

Consumer Protection Laws & Regulations in Indian Insurance Industry

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ABSTRACT

It is time to put consumers at the heart of market reforms across all sectors of the economy. Consumer protection, in the broader sense, refers to the laws and regulations that ensure fair interaction between service providers and consumers. Government intervention and regulation in the area of consumer protection are justified on the basis of inherent information asymmetries and power imbalances in markets, with producers or service providers having more information about the product or service than the consumers. A consumer protection framework in Insurance industry generally includes the introduction of greater transparency and awareness about the policies, promotion of competition in the marketplace, prevention of fraud, education of customers, elimination of unfair practices and grievance redressed.

The business of insurance has undoubtedly developed at a fast pace over the year. It needs however to be seen whether side by side the Insurance companies have also achieved consumer satisfaction. Enhanced consumer protection is also an important new direction for public policy and the Insurance industry. The paper examines the Indian legal and regulatory framework for consumer protection in Insurance, focusing on transactional and non-transactional regulation, supervision and enforcement. This paper also examines the consumer protection framework in the Insurance industry, compares this framework to co-regulation in other sectors, and makes recommendations for improvements in six key areas:

- *Legislation;*

- *Code development;*
- *Code content;*
- *Dispute resolution;*
- *Code compliance monitoring and code enforcement; and*
- *Code review.*

KEYWORDS: Consumer Protection, Insurance, Regulation, IRDA Act, Insurance Act.

INTRODUCTION

The insurance industry has been growing steadily and is a major source of long-term contractual funds needed for infrastructure development. The legislation does not provide sufficient guidance on consumer protection issues or the conditions for effective development of codes of conduct, there is inadequate consumer engagement in the development of codes, the multitude of codes are not subject to a meaningful system of signing and compliance, and monitoring and enforcement are applied sparingly and inconsistently.

The life insurance market in India was underdeveloped and was tapped only by the states owned LIC till the entry of private insurance. Indian customers, who have always seen life insurance as a tax saving

device, are now suddenly turning to the private sector and snapping up the new innovative products on offer. The private players have taken some market share from LIC, and major growth has happened because of market expansions. India has highest number of life insurance policies in force in the world, and a total investible fund with LIC is almost eight percent of GDP. However more than three fourths of India's insurable population has no life insurance, pension cover or post retirement protection cover. This shows this industry has great potential for growth as there is still a huge untapped market. It is submitted that a well developed and consumer friendly insurance industry is needed for economic development of the country as it provides long term funds for infrastructure development and at the same time strengthens the risk of taking ability.

The biggest challenge for the industry today is the low levels of penetration and lack of consumer satisfaction. This challenge becomes bigger due to the presence of host of other investment opportunities available to the consumer today and due to the spending habits of the younger generation which believes in consumption today rather than investing for tomorrow. To overcome this more marketing is required for insurance products. There is still a huge unexplored potential of growth for the pension products. However, there has been a major growth in the unit linked policies offered by the insurance industry which might be seen as positive trend but what it reflects is that insurance is being looked upon as investment instrument which underlines the true objective of insurance which is risk protection. Insurance has a role to play, and that is as a tool to hedge against risk, and it is crucial that this role be maintained even in the light of the changing scenario. It is submitted that insurance industry in India has come a long way from being a nationalized to a liberalized market. And for its growth there is a dire need to examine the key issues, trends and challenges so that India can match international standards both

in terms of market size and consumer satisfaction.

Insurance industry in India and the world is expanding in terms of business, products and staff day by day and new products are being launched by the existing/emerging companies in the market keeping in view the demand from the public and some existing schemes are modified to cater to the changing needs of the existing clientele.

Simple and easy-to-understand consumer disclosure is at the heart of robust consumer protection.

LEGISLATION

The liberalization policy necessitates alteration in the legal frameworks related to the conduct of insurance industry. The operation of the insurance business due to entry of private players required to be regulated and the interests of the buyers of insurance products demanded safeguards and protection. The legal framework relating to this industry underwent a drastic change and the IRDA came into existence.

Insurance is a federal subject in India. The primary legislation that deals

with insurance business in India is: Insurance Act, 1938, and Insurance Regulatory & Development Authority Act, 1999.

