Act, the manufacturers should be required to declare the FPP in addition to the MRP on the packages.. In respect of the goods covered under Schedule 4A of the central excise Act, there is an automatic disincentive to inflate the MRP because higher MRP would attract higher taxes. However, they recommend that in respect of all other commodities the manufacturers should declare FPP in addition to the MRP so that the consumers can make informed judgements about the fairness of the price. Similarly, Mr. A. K. Saha, the member representing the Tariff Commission recommends that in addition to the MRP, the package should display the cost of sales including taxes and profit margins of the manufacturer and resellers.**

**This view, however, is not shared by the Chairman and other members except Shri.K.K. Jaswal, and Sri. Sriram Khanna and the member from Tariff Commission. In their view, there is no standard difference between the FPP and the MRP for, the rate of margins and the number of transactions can vary from one commodity and another and from one region and another due to variations in market structure ( number of trade channels ),transportation cost, local taxes and local factors impacting on demand and supply. It is therefore, difficult to infer that for a given FPP there is a unique value or a band of MRP. It will be**

**impossible to enforce accurate declaration of MRP by requiring the manufacturer to declare the FPP in addition to MRP. According to them, in the ultimate analysis the solution to prevent exploitation of the consumer lies in activating competition in the markets. The examples of telecom and airlines sector show that how healthy competition has brought down the prices significantly. The competition automatically forces the sellers to declare their retail prices to the consumers. This also motivates the sellers to publicise their prices to attract the consumers. The government should take measures to promote competition by deepening the markets and institute an effective system to prevent anti-competitive practices and abuse of dominant position, including predatory behaviour by entrusting the task to the Competition Commission and empowering it appropriately.**

Sd/-  
(Dr.M.Govinda Rao)

Sd/-  
(K.K.Jaswal)

Sd/-  
(Dr.Sri Ram Khanna)

Sd/-  
(Augustine Peter)

Sd/-  
(Sushil Solanki)

Sd/-  
(Satish Chandra)

Sd/-  
( Jatinder S.Bedi)

Sd/- Sd/-  
(A.K.Saha)

(Sameer Barde) Sd/-  
(D.S.Chadha)

Sd/-  
(D.S.Rajora)

Sd/-  
(P.A.Krishnamoorthy)

Sd/-  
(R.Mathurbootham)

**EXHIBIT I**  
**No WM-7(II)/97**  
**GOVERNMENT OF INDIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
**LEGAL METROLOGY UNIT**

**KRISHI BHAVAN,**  
**NEW DELHI-110 001**  
**DATED 8<sup>th</sup> August ,2007**

**OFFICE MEMORANDUM**

**SUBJECT: CONSTITUTION OF EXPERT COMMITTEE TO REVIEW AND  
SUGGEST METHOD OF DECLARATION OF RETAIL SALE  
PRICE ON PRE-PACKED COMMODITIES-**

Pursuant to order dated 11<sup>th</sup> January ,2007 of the High Court of Kerala at Ernakulam in OP No 24559/1998 and subsequent order dated 25<sup>th</sup> May,2007 in IA 5687/07 in OP No. 24559/1998 , the Department of Consumer Affairs hereby constitute an Expert Committee to make suitable recommendation in respect of the Terms of Reference in Annexe I. The Expert Committee will consist of :

- |   |                  |
|---|------------------|
| <b>(1)Dr. Govind Rao, Director, National Institute of Public Finance and Policy, New Delhi</b>                                    | <b>-Chairman</b> |
| <b>(2) Representative of (CBEC) Excise wing, Ministry of Finance , Department of Revenue, Govt. of India .</b>                    | <b>Member</b>    |
| <b>(3) Representative of Union Ministry of Law</b>  | <b>Member</b>    |
| <b>(4) Representative of Tariff Commission,Ministry Of Commerce &amp; Industry, Govt. of India.</b>                               | <b>Member</b>    |
| <b>(5) Shri Augustin Peter, Economic Adviser, Competition Commission of India, Ministry of Corporate Affairs, Govt. of India.</b> | <b>Member</b>    |
| <b>(6) Representative of National Council for Applied</b>   | <b>Member</b>    |



