

Statutory, Regulatory and Quasi-Judicial Bodies

LEARNING OBJECTIVES

In this Chapter, you will learn about:

- Statutory Bodies
- Regulatory Bodies
- Quasi-Judicial Bodies
- Some Important Bodies

8.1 STATUTORY BODIES

Statutory bodies are those entities that are created by an Act of Parliament or State Legislatures. They are set up by the respective governments to consider the evidence and make judgments in some field of activity. They are usually established to carry out specific functions which a government considers may be more effectively performed outside a traditional departmental executive structure. They fulfil the need for some operational independence from the government funding arrangements that are not reliant on the annual appropriations processes or to establish a separate legal entity. They are typically found in countries which are governed under Parliamentary Democracy form of political setup.

By law, statutory bodies function as organisations with the authority to keep an eye on the legal and official compliances of a business or an organisation. For instance, the Medical Council of India is a statutory body which regulates the quality of medical education and medical practitioners in India. Statutory bodies, however, may be established to allow a certain level of independence from the government, the government is still responsible to ensure that taxpayers funds expended in the operations of statutory bodies are spent in the most efficient, effective and economic manner.

These bodies may be subject to varying degrees of ministerial control, depending on the acts that give rise to their existence. In turn, ministers are responsible to the Parliament and state legislatures for the operation of all government boards and agencies within their portfolios and are required to table their annual reports before the respective houses.

The definition of a 'statutory body' may differ depending upon the legislation. For example, a local council is not a statutory body for the purposes of the Financial Accountability Act, but it is for the purposes of the Statutory Bodies Financial Arrangements Act.

Examples of statutory bodies are Reserve Bank of India under the Reserve Bank of India Act, State Bank of India under a similar act, etc. They differ from constitutional bodies, which take root from specific provisions and objectives of the constitution. Examples are Supreme and High Courts, Election Commission of India, Pay Commissions etc.

Statutory bodies operate under the provisions of their own enabling legislation, which set out the purpose and powers of the agency. The enabling legislation may also include provisions, examples are:

- The levels of fees to be charged for services/products provided by the statutory body.
- The power of the statutory body to borrow or invest funds.
- Whether the board can delegate powers to officers of the statutory body.
- Whether the body represents the state.
- Whether it comes under the Reserve Bank of India Act or State Bank of India under a similar Act, etc.
- For the sake of distinction, the constitutional bodies are formed to continue the objectives of the Constitution. Examples are Supreme and High Courts, Election Commission of India, Pay Commissions etc.

8.2 REGULATORY BODY

A Regulatory body or Regulatory agency is a public authority or a Government agency, responsible for exercising autonomous authority over some area of human activity in a regulatory or supervisory capacity, established by Legislative act in order to set standards in a specific field of activity, or operations, in the private sector of the economy and to then enforce those standards.

Regulatory agencies function outside executive supervision. Because the regulations that they adopt have the force of law, part of these agencies' functions is essentially legislative. But because they may also conduct hearings and pass judgments concerning adherence to their regulations, they also exercise a judicial function – often carried out before a quasi-judicial official called an administrative law judge, who is not part of the Court system.

In almost all other countries outside the USA, including India, the role of regulatory agencies is taken by the regular administrative departments of government and in the case of utilities and public transportation, often by means of state ownership.

Regulatory agencies are usually a part of the executive branch of the government, or they have statutory authority to perform their functions with oversight from the legislative branch. Their actions are generally open to legal review. Regulatory authorities are commonly set up to enforce standards and safety, or to oversee use of public goods and regulate commerce. Examples of regulatory agencies in India are IRDA, SEBI, TRAI, AERB, DGCA, PESO, etc.

8.3 QUASI-JUDICIAL BODIES

Quasi-judicial bodies are organisations or bodies which have powers similar to that of the law imposing bodies but they are not courts. They mainly govern the administrative areas. The courts (judiciary) have the power to preside over all kinds of disputes but the quasi-judicial bodies are the ones with the powers of imposing laws on administrative agencies.

These bodies help in reducing the burden of court. Quasi-judicial activity is limited to the issues that concern the particular administrative agency. These actions may be appealed in a court of law.

Such bodies usually have powers of adjudication in matters such as breach of discipline, conduct rules and trust in the matters of money or otherwise. Their powers are usually limited to a particular area of expertise, such as financial markets, employment laws, public standards, immigration, or regulation.

Awards and verdicts of quasi-judicial bodies often depend on a pre-determined set of guidelines or punishments depending on the nature and gravity of the offence committed. Such punishments may be legally enforceable under the law of a country. However, they can also be challenged in a court of law, which is the final decisive authority. Some examples of quasi-judicial bodies in India are – National Human Rights Commission, State Human Rights Commission, Central Information Commission, State Information Commission, National Consumer Disputes Redressal Commission, State Consumer Disputes Redressal Commission, Competition Commission of India, Appellate Tribunal for Electricity, Railway Claims Tribunal, Income Tax Appellate Tribunal and Intellectual Property Appellate Tribunal.

8.4 SOME IMPORTANT BODIES

8.4.1 Central Vigilance Commission (CVC)

8.4.1.1 History

- The Central Vigilance Commission was set up by the Government in February, 1964 on the recommendations of the Committee on Prevention of Corruption, headed by Shri K. Santhanam, to advise and guide Central Government agencies in the field of vigilance.
- CVC is conceived to be the apex vigilance institution, free of control from any executive authority, monitoring all vigilance activity under the Central Government and advising various authorities in Central Government organisations in planning, executing, reviewing and reforming their vigilance work.
- The CVC Bill was passed by both the houses of Parliament in 2003 and the President gave his assent on September 11, 2003. Thus, the Central Vigilance Commission Act 2003 came into effect from that date.

8.4.1.2 Organisational Structure

The Central Vigilance Commissioner and the Vigilance Commissioners are appointed by the President after obtaining the recommendation of a Committee consisting of:

- The Prime Minister—Chairperson
- The Home Minister—Member
- The Leader of the Opposition in the Lok Sabha—Member
 - The Central Vigilance Commissioner and a Vigilance Commissioner, before he enters upon his office, is required to make and subscribe to oath or affirmation.
 - The Central Vigilance Commissioner or any Vigilance Commissioner can be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Central Vigilance Commissioner or any Vigilance Commissioner, as the case may be, ought to be removed.
 - The President may suspend him from the office, and if deem necessary prohibit him also from attending the office during inquiry, the Central Vigilance

Commissioner or any Vigilance Commissioner in respect of whom a reference has been made to the Supreme Court until the President has passed orders on receipt of the report of the Supreme Court on such reference.

- The President may, by order, remove from office the Central Vigilance Commissioner or any Vigilance Commissioner if the Central Vigilance Commissioner or such Vigilance Commissioner, as the case may be is adjudged an insolvent; or has been convicted of an offence, which, in the opinion of the Central Government, involves moral turpitude; or any engagement during his term of office in any paid employment outside the duties of his office; or in the opinion of the President, is unfit to continue in office by reason of infirmity of mind or body; or has acquired such financial or other interest as is likely to affect prejudicially his functions as a Central Vigilance Commissioner or a Vigilance Commissioner.
- The CVC is headed by a Central Vigilance Commissioner who is assisted by two Vigilance Commissioners.
- The Central Vigilance Commission has its own Secretariat, Chief Technical Examiners' Wing (CTE) and a wing of Commissioners for Departmental Inquiries (CDI).

Secretariat

- The Secretariat consists of a Secretary of the rank of Additional Secretary to the Government of India, one officer of the rank of Joint Secretary to the Government of India, ten officers of the rank of Director/Deputy Secretary, four Under Secretaries and office staff.
- Chief Technical Examiners' Wing (CTE) – The Chief Technical Examiner's Organisation constitutes the technical wing of the Central Vigilance Commission and has two Engineers of the rank of Chief Engineers (designated as Chief Technical Examiners) with supporting engineering staff.