Insurance Regulatory Law is the body of statutory law, administrative regulations and jurisprudence that governs and regulates the insurance industry and those engaged in the business of insurance. Insurance regulatory law is primarily enforced through regulations, rules and directives by state insurance departments as authorized and directed by statutory law enacted by the state legislatures.

List of Legislations Regulating the Insurance Industry in India

The Insurance sector in India is regulated by the following Acts:

- 1) The Insurance Act, 1938
- 2) The Life Insurance Corporation Act, 1956
- 3) Marine Insurance Act, 1963
- 4) General Insurance Business (Nationalization) Act, 1972
- 5) Insurance Regulatory and Development Authority (IRDA) Act, 1999

Regulations Framed under the Insurance Regulatory and Development Authority (IRDA) Act, 1999 are:

- 1) IRDA (Member of Insurance Advisory Committee) Regulations, 2000
- 2) IRDA (Appointment of Insurance Advisory Committee) Regulations, 2000
- 3) IRDA (The Insurance Advisory Committee) (Meeting) Regulations, 2000
- 4) IRDA (Appointed Actuary) Regulations, 2000
- 5) IRDA (Actuarial Report and Abstract) Regulations, 2000
- 6) IRDA (Licensing of Insurance Agents) Regulations, 2000
- 7) IRDA (Assets, Liabilities and Solvency Margin of Insurers) Regulations, 2000
- 8) IRDA (General Insurance-Reinsurance) Regulations, 2000
- 9) IRDA (Registration of Indian Insurance Companies) Regulations, 2000
- 10) IRDA (Insurance Advertisements and Disclosure) Regulations, 2000

11) IRDA (Meetings) Regulations,
2000

12) IRDA (Investment) Regulations,
2000

13) IRDA (Conditions of Service of
Officers and other Employees) Regulations,
2000

14) IRDA (Insurance Surveyors and
Loss Assessors (Licensing, Professional
Requirements Companies) Regulations,
2002

19) IRDA (Protection of
Policyholders' Interests) Regulations, 2002

20) IRDA (Insurance Brokers)
Regulations, 2002

21) IRDA (Obligations of Insurers to
Rural and Social Sectors) Regulations, 2002

22) IRDA (Licensing of Corporate
Agents) Regulations, 2002

23) IRDA (Manner of Receipt of
Premium) Regulations, 2002

24) IRDA (Distribution of Surplus)
Regulations, 2002

25) IRDA (Qualification of Actuary)
Regulations, 2004

26) IRDA (Micro-Insurance)
Regulations, 2005

27) IRDA (Maternity Leave)
Regulations, 2005

28) IRDA (Reinsurance Cessions)
Notification

29) IRDA (Sharing of Database for
Distribution of Insurance Products)
Regulations, 2010

30) IRDA (Treatment of
Discontinued Linked Insurance Policies)
Regulations, 2010

31) IRDA (Scheme for
Amalgamation and Transfer of General
Insurance Business) Regulations 2011

32) IRDA (Issuance of Capital by
Life Insurance Companies) Regulations,
2011

Objectives of Insurance Regulatory and Development Authority:

(a) To protect the interest of and
secure fair treatment to policy holder.

(b) To bring about speedy and
orderly growth of the insurance industry
(including annuity and superannuation
payments), for the benefits of the common

man, and to provide long term funds for accelerating growth of the economy.

(c) To set, promote, monitor and enforce high standard of integrity, financial soundness, fair dealing and competition of those it regulates.

(d) To ensure that insurance customers receive precise, clear and correct information about products and services and make them aware of their responsibilities and duties in this regard.

(e) To ensure speedy settlement of genuine claims, to prevent insurance frauds and other malpractices and put in place effective grievance redressal machinery.

(f) To promote fairness, transparency and orderly conduct in financial markets dealing with insurance and build a reliable management information system (MIS) to enforce high standards of financial soundness amongst market players.

(g) To take action where such standards are inadequate or ineffectively enforced.

(h) To bring about optimum amount of self regulation in day to day working of the industry consistent with the requirements of prudential regulation.

Regulatory Policy:

The IRDA intends that Insurance Industry be regulated in a manner that:

(a) Issue and withdraw licenses.

(b) Specify qualification, codes of conduct and training for intermediaries and agents.

(c) Specify the form manner in which books of accounts shall be maintained.

(d) Regulate investment of insurance funds.