- Economic Research, New Delhi**
- |             |   |                           |
|-------------|---|---------------------------|
| <b>(7)</b>  | <b>Representative of Federation of Indian Chamber Of Commerce and Industries, New Delhi</b> | <b>Member</b>             |
| <b>8)</b>   | <b>Representative of Confederation of Indian Industries, New Delhi</b>                      | <b>Member</b>             |
| <b>(9)</b>  | <b>Representative of Associated Chamber of Commerce and Industry of India , New Delhi</b>   | <b>Member</b>             |
| <b>(10)</b> | <b>Prof. Sri Ram Khanna, Delhi University, Delhi</b>  | <b>Member</b>             |
| <b>(11)</b> | <b>Shri K.K.Jaswal, Common Cause, New Delhi.</b>  | <b>Member</b>             |
| <b>(12)</b> | <b>Sri P.A.Krishnamoorthy, C-245, Kendriya Vihar, Sector-56, Gurgaon, Haryana</b>           | <b>Member</b>             |
| <b>(13)</b> | <b>Director, Legal Metrology</b>  | <b>- Member Secretary</b> |

**The Expert Committee will finalise and submit its recommendation for consideration of Government at the earliest but not later than six months from the date of issue of this Office Memorandum.**

**The Expert Committee may co opt experts whom it may consider necessary for consideration of issue under reference.**

**(R.MATHURBOOTHAM)**

**DIRECTOR, LEGAL METROLOGY**

**TO**

**ALL MEMBERS OF THE EXPERT COMMITTEE**

Terms of Reference of the Expert Committee

**The Committee will examine and give specific recommendations on the following :-**

**(1) Taking into consideration the prevailing methods of manufacture and distribution of goods in the country, as well as the prevalent international practices in this regard, examine the feasibility of declaring a normative price on a pre-packaged commodity, as applicable for the entire country, adequately reflecting the cost incurred by the producer in reaching the package to the end consumer.**

**(2) If found feasible :**

**(a) recommend the best method for declaring such price on a pre-packaged commodity on the package;**

**(b) identify and suggest appropriate agency that should be made responsible for determining the reasonableness of such declared price by the manufacturer, should the need for such verification arise.**

**2. It is clarified that under the Standards of Weights and Measures (Packaged Commodities) , Rules,1977 , the manufacturer will continue to indicate the maximum retail price (MRP) on a prepackaged commodity , as is being done today.**

**3. It is also clarified that in case of imported goods , the responsibility of meeting the price declaration requirements will rest with the importer, as it exists today.**

**EXHIBIT II**

**No WM-7(11)/97  
Government of India  
Department of Consumer Affairs  
Legal Metrology Unit**

**Krishi Bhavan  
New Delhi  
Dated 21.02.2008**

**OFFICE MEMORANDUM**

**SUBJECT: CONSTITUTION OF EXPERT COMMITTEE TO REVIEW AND SUGGEST BEST METHOD OF DECLARATION OF RETAIL SALE PRICE ON PRE-PACKED COMMODITIES-EXTENSION OF THE TERM**

**In continuation of this Departments O M of even number dated 9<sup>th</sup> August 2007, the undersigned is to convey the decision of the Government to extend the term of the Expert Committee mentioned in the subject by another 3 months with effect from 8.2.2008.**

**Accordingly the committee is to finalise and submit recommendation for consideration of the Government not later than 7.5.2008.**

**DIRECTOR, LEGAL  
METROLOGY**

**TO**

**ALL MEMBERS OF THE EXPERT COMMITTEE**

Appendix to Exhibit II

**No WM-7(II)/97  
Government of India  
Department of Consumer Affairs  
Legal Metrology Unit**

**Krishi Bhavan  
New Delhi  
Dated 4<sup>th</sup> July .2008**

**OFFICE MEMORANDUM**

**SUBJECT: CONSTITUTION OF EXPERT COMMITTEE TO REVIEW AND  
SUGGEST BEST METHOD OF DECLARATION OF RETAIL SALE  
PRICE ON PRE-PACKED COMMODITIES-EXTENSION OF THE  
TERM**

**In continuation of this Departments O M of even number dated 9<sup>th</sup>  
August 2007 and 21<sup>st</sup> February,2008 , the undersigned is directed to  
convey the decision of the Government to extend the term of the Expert  
Committee mentioned in the subject by another 4 months with effect  
from 8.5.2008.**

**Accordingly the committee is to finalise and submit its  
recommendation for consideration of the Government not later than  
8.9.2008.**