8.4.1.3 Functions

- Technical audit of construction works of Governmental organisations from a vigilance angle.
- Investigating specific cases of complaints relating to construction works.
- Assisting the CBI in their investigations involving technical matters and for evaluation of properties in Delhi.
- Assisting the Commission and Chief Vigilance Officers in vigilance cases involving technical matters.

Commissioners for Departmental Inquiries (CDI): There are fifteen posts of CDI in the Commission, 14 in the rank of Deputy Secretaries/Directors and one in the rank of Joint Secretary to Government of India.

The CDIs function as Inquiry Officers is to conduct inquiries in departmental proceedings initiated against public servants.

The Directorate General of Vigilance: The Directorate General of Vigilance, Income Tax is the apex body under the Central Board of Direct Taxes for the vigilance matters.

The Directorate General interfaces with the Central Vigilance Commission, the Central Bureau of Investigation, field formations of CBDDT who are also having

their vigilance wings and others in all the matters relating to vigilance, preliminary investigation of complaints, obtaining CVC/CVO's first stage advice.

Wherever required, assistance to Ministry in issuance of charge sheets, monitoring the charge sheet issued by the disciplinary authorities in the field, monitoring the progress in inquiry proceedings, processing of enquiry reports, obtaining CVC/CVO's second-stage advice, wherever required and communication thereof to disciplinary authorities and monitoring compliance/implementation of the advice.

8.4.1.4 Functions and Powers

Under the Central Vigilance Commission Act, 2003 it has various powers and functions. Some of them are discussed as follows;

- Superintendence over the functioning of the Delhi Special Police Establishment (CBI) insofar as it relates to the investigation of offences under the Prevention of Corruption Act, 1988; or an offence under the CrPC for certain categories of public servants.
- Power to give directions to the DSPE in Special Police Establishment (CBI) for superintendence insofar as it relates to the investigation of offences under the Prevention of Corruption Act, 1988.
- Inquire or cause an inquiry or investigation to be made on a reference by the Central Government.
- Inquire or cause an inquiry or investigation to be made into any complaint received against any official belonging to such category of officials specified in the CVC Act, 2003.
- Review the progress of investigations conducted by the DSPE into offences alleged to have been committed under the Prevention of Corruption Act, 1988 or an offence under the CrPC.
- Review the progress of the applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988.
- Tender advice to the Central Government and its organisations on such matters as may be referred to it by them.
- Exercise superintendence over the vigilance administrations of the various Central Government Ministries, Departments and organisations of the Central Government.
- Commission has all the powers of a Civil Court while conducting any inquiry.
- Respond to Central Government on mandatory consultation with the Commission before making any rules or regulations governing the vigilance or disciplinary matters relating to the persons appointed
- To the public services and posts in connection with the affairs of the Union or to members of the All India Services.

Limitations of CVC

- CVC is only an advisory body. Central Government Departments are free to either accept or reject CVC's advice in corruption cases.
- CVC does not have adequate resources compared with number of complaints that it receives. It is a very small set up with sanctioned staff strength of 299; whereas it is supposed to check corruption in more than 1500 Central Government departments and ministries.

- CVC cannot direct CBI to initiate inquiries against any officer of the level of Joint Secretary and above on its own. Such permission has to be obtained from the concerned department.
- CVC does not have powers to register criminal case. It deals only with vigilance or disciplinary cases.
- CVC has supervisory powers over CBI. However, CVC does not have the power to call for any file from CBI or to direct CBI to investigate any case in a particular manner. CBI is under administrative control of Department of Personnel and Training (DoPT) which means that, the powers to appoint, transfer, suspend CBI officers lie with DoPT.
- Appointments to CVC are indirectly under the control of Government of India, though the leader of the Opposition (in Lok Sabha) is a member of the Committee to select CVC and VCs. But the Committee considers candidates put up before it. These candidates are decided by the Government.
- As a result, although CVC is relatively independent in its functioning, it has neither resources nor powers to inquire and take action on complaints of corruption that may act as an effective deterrence against corruption.

8.4.1.5 Recent Initiatives

Preventive vigilance measures declared by CVC can broadly be categorised as

1. **Simplification and standardisation of rules:** Simplification and standardisation of rules and procedures results in reducing of discretion and arbitrariness. Identifying areas of discretion which are not governed by guidelines along with a review of existing rules and regulations will help to bring about clarity and accountability.
2. **Leveraging technology and automation:** Technology as an enabler for fighting corruption has been effectively demonstrated. E-procurements, E-payments, use of websites for dissemination of information and creating awareness, use of CCTV in places of public dealing, use of appropriate analytical tools, computer assisted audit techniques for detecting frauds are examples of how technology strengthens the system of preventive vigilance. Automation reduces interface/interaction between public officials and common public, thus leading to reduction in corruption.
3. **Process re-engineering (BPR):** BPR is very important as it helps the organisations rethink how they do their work and in the process encourages a full-scale recreation of processes in order to meet the objectives of the organisation. Existing processes may be re-engineered to even prevent leakage of revenue.
4. **Transparency:** Transparency removes the information gap between the public and officials which in turn reduces corruption. The website of the department/organisation should contain rules and regulations, contact details of officials and all other information useful for common public/customers.
5. **Accountability:** A system with clear accountability and assigned responsibility at each level is necessary not only for smooth functioning but also for increased transparency, efficiency and for ensuring effective punitive action in case of misconduct.
6. **Control and supervision:** Regular and routine inspections, surprise inspections, audit and reviews help to keep a check on aberrant and corrupt behaviour. A structured interaction between vigilance and internal audit will enable better monitoring and also help identify potential problem areas.

7. **Time-bound and effective punitive action:** Punitive action within short period of occurrence of misconduct and finalisation of such cases in a time-bound manner resulting in award of exemplary and adequate punishment deters others from committing such misconduct.
8. **Conducive work environment:** Conducive work environment for preventive vigilance may include drawing up a list of sensitive posts, rotation policy for sensitive posts, Annual Report 2016 129 identification of persons of doubtful integrity and keeping them away from sensitive posts/public dealing. It would be necessary also to create an environment that promotes ethical behaviour. Protection to Whistle Blowers must also be ensured in order to bring to light cases of corruption.
9. **Training and Awareness:** Capacity building and sensitisation at all levels and across all functional areas is important. Public officials should be made aware of their duties and responsibilities, code of conduct, rules and regulations through regular training and awareness programmes. A list of Dos and Don'ts for employees/officials is a simple yet effective tool. Likewise, familiarisation with Standard Operating Procedures relating to different spheres of activity will enhance awareness and reduce procedural violations/inadvertent errors arising out of a lack of awareness. Knowledge sharing initiatives such as publishing/circulating information relating to areas where fraud/misconduct has been detected and sharing information on best practices are other effective awareness generation methods for more effective preventive vigilance.
10. **Awareness among public:** If public is made aware of their rights, and also of the rules and regulations, then they will be able to resist unfair treatment and arbitrary behaviour by public officials. Public should be encouraged to demand the services due to them and to raise their voice when their rights are denied or powers are misused by public officers. Organisations should prominently display information relevant/useful to the common public on their office notice board/website.
11. **Inculcating moral values:** Inculcating ethical behaviour among public, particularly the younger generation is an important tool of preventive vigilance. Vigilance Awareness Week (VAW), celebrated every year during the last week of October is aimed at creating such awareness. This opportunity needs to be utilised by all CVOs/Organisations to create awareness among public as well as among its own officials regarding need for imbibing right values.

8.4.2 Central Information Commission

8.4.2.1 History

- The Right to Information (RTI) Act, 2005, which came into force on 12 October 2005, marked a new and higher level of evolution of India's parliamentary democracy.
- The Supreme Court has, in various judgments, held that the right to information is a part of the fundamental right to freedom of speech and expression under Article 19(1) of the Constitution, since the right cannot be properly exercised if the people did not have the right to information.