However, the Act contains a set of consumer protection principles for insurance consumers. It also contains comprehensive consumer protection provisions. This is a significant contrast to consumer protection legislation in other sectors. The result is a significant level of reliance on industry codes of conduct, without any guidance on the minimum content of such codes.

CODE DEVELOPMENT

The IRDA Act 2002, provides that industry may develop and implement codes of conduct for consumer protection matters. Codes can be submitted to the regulator (the Insurance Regulatory Development

Authority —IRDA) by industry bodies for registration and, where IRDA is satisfied that the code meets stipulated criteria, it is included on a codes register. It should be noted that the criteria are largely procedural.

If industry fails to develop adequate codes IRDA has the power to either request that a code be developed by industry, or develop a 'standard' that is binding on industry. On at least two occasions IRDA has encouraged the industry to develop a code on a specific issue — this has included threats to develop a mandatory standard. Industry has responded by developing or amending a code of conduct on both occasions. The legislation is vague on the code development process. There are no provisions that require independent consumer input to code development or prevent IRDA from registering a code which does not have consumer input. There are no requirements for adequate consultation with affected consumers or their representatives. There is no provision for the funding of consumer input, or a requirement that consumer consultation should be adequate and reasonable (e.g. regarding the time allowed for consultation).

The exact status of a registered code is also complex and there are different views

amongst the industry, regulators and consumer advocates about code status. A registered code is listed as subordinate legislation — this lends it a certain credibility and gravitas. However there is no proactive requirement for parties to comply with any code, even a registered code. Although the Act contains a specific provision requiring parties to comply with an industry standard, there are no similar requirements for compliance with an industry code.

The regulator has the power to direct a particular participant to comply with a code following a breach (where IRDA has registered the code). There are several sections that can be used to ensure compliance with registered codes through formal warnings to industry participants regarding breaches of the code or directions to comply with the provisions of a code where the code is being contravened. A breach of an IRDA direction to comply may attract civil penalty provisions. In our view, this structure is inappropriate and should be reviewed.

Improvements that could be considered are to:

- Concentrate resources on a limited number of comprehensive codes rather than numerous fragmented codes;

- Achieve industry buy-in and commitment through a meaningful signature process based on an expectation that all industry members would sign any consumer protection code relevant to their operations (to replace the current bizarre situation where signing a code is not a priority and where a company does sign, it means very little);

- Change the emphasis in the code approval / registration process to focus on the content of the code rather than process issues;

- Set standards or develop a good practice statement for consultation in the development and review processes; and

- Improve resourcing for consumer input.

In addition, at present signing up to industry codes is voluntary. Some codes have multiple signatories (although no code has a significant proportion of this large industry sector). Other codes have no signatories at all. The consequences of signing are not set out in the legislation —

to date the only apparent impact is that code signatories are subject to the Insurance Regulatory development Authority. In practice a multitude of codes on diverse topics have been developed by the industry and registered by IRDA. There are currently several codes in force. These codes are considered to relate to core Insurance business and consumer protection issues. However, significant consumer protection issues are scattered throughout the remaining codes. A summary of the current codes is mentioned in Insurance Act and IRDA Act. The promotion of the codes is also quite subdued, compared with other industries. The Insurance and IRDA Act briefly summaries all codes and provides detail for the insurer. It mentions the Insurance Ombudsman (IO) and other relevant bodies without providing contact details. It states that ‘Once a Code is registered, IRDA can direct service providers to comply with its terms’. It does not claim that providers are otherwise compliant with Codes and it does not mention or discuss code signatories.

Industry participants in the insurance industry do not generally promote their compliance with the codes. There is no operational ‘compliance mark’ and the

websites of major providers do not discuss codes or list the codes they have signed. The Insurance Ombudsman website briefly lists some relevant codes with links to the IRDA Act site, but again, does not mention or discuss signatories.

CODE CONTENT

A more innovative approach to the identification and management of emerging issues in the insurance industry may also be required, particularly in relation to systemic problems. Consumer stakeholders in India are currently advocating for the introduction of a super-complaints model — similar to the model operating in the UK. Super-complaints are made by designated consumer bodies to consumer regulators, who must make a considered response within 90 days to properly investigated complaints.

