

F.No. J-25/57/2022-CCPA
Central Consumer Protection Authority

Krishi Bhawan, New Delhi
Dated: 4th July, 2022

Subject: Guidelines to prevent unfair trade practices and protection of consumer interest with regard to levy of service charge in hotels and restaurants.

The Central Consumer Protection Authority (CCPA), has been established under the Consumer Protection Act, 2019 (hereinafter called ‘the Act’) to regulate matters relating to violation of rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interest of public and consumers and to promote and enforce the rights of consumers as a class.

2. Under **Section 18(2)(I)** of the Act, the CCPA is empowered to issue necessary guidelines to prevent unfair trade practices and protect consumers' interest.

3. It has come to the notice of the CCPA through many grievances registered on the National Consumer Helpline that restaurants and hotels are levying service charge in the bill by default, without informing consumers that paying such charge is voluntary and optional. Further, service charge is being levied in addition to the total price of the food items mentioned in the menu and applicable taxes, often in the guise of some other fee or charge.

4. It may be mentioned that a component of service is inherent in price of food and beverages offered by the restaurant or hotel. Pricing of the product thus covers both the goods and services component. There is no restriction on hotels or restaurants to set the prices at which they want to offer food or beverages to consumers. Thus, placing an order involves consent to pay the prices of food items displayed in the menu along with applicable taxes. Charging anything other than the said amount would amount to unfair trade practice under the Act.

5. It is understood that a tip or gratuity is towards hospitality received beyond basic minimum service contracted between the consumer and the hotel management, and constitutes a separate transaction between the consumer and staff of the hotel or restaurant, at the consumer's discretion. Only after completing the meal, a consumer is in a position to assess the quality and service and decide whether or not to pay tip or gratuity and if so, how much. The decision to pay tip or gratuity by a consumer does not arise merely by entering the restaurant or placing an order. Therefore, service charge cannot be added in the bill involuntarily, without allowing consumers the choice or discretion to decide whether they want to pay such charge or not.

6. Further, any restriction of entry based on collection of service charge amounts to a trade practice which imposes an unjustified cost on the customer by way of forcing him/her to pay service charge as a condition precedent to placing order of food and

beverages, and falls under restrictive trade practice as defined under Section 2(41) of the Act.

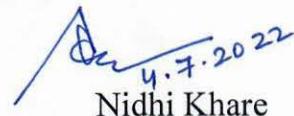
7. Therefore, to prevent unfair trade practices and protect consumer interest with regard to levying of service charge, the CCPA issues the following guidelines –

- (i) No hotel or restaurant shall add service charge automatically or by default in the bill.
- (ii) Service charge shall not be collected from consumers by any other name.
- (iii) No hotel or restaurant shall force a consumer to pay service charge and shall clearly inform the consumer that service charge is voluntary, optional and at consumer's discretion.
- (iv) No restriction on entry or provision of services based on collection of service charge shall be imposed on consumers.
- (v) Service charge shall not be collected by adding it along with the food bill and levying GST on the total amount.

8. The aforementioned guidelines shall be in addition to and not in derogation of the guidelines dated 21.04.2017 published by the Department of Consumer Affairs.

9. If any consumer finds that a hotel or restaurant is levying service charge in violation to the above-mentioned guidelines, a consumer may:-

- (i) Make a request to the concerned hotel or restaurant to remove service charge from the bill amount.
- (ii) Lodge a complaint on the National Consumer Helpline (NCH), which works as an alternate dispute redressal mechanism at the pre-litigation level by calling 1915 or through the NCH mobile app.
- (iii) File a complaint against unfair trade practice with the Consumer Commission. The Complaint can also be filed electronically through e-daakhil portal www.edaakhil.nic.in for its speedy and effective redressal.
- (iv) Submit a complaint to the District Collector of the concerned district for investigation and subsequent proceeding by the CCPA. The complaint may also be sent to the CCPA by e-mail at com-ccpa@nic.in.



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