The clearest enunciation of the fundamental right to information was seen in the Supreme Court ruling in the State of U.P v. Raj Narain in which Justice K.K. Mathew said:

- The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries.

- They are entitled to know the particulars of every public transaction in all its bearing.
- The right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary, when secrecy is claimed for transactions which can, at any rate, have no repercussion on public security...
- Thus, the Right to Information (RTI) Act, 2005 is designed to set up a practical regime for citizens to access information available with public authorities, in order to promote transparency and accountability in their working.

8.4.2.2 Organization Structure

- This Act provides for the Constitution of the Central Information Commission (CIC) to be responsible for the implementation of the Act.
- Central Information Commission was constituted by the Central Government through a Gazette Notification in October 2005.
- The Commission includes 1 Chief Information Commissioner (CIC) and not more than 10 Information Commissioners (IC) who are appointed by the President of India.
- Oath of Office is administered by the President of India according to the form set out in the First Schedule.
- CIC defines 'information' as any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

8.4.2.3 Powers and Functions

- The CIC is empowered to receive and inquire into complaints from any person relating to access to information under the control of public authorities and to decide appeals against the decisions of designated appellate officers.
- The Commission shall impose penalties on erring Central Public Information Officers and recommend disciplinary action against those who have, without any reasonable cause, denied access to information under the provisions of the Act.
- The quantum of penalty liable to be imposed is ₹250 each day till the application is received or information is furnished subject to the total amount not exceeding ₹25,000.
- The decision of the Commission on an appeal is binding and is not subject to further appeal in a Court of law.
- The Commission may make recommendations to public authorities not conforming to the provisions or the spirit of the Act, specifying the steps which, in its opinion, they ought to take for promoting such conformity.
- The Commission may, during the inquiry into any complaint, examine any record under the control of the public authority, and no such record may be withheld from it on any grounds.
- The Commission shall recommend to the Government every year, reforms on any 'matter relevant for operationalising the right to access information'.

Some cases in which RTI Act with the help of CIC disclosed the corrupt practices in the nation:

a. RTI exposes employment generation scheme

- Rajani, an RTI activist trainer by Sakshi was concerned about the poor implementation of the National Rural Employment Guarantee Act (NREGA).

- The NREGA is designed to provide work to the poor rural Indians by providing them 100 days of work every year to build productive assets like roads, schools and irrigation projects in their villages.
- As is often the norm, the money is misappropriated by the contractor-babu-politician nexus.
- Rajani asked for the details of the projects implemented under NREGA in Santhpur Village in Bidar District of Karnataka.
- She received reports of four projects for Santhpur village but three of the project report did not have any details of the project making inspection impossible.
- Further the people employed in all four projects were the same (member of a local politician's family who have never stepped out ever for any hard labour).
- None of the projects and labour rolls contained signatures or thumb impressions of the recipients.
- In a hearing on a complaint filed by the Rajani at the Karnataka Information Commission, the Commissioner pulled up the CEO of the District and asked him to investigate the matter immediately and report back to the Commission.
- The CEO's report is awaited. In the meanwhile Rajani has held a press conference in Bidar to highlight the issue and 15 more RTI applications were filed.
- The villagers of Santhpur who accompanied Rajani to the hearing were delighted. Whenever they went to meet the CEO he would refuse to even meet them.
- They really feel empowered to see the CEO being forced to come to Bangalore and being pulled for not doing his work properly that too in front of them.

b. Greenpeace and RTI Together Receive Victory

- In the beginning of last year, environmental watchdog Green Peace approached Sakshi for RTI training for their campaigners.
- From that training their two campaigners Jaikrishna and Divya got on to the case of the Department of Biotechnology which is the approving body for testing and release of genetically modified crops in India.
- After a long drawn-out battle, this April, the CIC directed the Department of Biotechnology to make the information on the toxicity of GM crops public.
- This information has been a secret despite the risks it has for every Indian. With the information in the public domain, it is now possible to analyse the feasibility of the products in view of the environmental effects and human consumption.
- The issue of Genetic Engineering is being widely debated across the world on account of its detrimental impacts.
- It is evident the RCGM has not used the right kind of protocols for bio-safety testing. It is a giant leap for activists as it opens doors to the secretive realm of biotechnology.
- Ultimately the Right to Know of citizens regarding the industry and its impacts has been assured.
- Governance improves with heightened trust between people and the Government. Trust improves with transparency.
- A transparent and open Government increases the faith and trust of the public in its functioning, while at the same time reducing suspicion.
- This creates space for the free flow of information, which allows citizens to participate in decisions taken in their interest.
- Thus, CIC has helped in increasing the transparency and faith of common man in the government procedures and activities.

8.4.3 National Human Rights Commission

8.4.3.1 History

- The National Human Rights Commission (NHRC) of India is an autonomous public body constituted on 12 October 1993 under the Protection of Human Rights Ordinance of 28 September 1993.
- It was given a statutory basis by the Protection of Human Rights Act, 1993 (TPHRA).
- The NHRC is a national human rights institution, responsible for the protection and promotion of human rights, defined by the Act as ‘rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants’.
- ‘Human Rights’ means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the International covenants and enforceable by courts in India.
- ‘Commission’ means the National Human Rights Commission constituted under Section 3 of Protection of Human Rights Act, 1993. All human beings are born free and equal in dignity and rights known as Human rights, these are commonly understood as the rights that every human being is entitled to enjoy freely irrespective of his religion, race, caste, sex and nationality. The Declaration of Independence acknowledged the fundamental human rights.
- Human right means different thing to different people. Human Rights are not static. New rights are recognised and enforced from time to time.
- Only persons fully conversant with the latest development about the expanding horizons of human rights can promote their awareness better than others.

8.4.3.2 Organisational Structure

The NHRC consists of:

- A Chairperson
- One Member who is, or has been, a Judge of the Supreme Court of India
- One Member who is, or has been, the Chief Justice of a High Court
- Two Members to be appointed from among persons having knowledge of, or practical experience in, matters relating to human rights
- In addition, the Chairpersons of four National Commissions of (1. Minorities 2. SC, 3. ST 4. Women) serve as ex-officio members.

The Chairperson and members of the NHRC are appointed by the President of India, on the recommendation of a committee consisting of:

- The Prime Minister (chairperson)
- The Home Minister
- The Leader of the Opposition in the Lok Sabha (House of the People)
- The Leader of the Opposition in the Rajya Sabha (Council of States)
- The Speaker of the Lok Sabha (House of the People)
- The Deputy Chairman of the Rajya Sabha (Council of States)

8.4.3.3 Powers and Functions

TPHRA mandates the NHRC to perform the following functions:

- Proactively or reactively inquire into violations of human rights or negligence in the prevention of such violation by a public servant.

- With the permission of court, to intervene in court proceeding relating to human rights
- Visit any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates and make recommendations.
- Review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.
- Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.
- Study treaties and other international instruments on human rights and make recommendations for their effective implementation.
- Undertake and promote research in the field of human rights.
- Engage in human rights education among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, media, seminars and other available means.
- Encourage the efforts of NGOs and institutions working in the field of human rights.
- Such other functions as it may consider it necessary for the protection of human rights.

8.4.3.4 Recent Initiatives

Amend PHR Act to make Human Rights Commissions more effective, says Mr. Justice P. Sathasivam, Governor of Kerala and former Chief Justice of India, on Human Rights Day

Mr. Justice P. Sathasivam, Governor of Kerala and former Chief Justice of India, said excesses of laws, lack of awareness about them, inadequacies of the legal system and the lack of sufficient support from the legal services authorities need to be focused on to ensure protection of human rights in the country. He was addressing the Human Rights Day function of the NHRC as a Chief Guest.