The super-complaint mechanism is not intended for complaints about matters that can be handled directly by existing enforcement powers or complaints resolution agencies, particularly single-firm conduct. In that regard super-complaints would neither replace nor crowd-out standard complaint processes in the insurance industry. Instead, the super-

complaint mechanism enables consumer groups to bring to the attention of the regulator market features harming the interests of consumers. Super complaints are also relevant to code compliance monitoring, and could play a useful role in identifying the failure of specific codes of conduct.

Insurance Act provides a list of ‘examples of matters that may be dealt with by industry codes and industry standards’. Although the list is meant to act as a non-definitive set of examples, it appears to have been given considerable weight by industry. As a result, consumer issues that do not appear on the list are unlikely to appear in a code.

Once a matter is selected for a code, there is very little direction in the Act regarding the consumer protection content of the code.

However, there is some guidance regarding code process requirements. IRDA provides the following list of criteria for the registration of a code:

- Consistent with the objects of the Insurance Act 1938 & IRDA Act 1999;

- Consistent with the provisions of the Act and with other legislation;

- Consistent with codes already registered;

- Contains a comprehensive set of rules which are directed at achieving, and measuring the achievement of, the code objectives;

- Rules are expressed predominantly in mandatory terms such as 'must' instead of 'should' or 'may';

- Relates to the insurance activity, as defined in the Insurance Act 1938;

- Does not prescribe pecuniary penalties for breaches of code rules;

- Does not include clauses that indemnify one party against loss suffered as a result of a breach of a code;

- If it references other documents, these clauses are appropriately drafted and with relevant documents clearly referenced or included;

- If it references bilateral agreements, these clauses are appropriately drafted;

- If it references agency agreements, these clauses are appropriately drafted;

- Contains appropriate code administration, including provisions for complaint handling, sanctions, monitoring and review;

- Specifies the complaint-handling body, what functions and powers will be undertaken, and which code provisions they relate to; and

- Addresses the concerns of the groups and individuals consulted during the development of the code.

IRDA has suggested that the lack of subject matter guidance is appropriate as it is better to provide subject matter advice to the code development body or bodies on a case-by-case basis. While this may be more efficient and better targeted, it is not a particularly transparent approach. It is important to note that none of these criteria directly address consumer protection issues or requires a code to meet specific consumer protection standards. This is a significant contrast with co-regulation in other industries. Codes are informally divided between consumer codes and operational codes.

There are two types of codes: operational codes cover operational matters such as the way that industry players deal

with processes between themselves, and consumer codes focus on practices between insurance providers and their customers.

It is important to note here that the distinction between operational codes and consumer codes is relatively informal. In most effective systems of co-regulation a more formal distinction is made between consumer protection instruments (that must usually meet certain content requirements) and purely operational instruments. There is room in the insurance industry to formalize arrangements so that a more rigorous and specific consumer protection framework applies to relevant codes, and operational matters are left to industry self regulation within generic consumer and competition safeguards. This requires a thorough analysis of Codes that may appear operational in nature, but contain important consumer safeguards.

There may also be a need in the Indian Insurance industry to review the reactive process for determining the subject matter of codes. For example, consideration could be given to providing the regulator with a Market Inquiries power, to identify matters that should be the subject of stronger consumer protection, rather than waiting for industry to develop codes on their own.

Formal market inquiry provisions could help to formalize and codify activities which already exist at an informal level in the insurance industry — and give consumers an open and transparent avenue for seeking the exercise of these powers.

DISPUTE RESOLUTION

The institution of Insurance Ombudsman was created by a Government of India Notification dated 11th November, 1998 with the purpose of quick disposal of the grievances of the insured customers and to mitigate their problems involved in redressal of those grievances. This institution is of great importance and relevance for the protection of interests of policy holders and also in building their confidence in the system. The institution has helped to generate and sustain the faith and confidence amongst the consumers and insurers.

Power of Ombudsman

Insurance Ombudsman has two types of functions to perform (1) conciliation, (2) Award making. The insurance Ombudsman is empowered to receive and consider complaints in respect of personal lines of insurance from any person who has any grievance against an insurer. The complaint

may relate to any grievance against the insurer i.e. (a) any partial or total repudiation of claims by the insurance companies, (b) dispute with regard to premium paid or payable in terms of the policy, (c) dispute on the legal construction of the policy wordings in case such dispute relates to claims; (d) delay in settlement of claims and (e) non-issuance of any insurance document to customers after receipt of premium. Ombudsman's powers are restricted to insurance contracts of value not exceeding Rs. 20 lakhs. The insurance companies are required to honor the awards passed by an Insurance Ombudsman within three months.