**DIRECTOR, LEGAL METROLOGY**

**TO**

**ALL MEMBERS OF THE EXPERT COMMITTEE**

## EXHIBIT III

### Questionnaire

**In your opinion,**

**1. What should be the objectives of declaring the M.R.P. on a pre-packed commodity?**

**2. If the objective is to promote the interest of the consumer, will merely the requirement of printing the MRP serve the purpose? What are other measures required?**

**3. In an economy where there is perfect competition, the price charged in the commodity will be automatically placed at the long run marginal cost (including normal profits). What measures are necessary to create a competitive environment?**

**4. Who should declare the MRP on a pre-packed commodity, manufacturer or retailer?**

**5. If the declaration is to be done by the manufacturer, how do we make sure that he does not add the margins more than that is legitimately required?**

**6. If the declaration has to be done by the retailer, how do we ensure that the declared price does not include abnormal profits?**

**7. What should be the mechanism to ensure that the declared price is appropriate? What safeguards would you recommend to ensure that the declared price includes only normal profits by the manufacturer and retailers?**

**8. What are the problems associated with the prevailing practice of declaring the retail sale price in the form “MRP....Rs...(inclusive of all taxes)”?**

**9. In Vat regime, how we enforce the system of price declaration?**

**10. Is the inflated price declaration on the package still prevalent?**

**11. If the answer to Q.No.10 is yes, then state the sectors (of products) in which it is normally prevalent?**

**12.Should there be an authority to regulate MRP?**

**13. What measures are necessary to provide effective implementation of MRP?**

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**INFORMATION IN RESPECT OF PREVAILING PRACTICE OF  
DECLARATION OF SALE PRICE ON PACKAGED  
COMMODITIES IN OTHER COUNTRIES**

**JAPAN**

Manufacturers can not basically fix their selling prices in retail stores, except for few exceptions (book or CDs) in accordance with Japanese anti-trust law.

**HUNGARY**

There is no legal prescription for the manufacturer to declare about the selling price of the pre-packed commodities (with some exception of special goods, e.g. excised products).

**PAKISTAN**

There is no such provision in the Weights & Measures Laws which require declaration of selling price to be mentioned on the package by the manufacturers.

However, according to Section 3(2) (a) of the Sales Tax Act, 1990 and its Schedule-III, presently few items are mentioned for which the manufacturer has to print maximum retail price for sale which will include sales tax @ 15% or any other rate as specified under the law by the federal government from time to time.

**SAUDI ARABIA**

Manufacturers and retail sellers are not required to declare the selling price on pre-packed commodities.

**KENYA**

The Weights and Measures Laws do not require declaration of selling price on the package by the manufacturer of pre-packed commodity.

**CANADA**

**There is no maximum or minimum price on retail packs or products regulated by any level of government in Canada. This applies to all products from a package of chewing gum to a car.**

**In fact, the Government of Canada has established a Competition Bureau whose role is to be to promote competitive markets and *to* enable informed consumer choice. If manufacturers are found to be conspiring to "fix prices" in a particular sector, this could be a violation under the "Competition Act".**

### **MALAYSIA**

**In Malaysia, price control (per kg basis) exist only for some essential food items like sugar, flour, chicken etc. Even then, recommended retail prices are not declared on the product labels by manufacturers. However, retailers are required to display item prices on the shelf or stick price label on the packages only for such items ..**

### **EUROPEAN UNION**

**The selling price and the price per unit of measurement (unit price) are indicated on all products offered by traders to consumers in order to improve consumer information and to facilitate comparison of prices. The selling price and the unit price must be unambiguous, clearly identifiable and clearly legible. In particular, the selling price and the unit price must represent the final price of the product, inclusive of VAT and all other taxes.**

### **SOUTH AFRICA**

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**The South-African National Standard as per Legal Metrology is attached, do not specify any mandatory pre-pricing requirement ..**

### **SRI LANKA**

**Sri Lankan Law requires marking of Maximum Retail Price similar to India**

### **THAILAND**

**Thailand do not have any related regulations on forced communication of retailed prices on the packages. The retailer of the goods is expected to display retail prices of select goods listed in the regulation.**