Mr. Justice P. Sathasivam lauded the role of the NHRC towards Promotion and Protection of Human Rights. However, he said that the Commission should consider approaching Parliament through the Government to seek an amendment in the Protection of Human Rights (PHR) Act to make its recommendation effective. It should be able to execute its recommendations.

Addressing the gathering, Mr. Bezwada Wilson, National Convener of the Safai Karamchari Andolan and recipient of Magsaysay award, said, despite several efforts a lot needs yet to be done to build awareness about the necessity to recognise the rights and dignity of people working in sanitation area.

Earlier, addressing the gathering Mr. Justice H.L. Dattu, Chairperson, NHRC, said the Commission represents the work, dedication, and relentless spirit that are vital to the realisation of the vision we have for our country – a vision of freedom, justice and equity. He expressed confidence that by incorporating human rights as a way of life, a fundamental change can be brought about in our efforts to eradicate the scourge of poverty, ignorance, prejudices and discrimination based on sex, caste, religion, disability and other forms, from our society.

Highlighting the significance of Human Rights Day, Justice Dattu said, 'let us pledge to rededicate ourselves to achieve a just and equitable society through upholding the principles and ideals enshrined in our Constitution and the Universal Declaration of Human Rights for the protection and promotion of human dignity and the inviolable rights of all citizens of the country'.

The UN Secretary General, Mr. Ban Ki Moon, in his message on Human Rights Day, read by Mr. Rajiv Chandran, the representative of United Nations Information Centre in Delhi, said that ‘Upholding Human Rights is in the interest of all. Respect for Human Rights advances well-being for every individual, stability for every society, and harmony for our international world’. At a time of multiplying conflicts, the Universal Declaration of Human Rights reminds us of the importance of the freedom, justice and peace in the life of human beings. He said that people must stand up for others’ rights – is the theme of this year’s Human Rights Day.

Marking the Human Rights Day celebrations, prizes were given to the winners of NHRC’s Short Films on Human Rights Award Scheme 2016. These included ‘Black & White’ by Anuj S.R. from Kerala, first prize of ₹One lakh, ‘Tumling Street’ by Rimbik Das, second prize of ₹75,000 and ‘Ambrosia’ by Somnath Chakraborty, third prize of ₹50,000. They were also given a certificate and a trophy each. The Commission received a huge response to its Short Film Award Scheme this year.

Justice Sathasivam also released four NHRC publications, including two journals in Hindi and English carrying articles on important aspects of Human Rights issues by eminent persons. He also opened NHRC’s photo and children’s paintings exhibition marking the Human Rights Day.

Several prominent dignitaries, including Judges of Supreme Court, High Courts, former Judges of Supreme Court and High Courts, UN representatives, diplomats, senior Government functionaries, civil society representatives, senior officers of Paramilitary Forces, and NHRC attended the function.

8.4.4 National Commission for Women

8.4.4.1 History

- The National Commission for Women (NCW) is a statutory body for women established in 1992 by Government of India under the provisions of the Indian Constitution, as defined in the 1990 National Commission for Women Act. The first head of the commission was Ms. Jayanti Patnaik.
- It is often said that the status and position of women in society is the best way to understand a civilisation, its progress and its shortcomings.
- In the case of India, women have come a long way from women sages and scholars in the Vedic period to women in the armed forces, IT sector, politics, industry and other significant areas while balancing their role as a daughter, wife and mother.
- This journey towards modernisation has not been easy. Women have had to fight the traditional Indian male-dominated society to emerge as stronger and independent entities.
- While all these are positive developments, cases of rape, harassment at workplace and dowry deaths are rampant. Illiteracy and ignorance about their rights are still prevalent among a majority of the women.
- It was in this background that the Committee on the Status of Women in India (CSWI) recommended nearly two decades ago, the setting up of a National Commission for Women to fulfil the surveillance functions to facilitate redressal of grievances and to accelerate the socio-economic development of women.
- In January 1992, the National Commission for Women (NCW), was set up as a statutory body under the National Commission for Women Act, 1990 (Act No. 20 of 1990

of Government of India) to review the constitutional and legal safeguards for women; recommend remedial legislative measures, facilitate redressal of grievances and advise the Government on all policy matters affecting women.

8.4.4.2 Functions

- The Commission has initiated generation of legal awareness among women, thus equipping them with the knowledge of their legal rights and with a capacity to use these rights. It assists women in redressal of their grievances through pre-litigation services.
- To facilitate speedy delivery of justice to women, Parivarik Mahila Lok Adalats are organised in different parts of the country to review the existing provisions of the Constitution and other laws affecting women and recommending amendments thereto, any lacunae, inadequacies or shortcomings in such legislations.
- It organises promotional activities to mobilise women and get information about their status and recommend paradigm shift in the empowerment of women. The Complaints and Counseling Cell of the commission processes the complaints received oral, written or suo moto under Section 20 of the NCW Act.
- The complaints received are generally related to domestic violence, harassment, dowry, torture, desertion, bigamy, rape, refusal to register FIR, cruelty by husband, deprivation, gender discrimination and sexual harassment at work place.
- NCW tackles the problems by ensuring that investigations by the police are expedited and monitored. Family disputes are resolved or compromised through counseling.
- As per the 1997 Supreme Court Judgment on Sexual Harassment at Workplace, (Vishakha v. State of Rajasthan) every employer is required to provide for effective complaints procedures and remedies including awarding of compensation to women victims.
- In sexual harassment complaints, the concerned organisations are urged to expedite cases and the disposal is monitored. For serious crimes, the Commission constitutes an Inquiry Committee which makes spot enquiries, examines various witnesses, collects evidence and submits the report with recommendations. The implementation of the report is monitored by the NCW.
- The complaints received by the NCW show the trend of crimes against women and suggest systemic changes needed for reducing them.
- The complaints are analysed to understand the gaps in the routine functioning of government in tackling violence against women and to suggest correctional measures.
- The complaints are also used as case studies for sensitisation programmes for the police, judiciary, prosecutors, forensic scientists, defence lawyers and other administrative functionaries.

Activities

The objective of the NCW is to represent the rights of women in India and to provide a voice for their issues and concerns.

- The subjects of their campaigns include dowry, politics, religion, equal representation for women in jobs and the exploitation of women for labour.
- The Commission also discusses police abuses against women.
- The Commission regularly publishes a monthly newsletter, Rashtra Mahila, in both Hindi and English

- As the problem of violence against women is multifaceted, the NCW has adopted a multi-pronged strategy to tackle the problem.
- From time to time the Commission conducts seminars, workshops and conferences and sponsors such events by providing financial assistance to research organisations and NGOs.
- The important areas so far covered include women in detention; violence against women; sexual harassment at work place; educational, health and employment aspects; women in agriculture and panchayati raj sector; and custodial justice and mental health institutions.
- The NCW holds public hearings on issues affecting large sections of women such as crime against women, women in unorganised labour sector, women in agriculture and women of minority groups.
- The deposition at these enquiries helps in appreciating the problems and initiating remedial action.
- As a measure of arousing public awareness and breaking bureaucratic apathy, public hearings under vigilant activists like Justice V.R. Krishna Iyer and Swami Agnivesh were held to understand problems and expedite solutions in the case of Kol women of Bundelkhand; deserted women of hill districts in UP, rape case of girl children of Tamil Nadu, unorganised women labour and minority communities of Tamil Nadu; creche workers' enquiry and tribal women of Dindigul, Tamil Nadu.
- Special studies are conducted by the NCW on social mobilisation, maintenance and divorced women, panchayat raj in action, women labour under contract, gender bias in judicial decisions, family courts, gender-component in various Commissions' reports on women, violence against women, women's access to health and education in slums to help in formulation of NCW's policies for recommendations.
- Special studies of NCW focus on development of health facilities among women belonging to the scheduled tribe communities; women of weaker sections – socio-economic development of scheduled caste women; mentally disabled women; credit needs of women – the Gramin Banks, and the widows of Vrindavan.
- The NCW also constitutes Expert Committees for dealing with such special issues as may be taken up by the Commission from time to time. Some important issues taken up by the NCW include sexual harassment at workplace, women in detention, anti-arack movement, issues concerning prostitution and political and technological empowerment of women in agriculture.
- To meet the information needs of the Commission and various interested individuals and organisations, the NCW started its own library in 1994. It has now evolved as a de facto Resource Centre for research scholars/activists with a collection of nearly 2300 books covering different issues relating to women's advancement.
- Besides, the library collection includes important reference books, like encyclopedia, Directories of NGO's as well as the complete set of Halsbury's Laws of England (4th Edition).
- Besides publishing its own books from time to time, the NCW also sponsors research studies on various aspects concerning women issues and helps in getting them published. Nearly a hundred publications, both in English and Hindi, have so far been published.