CODE COMPLIANCE MONITORING AND CODE ENFORCEMENT

The Act does not provide any guidance on code compliance monitoring. It does contain a provision allowing IRDA to determine a mandatory industry standard where an industry code has failed, but this provision does not set out any mechanism for monitoring code compliance — there is no specific test of 'failure'.

The lack of clarity and direction regarding code compliance monitoring in insurance is a common concern among

stakeholders. As to a measure of effectiveness, greater clarity about how the Insurance Regulatory Development Authority will enforce compliance methodology

Consumer Codes would send a powerful signal both to consumers and the industry. Insurance Authority note that their compliance methodology depends to some extent on the specific requirements in each code:

Where specifically required by a Code, Insurance Authority will monitor compliance with Code provisions and the overall effectiveness of the Code in achieving its objectives by, for example:

- (a) Complaints monitoring;
- (b) Compliance monitoring;
- (c) Routine verification of Code compliance by Signatories;
- (d) Identification of systemic Code issues and breaches.

The result is that the Code Administration and compliance scheme only applies to signatories. This is a somewhat unusual and confusing arrangement. It can be very difficult to determine which

organization has signed a code, and the overall level of signing is extremely low.

IRDA states that it 'retains the discretion to decide where an individual matter falls within the approach and may decide it is appropriate to consider urgent matters at higher categories, on a case by case basis'.

But the presence and likely use of lower level action to promote compliance does not mean that there are adequate levels of code monitoring nor adequate levels of compliance. In the absence of systematic monitoring — including auditing where necessary, for example where consumer complaints may not reveal problems — it would be unwise to be complacent.

Overall, compliance monitoring appears fragmented. Significant monitoring is in place for the small handful of signatories to specific codes. Higher level monitoring is in place for all codes. This has resulted in only minimal enforcement action and an uncertain effectiveness of other forms of compliance. The absence of regular reporting and published statistics is a major weakness.

CODE REVIEW

All codes are regularly reviewed. As there are a large number of codes these reviews require a considerable amount of time and resources for all stakeholders. IRDA describes the review process as follows:

Codes should provide for regular review and amendment of the provisions of the code to ensure they are meeting community expectations and working effectively. Industry bodies should promote discussion on codes and make recommendations for improvement. Among the matters considered should be whether the revised code should apply to any new sections of the industry that have been created, any matters asked to be attended to by a provider of a mandatory consultation certificate and any recommendations made by the [regulator] when the code was registered. Suggested amendments should be considered promptly and resolution of the consideration referred to the submitter.

IRDA Act ensuring that registered codes continue to meet registration criteria, codes should provide for regular review and amendment of the provisions of the code to ensure they are meeting community expectations and working effectively. Industry bodies should promote discussion

on codes and make recommendations for improvement. Among the matters considered should be whether the revised code should apply to any new sections of the industry that have been created, any matters asked to be attended to by a provider of a mandatory consultation certificate and any recommendations made by the IRDA when the code was registered.

Overall, the code review process in Insurance industry appears to have required considerable input and resources from consumer stakeholders due to the plethora of codes and the regularity of reviews.

The resourcing of consumer input is an issue in these circumstances. While a small number of consumer groups are provided with resources for consumer advocacy in insurance—the total sum for which has not increased — their remit extends far beyond the development and review of industry codes and they do not have sufficient resources to participate in the way that would be most effective to protect consumer interests.

COMPARISON WITH OTHER SECTORS

There is no consistent approach to co-regulation and the development,

implementation and enforcement of codes of conduct in India. The Authority has recently recommended that a consistent framework should be developed, and there have been similar calls from a variety of inquiries and taskforces over many years.

Nevertheless, a potential set of basic threshold principles for co-regulation can be extracted from common practice across a range of sectors.