EXHIBIT V

Summary of response from stakeholders to the questionnaire

<b>Name of firm</b>	<b>Who should declare MRP (Q.No.4)</b>	<b>Problems associated with prevailing practice (Q.No.8)</b>	<b>Is the inflated price declaration still prevalent (Q.No.10)</b>	<b>Should there be an authority to regulate MRP. (Q.No.12)</b>
<b>Petitioner in the High Court case</b>	<b>Manufacturer</b>	<b>MRP., has become sale price. If exfactory price/Minimum Retail Price inclusive of VAT for each State is displayed, it will help consumers to bargain.</b>	<b>Yes</b>	<b>Yes. There should be Market Regulatory Authority (MRA) similar to Insurance Regulatory Authority (IRA) or Electricity Regulatory Authority. This authority should not be interpreted as a price regulating authority.</b>
<b>All India Retailers Federation</b>	<b>If margin of profit and standard is fixed, then fixation hardly matters.</b>	<b>This should not pose any problem. Once manufacturing rates are reflected on the goods it leaves little choice for retailer to charge abnormal profit.</b>		<b>There should be an apex body to ensure effective implementation of MRP.</b>
<b>Retailers Association of India</b>	<b>Manufacturer</b>	<b>No problem</b>	<b>Yes. In Edible oil which do not have excise duty linked to MRP./mobile phone made in Excise free zone or imported</b>	<b>No authority needed.</b>
<b>CII</b>	<b>Manufacturer</b>	<b>Variation in taxes</b>	<b>No,what is</b>	<b>No.</b>



		and levies from State to State	inflated price in another market may be lowest price in other market	
<b>Jumbo international (International Exporters &amp; importers)</b>	<b>Retailer</b>	<b>If MRP, is declared, every one will sell on that price only. In the absence of MRP., retailer will have his own most competitive selling price much lower than existing MRP.</b>	<b>Yes. When it was not there?</b>	<b>There is already Weights &amp; Measures Act.</b>
<b>All India Food Processors Association</b>	<b>Manufacturer</b>	<b>None</b>	<b>No</b>	<b>Only in case of monopoly items</b>
<b>Brittania Industries Ltd.</b>	<b>Manufacturer</b>	<b>Not aware of any problem</b>	<b>Who decides what is inflated price?</b>	<b>No. That would be Restricted Trade Practice by Govt.</b>
<b>Marico India</b>	<b>Manufacturer</b>	<b>Due to different tax rates in different State, it is not possible for manufacturer to declare single rate, despite cost of material and overheads being different in different locations.</b>	<b>If such practice is prevalent, MRTP., should look into it.</b>	<b>It should be determined by market forces.</b>
<b>Rich Quality Products Pvt. Ltd., Pune</b>	<b>Manufacturer</b>	<b>There is no control over retailers transactions at mall, multi-plexes etc.</b>	<b>-</b>	<b>-</b>
<b>Mr. Gopal Y. Digaskar</b>	<b>Manufacturer</b>	<b>Problem with MRP., is due to uneven tax structure in the country.</b>	<b>Yes</b>	<b>-</b>
<b>K.C. Gupta, Parle Products</b>	<b>Manufacturer</b>	<b>None</b>	<b>Yes</b>	<b>Enforcement officials of Legal Metrology should</b>

<b>Pvt. Ltd.</b>				<b>ensure that</b>
<b>F I C C I</b>	<b>Manufacturer</b>	<b>Variation in taxes and levies from State to State</b>	<b>The incidence has come down if not eliminated</b>	<b>An authority similar to MRTPC would be required only when there is cartelization</b>
<b>Poona Merchants Chamber</b>	<b>Manufacturer but there should be mechanism to determine the overheads</b>	<b>MRP inclusive of all taxes is not correct due to variation in tax rates</b>	<b>Yes</b>	<b>Only when we find solution to many things ,regulation or rules can function</b>
<b>Manufacturers Traders Association</b>	<b>Retailer</b>	<b>MRP., is disadvantageous to the consumer at places to production.</b>	<b>No. Discount offered on seasonal products should not be construed as inflated price marking.</b>	<b>No</b>
<b>Indian Fan manufacturers Association</b>	<b>Manufacturer</b>	<b>Due to different tax regimes,price rationalization not possible</b>	<b>Not in our industry</b>	<b>Need to understand issues</b>
<b>Mahratta chamber of commerce, Pune</b>	<b>Manufacturer</b>	<b>The practice of declaring MRP should be changed to 'Price' only . So question of maximum and minimum price will not arise</b>	<b>No ,only in some items like anties</b>	<b>No authority is required</b>

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