- The Commission undertakes visits to evaluate the progress of development of women in various states. It has so far covered Tamil Nadu, Andhra Pradesh, Rajasthan, Uttar Pradesh, Orissa, Sikkim, Madhya Pradesh, Assam, Tripura and Manipur.
- Women's movement in the country was brought to the forefront by the efforts of NGOs. The Commission interacts and networks with NGOs and the State Commissions for ensuring gender equality and empowerment of women.
- The Commission also interacts with the media, social activists and academics to suggest ways of ensuring due representation of women in all spheres.

8.4.4.3 Recent Initiatives

WCD Minister Smt. Maneka Gandhi releases Draft National Policy for Women, 2016 for consultation. The salient features of the policy are as follows:

Background: Nearly a decade and half has passed since the National Policy for Empowerment of Women, 2001 was formulated. Since then significant strides in global technology and information systems have placed the Indian economy on a trajectory of higher growth impacting the general populace and women in particular in unique and different ways. The discourse on women's empowerment has been gradually evolving over the last few decades, wherein paradigm shifts have occurred – from seeing women as mere recipients of welfare benefits to mainstreaming gender concerns and engaging them in the development process of the country. These changes have brought forth fresh opportunities and possibilities for women's empowerment while at the same time presenting new and emerging challenges which along with persisting socio-economic problems continue to hinder gender equality and holistic empowerment of women. The policy aims to create sustainable socio-economic, political empowerment of women to claim their rights and entitlements, control over resources and formulation of strategic choices in realisation of the principles of gender equality and justice.

The policy envisions a society in which women attain their full potential and are able to participate as equal partners in all spheres of life. It also emphasises the role of an effective framework to enable the process of developing policies, programmes and practices which will ensure equal rights and opportunities for women.

The broad objective of the policy is to create a conducive socio-cultural, economic and political environment to enable women enjoy de jure and de facto fundamental rights and realise their full potential.

Priority Areas

1. **Health including food security and nutrition:** Focus on recognising women's reproductive rights, shift of family planning focus also to males, addressing health issues in a life cycle continuum such as psychological and general well-being, healthcare challenges related to nutrition/hygiene of adolescents, geriatric health care, expansion of health insurance schemes and addressing the intergenerational cycle of under-nutrition
2. **Education:** Improve access to pre-primary education, enrolment and retention of adolescent girls, implement innovative transportation models for better schooling outcomes, advocate gender champions and address disparities with regard to ICTs.
3. **Economy:** Raising visibility, engendering macro-economic policies and trade agreements, generate gender-disaggregated land ownership database, skill development and training for women, entrepreneurial development, review of labour laws and policies,

equal employment opportunities with appropriate benefits related to maternity and child care services, address technological needs of women.

4. **Governance and decision making:** Increasing women's participation in the political arena, administration, civil services and corporate boardrooms,
5. **Violence against women:** Address all forms of violence against women through a lifecycle approach, Legislations affecting/relating to women will be reviewed/harmonised to enhance effectiveness, improve child sex ratio (CSR), strict implementation of advisories, guidelines, standard operating procedures (SoPs) and protocols, prevention of trafficking at source, transit and destination areas for effective monitoring of the networks.
6. **Enabling environment:** Gender perspective in housing and infrastructure, ensuring safe drinking water and sanitation, gender parity in the mass media and sports, concerted efforts towards strengthening social security and support services for all women especially the vulnerable, marginalised, migrant and single women.
7. **Environment and climate change:** Addressing gender concerns during distress migration and displacement in times of natural calamities due to climate change and environmental degradation. Promotion of environmental friendly, renewable, non-conventional energy, green energy sources for women in rural households.

The policy also describes emerging issues such as making cyber spaces safe place for women, redistribution of gender roles, reducing unpaid care work, review of personal and customary laws in accordance with the constitutional provisions, review of criminalisation of marital rape within the framework of women's human rights etc. relevant in the developmental paradigms.

Operational strategies laid down in the policy provide a framework for implementation of legislations and strengthening of existing institutional mechanisms through action plan, effective gender institutional architecture. Advocacy and stakeholder partnerships, inter-sectoral convergence, gender budgeting and generation of gender disaggregated data have also been given due focus.

Operational strategies

- **Enabling safety and security of women** with initiatives such as One-Stop Centres, Women Helpline, Mahila Police volunteers, Reservation of women in police force, creating immediate response mechanism through panic buttons in mobiles, public and private transport, and surveillance mechanisms in public places.
- **Creating eco-systems to encourage entrepreneurship amongst women** through platforms like Mahila E-Haat, dedicated theme-based exhibitions, focussed skill training, mentoring through Women Entrepreneurship Council, availability of easy and affordable credit and financial inclusion.
- **Training and capacity building of all stakeholders** including youth through Gender Champion initiative, frontline workers, women sarpanches and all officials dealing with policy and delivery systems impacting women.
- **Facilitating women in workplace** through gender friendly work place, flexi timings, increased maternity leave, provision of child care/creches at workplace, life cycle health care facilities.

8.4.5 National Commission for Minorities

8.4.5.1 History

- The term 'Minority' represent a group numerically inferior to the rest of the population of a state, and in a non-dominant position whose members being nationals of the state poses ethnic, religious or linguistic characteristics differing from those of the rest of the dominant population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religions and language.'
- Though the Constitution of India uses the term 'Minorities' at two places under Article 29 and 30, it does not define the word 'Minority' anywhere and left it for the wisdom of future generation deliberately as the country had just come over the traumatic shock of communal violence and partition, and a growing tendency was visualised where different group, sect, religion were claiming special rights under different notion of 'minority' concept, endangering national unity.
- India represent an unparalleled diversity where six major religions Hinduism, Islam, Sikhism, Christianity, Buddhism and Zoroastrianism; two major language families, Aryan and Dravidian, with 22 official languages and innumerable dialects and tribal tongues; three racial strains, Aryan, Dravidian, and proto-Australoid; and over two thousand castes, hierarchically ranked, endogamous and occupational are found. Thus, in a pluralistic society as of ours any monolithic definition of nationalism is bound to create a situation of conflict between the majority and the minorities. Visualising it the Constitution has mooted the concept of Secularism on one hand and on the other hand imposed on the state under different general and special laws, positive and negative duties to ensure the effective realisation of several rights conferred to different minorities.
- In order to strengthen the cause of the minorities, the United Nations promulgated the 'Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities' on 18th December 1992 proclaiming that 'States shall protect the existence of the National or Ethnic, Cultural, Religious and Linguistic identity of minorities within their respective territories and encourage conditions for the promotion of that identity'.
- To ensure the rights of Minorities in India, the National Commission for Minorities Act was enacted in 1992 The National Commission for Minorities, a statutory body was constituted by the Central Government with a view to preserve secular traditions, promote national integration exercise the powers conferred on, and perform the functions assigned to it under this Act.
- For the purposes of this Act, 'Minority', means a community notified as such by the Central Government vide a Gazette notification issued on 23rd October 1993. The Ministry of Welfare, Government of India has notified five religious communities viz; the Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis) as minority communities.