TELECOM SECTOR

The Telecom Regulatory Authority of India (TRAI) was established in 1997 through an Act of Parliament, viz., the Telecom Regulatory Authority of India Act, 1997. Telecom Regulatory Authority of India's mission is to ensure that the interests of consumers are protected and at the same time to nurture conditions for growth of telecommunications, broadcasting and cable services in a manner and at a pace which will enable India to play a leading role in the emerging global information society. For achieving these objectives, the Authority issues from time to time regulations, directions, orders or guidelines with the focus on:

- Transparency in decision making by affording an opportunity to all stakeholders.

- Providing consumer with adequate choice, affordable tariffs and high quality of service.

- Promoting level playing field and fair competition among service providers.

- Access to world class quality telecommunications, broadcasting and cable services.

- Promoting efficiency in operations in all the tiers of the industry.

- Adoption of emerging technologies within the framework of a technology neutral policy.

- Ensuring technical compatibility & effective interconnection between service providers.

The TRAI does not usually examine individual consumer disputes. It looks at issues that affect all consumers – for instance, it would not usually look into matters of an individual being overcharged by a particular service provider, but it would be concerned about whether a service provider has in place the required systems for consumers to choose not to receive

marketing calls. TDSAT hears appeals from cases decided by TRAI and therefore looks at similar cases as TRAI – those with some “group” interest.

POWER SECTOR

The Indian power sector has made significant progress over the years. The sector has also undergone substantial structural changes. Regulatory policies have played a predominant role in changing the landscape of the Indian power sector. Though the sector has come a long way from its humble beginnings, it is still lagging on several fronts, such as power shortages, T&D losses, among others, and has a long way to go.

Central Electricity Regulatory Commission (CERC), a key regulator of power sector in India, is a statutory body functioning with quasi-judicial status under sec - 76 of the Electricity Act 2003. CERC was initially constituted on 24 July 1998 under the Ministry of Power’s Electricity Regulatory Commissions Act, 1998 for rationalization of electricity tariffs, transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, and for matters connected Electricity Tariff regulation. CERC was

instituted primarily to regulate the tariff of Power Generating companies owned or controlled by the government of India, and any other generating company which has a composite scheme for power generation and interstate transmission of energy, including tariffs of generating companies.

Obligations of CERC

- Formulate an efficient tariff setting mechanism, which ensures speedy and time bound disposal of tariff petitions, promotes competition, economy, and efficiency in the pricing of bulk power and transmission services, and ensures minimal cost investments.
- The regulation of tariffs of central generating stations.
- The regulation of tariffs of electric power generated and sold across states in a composite package.
- The regulation of interstate transmission tariffs, and facilitation of open access in interstate transmission.
- To issue licenses to persons to function as transmission licensees and electricity traders with respect to their interstate operations.

- To adjudicate disputes involving generating companies or transmission licensees.

- To improve the operations and management of the regional transmission systems through Indian Electricity Grid Code (IEGC), Availability Based Tariff (ABT), etc.

- To specify and enforce the standards with respect to quality, continuity, and reliability of service by licensees.

- To promote the development of the power market & fix the trading margin in the interstate trading of electricity, if considered necessary.

- To discharge such other functions as may be assigned under the Act.

Relation with Other Power Sector Bodies (MoP, CEA, Appellate Tribunal)

Appellate Tribunal and CERC

Appellate Tribunal for Electricity has been established by Central Government for those who are not satisfied with the Central Electricity Regulatory Commission order or with a state. The Tribunal has the authority to overrule or amend that order, just like the Income-Tax tribunal or the Central Administrative Tribunal. The tribunal has to

be approached within 45 days of the aggrieved person from getting the order.

Central Electricity Authority (CEA) and CERC

Since 1 April 1999 CEA has entrusted CERC with the task of regulating power tariffs of central government power utilities, inter-state generating companies, inter-state transmission tariffs. Section -76 of Electricity Act, 2003 stipulates that CERC shall consist of a Chairperson and three other Members. And one of the CERC members (Ex-Officio) has to be Chairman of CEA. In Indian Power Sector, CEA takes care of:

1. Planning Regulation where power demand and supply gap has to be regulated.

2. Construction regulation where Construction of Thermal, Hydro, Gas Based Power Plants and Power systems are regulated in the right manner. Whereas CERC take care of third aspect of power sector regulation -