8.4.5.2 Functions

The Commission shall perform all or any of the following functions:

- Evaluate the progress of the development of minorities under the Union and States.

- Monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures.
- Make recommendations for the effective implementation of safeguards for the protection of the interests of Minorities by the Central Governments or the State Governments.
- Look into specific complaints regarding deprivation of rights and safeguards of the minorities and take up such matters with the appropriate authorities.
- Promote studies to be undertaken into problems arising out of any discrimination against minorities and recommend measures for their removal.
- Conduct studies, research and analysis on the issues relating to socio-economic and educational development of minorities.
- Suggest appropriate measures in respect of any minority to be undertaken by the Central Government or the State Governments.
- Make periodical or special reports to the Central Government on any matter pertaining to minorities and in particular the difficulties confronted by them.
- Any other matter which may be referred to it by the Central Government.

Andhra Pradesh, Assam, Bihar, Chattisgarh, Delhi, Jharkhand, Karnataka, Maharashtra, Madhya Pradesh, Manipur, Rajasthan, Tamil Nadu, Uttarakhand, Uttar Pradesh and West Bengal have also set up State Minorities Commissions in their respective States.

Their offices are located in the State capitals. The functions of these Commissions, inter-alia, are to safeguard and protect the interests of minorities provided in the Constitution and laws enacted by Parliament and the State Legislatures.

Aggrieved persons belonging to the minority communities may approach the concerned State Minorities Commissions for redressal of their grievances.

They may also send their representations, to the National Commission for Minorities, after exhausting all remedies available to them.

8.4.5.3 Recent Initiatives

1. Status of Conditions of Minorities

Six religious communities – Muslims, Christians, Buddhists, Sikhs, Zoroastrians (Parsis) and Jains – have been notified as minority communities under Section 2(c) of the National Commission for Minorities Act, 1992.

The National Commission for Religious and Linguistic Minorities (NCRLM) constituted under the Chairmanship of Justice Ranganath Misra to recommend measures for the welfare of socially and economically backward sections among religious and linguistic minorities submitted its report in 2007 and the same was laid on the table of both the Houses of Parliament on 18 December, 2009. The findings of the NCRLM on the conditions of minorities are available in the report.

A High-Level Committee, constituted under the Chairmanship of Justice (Retired) Rajinder Sachar to gather data/information for preparation of a comprehensive report on the social, economic and educational status of the Muslim community of India, in its report in 2006 had indicated that the Muslim community lags behind the mainstream in social, economic and educational sectors. The report had been laid on the Table of both the Houses of Parliament on 30 November, 2006.

To improve the socio-economic and educational status of Minorities, following schemes are being implemented by the Ministry:

- a. **Multi-sectoral development programme:** The multi-sectoral development programme (MsDP) is an area development initiative to address the development deficits by creating socio-economic infrastructure and providing basic amenities. The programme was implemented in 90 Minority Concentration Districts (MCDs) of the country during the 11th Five Year Plan (2012–2013). The Programme was restructured in 2013–2014 to make it more effective and more focused on the targeted minorities for its implementation during the 12th Five Year Plan period. In the restructured MsDP, the unit area of planning has been changed to blocks/towns/clusters of villages instead of district for sharper focus on the minority concentration areas.
- b. **Pre-matric scholarship scheme:** Under this Scheme, scholarships are awarded to minority students up to class X, who have secured not less than 50% marks in the previous final examination and the annual income of their parents / guardian from all sources does not exceed ₹1.00 Lakh. Around 30% of the scholarships are earmarked for girl students. This is a Central Sector Scheme with 100% central assistance.
- c. **Post-matric scholarship scheme:** Under this Scheme, scholarships are awarded to minority students from class XI onwards who have secured not less than 50% marks or equivalent grade in the previous final examination and the annual income of whose parents/guardian from all sources does not exceed ₹2.00 lakh. Around 30% of the scholarships are earmarked for girl students. This is a Central Sector Scheme with 100% central assistance.
- d. **Merit-cum-Means-based scholarship scheme:** The Merit-cum-Means-Based Scholarship Scheme provides financial assistance to the poor and meritorious minority students pursuing professional studies at graduate and post-graduate levels. Around 30% of the scholarships are earmarked for girl students. This is a Central Sector Scheme with 100% central assistance.
- e. **Maulana Azad National Fellowship:** The Fellowship is provided to students from minority communities, as notified by the Central Government to pursue higher studies such as M.Phil and Ph.D. The Fellowship covers all Universities/Institutions recognised by the University Grants Commission (UGC). The Fellowship is on the pattern of UGC Fellowships awarded to research students pursuing regular and full time M.Phil and Ph.D. courses. Around 30% of the scholarships are earmarked for eligible girl students.
- f. **Free Coaching and Allied scheme:** This scheme is to assist students belonging to the minority communities by way of special coaching for qualifying examinations for admission in technical/professional courses such as engineering, medical and competitive examinations for recruitment to Group 'A', 'B' and 'C' services and other equivalent posts under the Central and State governments including public sector undertakings.
- g. **Padho Pardesh (interest subsidy on educational loans):** This scheme is to award interest subsidy to meritorious students belonging to economically weaker sections of notified minority communities so as to provide them better opportunities for higher education abroad at Masters and Ph.D levels and enhance their employability.
- h. **Support to minority candidates clearing Prelims conducted by UPSC/SSC, State Public Service Commission (PSC) etc.** This Scheme provides financial support to the minority candidates clearing prelims conducted by Union Public Service Commission, Staff Selection Commission and State Public Service Commissions to adequately equip them to compete for appointment to Civil Services in the Union and

the State Governments and to increase the representation of the minorities in the Civil Services.

- i. **Seekho aur Kamao (Learn & Earn):** It is a placement linked skill development programme for minority youths, being implemented since the year 2013–2014. This scheme aims at upgrading the skills of minority youths in various modern as well as traditional skills which can earn them suitable employment or make them suitably skilled to go for self-employment. The scheme ensures placements of minimum 75% trained youths, out of which at least 50% placement is in organised sector.
- j. **Nai Roshni (leadership development of minority women):** This is a scheme for women empowerment through sensitisation and leadership development of minority women being implemented all over the country by the ministry since 2012–2013. The objective of the scheme is to empower and instill confidence in women, by providing knowledge, tools and techniques for interacting with Government systems, banks, and intermediaries at all levels.
- k. **USTTAD (Upgrading the Skills and Training in Traditional Arts/Crafts for Development):** The scheme was launched on 14 May, 2015 to preserve rich heritage of traditional arts/crafts of minorities, set standards of crafts practiced by minorities, build capacity of poor traditional artisans/craftsmen and link them with market.
- l. **National Minorities Development and Finance Corporation (NMDFC):** NMDFC is a Central Public Sector Enterprise (CPSE) under administrative control of this Ministry, provides concessional loans for self-employment and income generating activities to eligible minorities. The loans are extended to individuals or Self-Help Groups through State Channelising Agencies (SCAs) nominated by the concerned State Governments/UT administrations.
- m. **Maulana Azad National Academy for Skills (MANAS):** MANAS has been established on 11/11/2014, as Special Purpose Vehicle (SPV) for addressing all skill development needs of minority communities, to ensure provision of sustainable livelihoods to them, with emphasis on self-employment. Based on market demand, the Academy provides an All India level training framework for Entrepreneurship and Skill Development Programme (E&SDP) based on PPP model, for imparting training to minority population, with concessional credit linkages.
- n. **Jiyo Parsi:** For containing the population decline of the Parsi community, a Central Sector Scheme 'Jiyo Parsi' was launched in 2013–2014. The objective of this scheme is to reverse the declining trend of Parsi population by adopting a scientific protocol and structured interventions to stabilise their population and balance their population in India.
- o. **Nai Manzil:** An integrated education and livelihood initiative for the minority communities scheme has been launched on 08 August, 2015 on pilot basis for formal education of school dropouts and Madarsa students to enhance their education and skills in various trade to enable them for gainful employment.

8.4.6 National Commission for Backward Classes

8.4.6.1 History

National Commission for Backward Classes came into effect on the 2 April, 1993. The Act provides that the Commission shall consist of five Members, comprising of a Chairperson who

is or has been a judge of the Supreme Court or of a High Court; a social scientist; two persons, who have special knowledge in matters relating to backward classes; and a Member-Secretary, who is or has been an officer of the Central Government in the rank of a Secretary to the Government of India.

8.4.6.2 Functions of the Commission

- The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Central Government as it deems appropriate.
- The advice of the Commission shall ordinarily be binding upon the Central Government.

8.4.6.3 Powers of the Commission

The Commission shall, while performing its functions have all the powers of a civil court trying a suit and in particular, in respect of the following matters:

- Summoning and enforcing the attendance of any person from any part of India and examining him on oath
- Requiring the discovery and production of any document
- Receiving evidence on affidavits
- Requisitioning any public record or copy thereof from any court or office
- Issuing commissions for the examination of witnesses and documents
- Any other matter which may be prescribed.

What is OBC?

- Backward class people are a collective term, used by the Government of India, for castes which are economically and socially disadvantaged.

What is Creamy Layer?

- The Government of India has evolved the criteria for exclusion of certain socially advanced persons/sections from the benefits of reservation available to OBCs in civil posts and services under the Government of India and this is called the 'Creamy Layer criteria'.

Mandal Commission Recommendations:

- Mandal commission set up in 1979 recommended a 27% of reservation owing to the legal constraint that the total quantum of reservation should not exceed 50%.
- Candidates belonging to OBC recruited on the basis of merit in an open competition should not be adjusted against their reservation quota of 27%.
- The above reservation should also be made applicable to promotion quota at all levels.
- Reserved quota remaining unfilled should be carried forward for a period of three years and de-reserved thereafter.
- Relaxation in the upper age limit for direct recruitment should be extended to the candidates of OBC in the same manner as done in the case of SCs and STs.
- An intensive time-bound programme for adult education should be launched in selected pockets with high concentration of OBC population.
- Residential schools should be set up in these areas for backward class students to provide a climate especially conducive to serious studies.

- All facilities in these schools including board and lodging should be provided free of cost to attract students from poor and backward class families.
- It was recommended that seats should be reserved for OBC students in all scientific, technical and professional institutions run by the Central as well as State Governments.
- The quantum of reservation should be the same as in the Government Services, that is, 27%.
- These recommendations in total are applicable to all recruitment to public sector undertakings, both under the Central and State Governments as well as to Nationalised Banks.
- All private sector undertakings which receive financial assistance from the Government in one form or other should also be obliged to recruit personnel on the aforesaid basis.
- All universities and affiliated colleges should also be covered by the above scheme of reservation. The Commission prepares its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government. Annual report and audit report to be laid before Parliament.
- The Central Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission and the reasons for the non acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before each House of Parliament.

8.4.6.4 Recent Initiative

Cabinet gives approval for introduction of Constitution (i) One Hundred and Twenty-third Amendment Bill 2017 and (ii) National Commission for Backward Classes (Repeal) Bill, 2017 in the Parliament

Approval also granted for retention of posts and office premises for the proposed new National Commission for Backward Classes.

The Union Cabinet chaired by the Prime Minister Shri Narendra Modi has given (I) Ex-post facto approval for introduction of (i) Constitution (One Hundred and Twenty-third Amendment) Bill 2017 and (ii) National Commission for Backward Classes (Repeal) Bill, 2017 in the Parliament; and (II) approval for retention of posts/incumbents and office premises held by the existing National Commission for Backward Classes by the proposed new National Commission for Backward Classes

1. The approval is for the proposal to bring about a Constitutional Amendment namely the Constitution (One Hundred Twenty-third Amendment) Bill, 2017 by:
 - a. Constitution of a Commission under Article 338B for socially and educationally backward classes by name of National Commission for Backward Classes; and
 - b. Insertion of Clause (26C) under Article 366 with modified definition viz. 'socially and educationally backward classes' means such backward classes as are so deemed under Article 342A for the purpose, this Constitution and
2. Introduce a Bill for:
 - a. Repeal of the National Commission for Backward Classes Act, 1993 along with Savings Clause for namely the National Commission for Backward Classes (Repeal) Bill, 2017; and
 - b. Dissolution of the National Commission for Backward Classes with effect from such date as the Central Government may appoint in this behalf and the National

Commission for Backward Classes constituted under sub-section (1) of Section 3 of the said Act shall stand dissolved.

3. a. Appropriation of the sanctioned 52 posts, along with incumbents wherever filled of the existing National Commission for Backward Classes in the proposed National Commission for Backward Classes to be constituted under Article 338B; and
- b. Retention of the office premises of the existing National Commission for Backward Classes at Trikut-1, Bhikaiji Cama Place, New Delhi-110066, by the National Commission for Backward Classes to be constituted under Article 338B.

The above decisions will lead to overall welfare of socially and educationally backward classes.

The proposed Act of repeal is necessary in view of setting up of the National Commission for Backward Classes by insertion of Article 338B of the Constitution.

The decision will also enable effecting continuity in the functioning of the National Commission for Backward Classes under Article 338B.

8.4.7 National Commission for Disabled Persons

8.4.7.1 History

- Persons with Disabilities (PWD) are defined as those suffering from four types of disabilities viz., visual, loco-motor, hearing and speech, and mental disabilities.
- In the Ninth Plan (1992–1997), the earlier paradigm shift in approach from ‘welfare’ to development was moved further to ‘empowerment’ which is more holistic by including both the welfare and development perspectives.
- The major thrust in the Tenth Plan has been to consolidate and strengthen the various programmes through coordinated efforts and innovative interventions in attending to the special problems and needs of these disadvantaged groups.
- One of the thrust areas during the Tenth Plan has been to prepare disabled-friendly policies to create a hurdle-free environment.
- According to the Census 2001, there are 2.19 crore persons with disabilities in India who constitute 2.13% of the total population.
- This includes persons with visual, hearing, speech, locomotor and mental disabilities. Around 75% of persons with disabilities live in rural areas, 49% of disabled population is literate and only 34% are employed.
- The earlier emphasis on medical rehabilitation has now been replaced by an emphasis on social rehabilitation.
- The Government constituted the National Commission for Persons with Disabilities with the former Governor, Sunder Singh Bhandari, as its chairperson.
- It recommends programmes for the elimination of inequalities in status and on facilities and opportunities for the disabled in order to give the appropriate education and vocational training.
- The Commission also recommends packages for poverty eradication, employment and other support services to achieve the goal of psycho-social acceptance of the disabled.
- It also reviews the working of the rehabilitation institutions. The members will represent people with hearing impairment, visual impairment and locomotor disability.

8.4.7.2 Recent Initiatives

Rights of Persons with Disabilities Bill – 2016 Passed by Parliament

The Lok Sabha has passed ‘**The Rights of Persons with Disabilities Bill - 2016**’. The Bill will replace the existing PwD Act, 1995, which was enacted 21 years back. The Rajya Sabha already passed the Bill on 14.12.2016.