3. Tariff regulation, a purely economic exercise.

SERC and CERC

CERC and State Electricity Regulatory Commission (SERC) are the two electricity regulators — one operating at the central level and the other at various state levels. CERC's primary function was to regulate the tariffs of central generating stations as well as for all interstate generation, transmission and supply of power. Whereas SERC's primary function was to determine bulk and retail tariffs to be charged to customers, regulate the operations of intrastate transmission, including those of the State Load Despatch Center (SLDC). During Parliamentary Standing Committee on Energy in the year 2001, SERC being established in states, for formulating standards relating to quality, continuity and reliability of service for the electricity industry have failed in their efforts. There was a proposal of having benches of the Central Electricity Regulatory Commission (CERC) in five to six locations instead of having a SERC in each state, but the Committee that has rejected the proposal stating it was not possible unless states were willing to accept such a proposal.

Ministry of Power and CERC

MoP entrusts CERC for providing escalation rate for coal and gas, inflation rate

based on WPI and CPI, discount rate, and dollar-rupee exchange variation rate for the purpose tariff determination.

Power Exchange Companies and CERC

Central Electricity Regulatory Commission (CERC) has issued the Power Market Regulations, 2010[22] which will govern transactions related to “Energy trading” by companies like Indian Energy Exchange (IEX), Power Exchange India (PXI), National Power Exchange (NPX) in various contracts related to electricity. The regulations have been issued by the CERC in exercise of its powers under section 66 of the Electricity Act, 2003, which is aimed at taking measures conducive to development of the electricity industry, promoting competition therein, protecting interest of consumers and enhancing supply of electricity.

The reforms in the sector have restructured the vertically-integrated market structure to a competitive structure. Market efficiency has been improved over time as many laws and regulations have achieved the desired result. Mobility has increased in the energy market and so have the number of players; the regulation has created a

competitive market place, which in future will bring open market in power sector.

CONCLUSION

There is the need for improvements to the generic consumer protection framework in India— with an emphasis on the development of best practice in co regulation— and specific improvements in the Insurance Industry. Codes of conduct across a range of industry sectors suffer — to differing degrees — from issues relating to credibility, consumer confidence and consumer awareness. No single industry in India is succeeding at addressing all of these issues, although there are some individual codes that have strong consumer awareness and support.

In many industries it may be necessary to reconsider the reliance on codes of conduct as a consumer protection mechanism. In all industries it is — we believe — time to review the underlying principles which guide the development and implementation of codes.

Need for whole of government approach to consumer policy development which can be:

- A common industry interest;

- A viable industry association(s) or industry commitment;
- Wide industry coverage;
- A competitive market;
- Clear objectives developed with stakeholders;
- Promotion and review;
- Integration into the regulatory framework; and
- Accountability, compliance and enforcement.

In industries where co-regulation is likely to be effective, a consistent national approach should be adopted to the development of codes of conduct — the core instrument of co-regulation.

This paper has identified a number of weaknesses in the consumer protection framework for insurance industry in India. The current framework is unique, complex and cumbersome. It is neither effective co-regulation nor effective self regulation. This section sets out recommendations for aligning the consumer protection framework in the insurance industry with best practice co-regulation. Considerable reform will be required to achieve this goal.

- Develop a set of core consumer protection principles in the insurance legislation. Require codes of conduct to be developed within this framework — allowing them to enhance these protections or provide more detail, but not to weaken these basic consumer rights.

- Align the insurance code development process with best practice code development processes in other sectors. A “super complaints” mechanism should be introduced to enable consumer organizations and dispute resolution providers to formally raise significant issues directly with the regulator.

- Establishing a core set of insurance consumer protection principles in the insurance legislation and requiring code content to reflect these protections, building on them and enhancing them in the day to day practice of industry members. Ensuring that code content cannot be weaker than the core consumer protection principles in the legislation. Including a formal market inquiries power in the legislation, so that the subject matter of code content can be determined by reference to the consumer experience, rather than waiting for industry to develop codes.

- Dispute resolution in the insurance industry should to be aligned with best practice in co-regulation.

- The co-regulatory framework should include an open, comprehensive, independent and innovative code compliance monitoring function, which results in effective code compliance monitoring.

- The code review process in the insurance industry should be rationalized by reducing the number of codes and reviews to a reasonable amount. Adequate resources should be provided for consumer input to code reviews. There should be a requirement that each code is subject to regular independent review.

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