The salient features of the Bill are:

- (i) Disability has been defined based on an evolving and dynamic concept.
- (ii) The types of disabilities have been increased from existing 7 to 21 and the Central Government will have the power to add more types of disabilities. The 21 disabilities are as follows:
 1. Blindness
 2. Low-vision
 3. Leprosy Cured persons
 4. Hearing Impairment (deaf and hard of hearing)
 5. Locomotor Disability
 6. Dwarfism
 7. Intellectual Disability
 8. Mental Illness
 9. Autism Spectrum Disorder
 10. Cerebral Palsy
 11. Muscular Dystrophy
 12. Chronic Neurological conditions
 13. Specific Learning Disabilities
 14. Multiple Sclerosis
 15. Speech and Language disability
 16. Thalassemia
 17. Hemophilia
 18. Sickle Cell disease
 19. Multiple Disabilities including deafblindness
 20. Acid Attack victim
 21. Parkinson’s disease
- (iii) Speech and Language Disability and Specific Learning Disability have been added for the first time. Acid Attack Victims have been included. Dwarfism, muscular dystrophy have been indicated as separate class of specified disability. The New categories of disabilities also included three blood disorders, Thalassemia, Hemophilia and Sickle Cell disease.
- (iv) In addition, the Government has been authorised to notify any other category of specified disability.
- (v) Responsibility has been cast upon the appropriate governments to take effective measures to ensure that the persons with disabilities enjoy their rights equally with others.
- (vi) Additional benefits such as reservation in higher education, government jobs, reservation in allocation of land, poverty alleviation schemes etc. have been provided for persons with benchmark disabilities and those with high support needs.

- (vii) Every child with benchmark disability between the age group of 6 and 18 years shall have the right to free education.
- (viii) Government-funded educational institutions as well as the government recognised institutions will have to provide inclusive education to the children with disabilities.
- (ix) For strengthening the Prime Minister's Accessible India Campaign, stress has been given to ensure accessibility in public buildings (both Government and private) in a prescribed time-frame.
- (x) Reservation in vacancies in government establishments has been increased from 3% to 4% for certain persons or class of persons with benchmark disability.
- (xi) The Bill provides for grant of guardianship by District Court under which there will be joint decision-making between the guardian and the persons with disabilities.
- (xii) Broad-based Central & State Advisory Boards on Disability are to be set up to serve as apex policy making bodies at the Central and State level.
- (xiii) Office of Chief Commissioner of Persons with Disabilities has been strengthened who will now be assisted by two Commissioners and an Advisory Committee comprising of not more than 11 members drawn from experts in various disabilities.
- (xiv) Similarly, the office of State Commissioners of Disabilities has been strengthened who will be assisted by an Advisory Committee comprising of not more than 5 members drawn from experts in various disabilities.
- (xv) The Chief Commissioner for Persons with Disabilities and the State Commissioners will act as regulatory bodies and Grievance Redressal agencies and also monitor implementation of the Act.
- (xvi) District-level committees will be constituted by the State Governments to address local concerns of PwDs. Details of their constitution and the functions of such committees would be prescribed by the State Governments in the rules.
- (xvii) Creation of National and State Fund will be created to provide financial support to the persons with disabilities. The existing National Fund for Persons with Disabilities and the Trust Fund for Empowerment of Persons with Disabilities will be subsumed with the National Fund.
- (xviii) The Bill provides for penalties for offences committed against persons with disabilities and also violation of the provisions of the new law.
- (xix) Special Courts will be designated in each district to handle cases concerning violation of rights of PwDs.

The New Act will bring our law in line with the United National Convention on the Rights of Persons with Disabilities (UNCRPD), to which India is a signatory. This will fulfil the obligations on the part of India in terms of UNCRPD. Further, the new law will not only enhance the Rights and Entitlements of Divyangjan but also provide effective mechanism for ensuring their empowerment and true inclusion into the Society in a satisfactory manner.

8.4.8 Central Electricity Regulatory Commission

- Electricity is an essential requirement for all facets of our life. It has been recognised as a basic human need. It is a critical infrastructure on which the socio-economic development of the country depends.

- Supply of electricity at reasonable rate to rural India is essential for its overall development.
- Equally important is availability of reliable and quality power at competitive rates to Indian industry to make it globally competitive and to enable it to exploit the tremendous potential of employment generation.
- Services sector has made significant contribution to the growth of our economy. Availability of quality supply of electricity is very crucial to sustained growth of this segment.
- Recognising that electricity is one of the key drivers for rapid economic growth and poverty alleviation Central Electricity Regulatory Commission (CERC), a key regulator of power sector in India, has been set up in 1998 as a 'statutory body functioning with quasi-judicial' status.
- The Commission intends to promote competition, efficiency and economy in bulk power markets, improve the quality of supply, promote investments and advise Government on the removal of institutional barriers to bridge the demand supply gap and thus foster the interests of consumers.
- In pursuit of these objectives, the Commission aims to improve the operations and management of the regional transmission systems through Indian Electricity Grid Code (IEGC), Availability Based Tariff (ABT), etc; 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 least cost investments; to facilitate open access in interstate transmission; to facilitate technological and institutional changes required for the development of competitive markets in bulk power and transmission services.
- The National Electricity Policy has been evolved in consultation with and taking into account views of the State Governments, Central Electricity Authority (CEA), Central Electricity Regulatory Commission (CERC) and other stakeholders.

The National Electricity Policy aims at achieving the following objectives:

- Access to Electricity – Available for all households in next five years
- Availability of Power – Demand to be fully met by 2012. Energy and peaking shortages to be overcome and adequate spinning reserve to be available.
- Supply of reliable and quality power of specified standards in an efficient manner and at reasonable rates.
- Per capita availability of electricity to be increased to over 1000 units by 2012.
- Minimum lifeline consumption of 1 unit/ household/day as a merit good by year 2012.
- Financial turnaround and commercial viability of electricity sector.
- Protection of consumers' interests.
- Recently, CERC announced Renewable Energy Certificate (REC) system for fulfilment of its mandate to promote renewable sources of energy and development of market in electricity.
- REC mechanism is aimed at addressing the mismatch between availability of renewable energy resources in state and the requirement of the obligated entities to meet the renewable purchase obligation (RPO).
- Renewable energy generators will have two options: either to sell the renewable energy at preferential tariff or to sell electricity generation and environmental attributes associated with RE generations separately.

- The environmental attributes can be exchanged in the form of Renewable Energy Certificates (REC). The value of REC will be equivalent to 1 MWH of electricity injected into the grid from renewable energy sources.
- The REC will be exchanged only in the power exchanges approved by CERC within the band of a floor price and a forbearance (ceiling) price to be determined by CERC from time to time.
- There shall be two categories of certificates, viz., solar certificates issued to eligible entities for generation of electricity based on solar as renewable energy source, and non-solar certificates issued to eligible entities for generation of electricity based on renewable energy sources other than solar.
- Further with the objective of making easier grid connectivity to the hydro electric power stations and the other generating stations based on renewable sources of energy, CERC has liberalised Grid Access to Green Projects.
- While the threshold capacity for connecting to inter-State grid is 250 MW for thermal power stations, the threshold has been reduced to 50 MW for the hydro-electric generating stations and other generating stations using renewable sources of energy.
- Another important regulatory change has been made to permit connectivity to inter-State grid to such hydro generating stations and renewable energy source based stations which have individually installed capacity of less than 50 MW but approach the Central Transmission Utility (Power Grid) collectively with an aggregate installed capacity of 50 MW and above.
- For example, two hydro generating stations having capacity of 30 MW and 20 MW can collectively seek connectivity with inter-State grid at a single connection point if they mutually agree to undertake operational and commercial responsibilities through a lead generator which can be one of these two generating stations.

Recent Initiatives:

CERC has played a parenting role in the regulatory set up of the country- Shri Piyush Goyal

Inaugurates CERC's New Logo and Website

Shri Piyush Goyal, Union Minister of State (IC) for Power, Coal and New & Renewable Energy said that Central Electricity Regulatory Commission (CERC) has played a parenting role in the regulatory set up in the country. While speaking at the function of CERC's foundation day, Shri Goyal said that CERC has acted as benchmark regulator in the country. Complimenting CERC for completing 17 years of remarkable contribution and service to the nation, the Minister said that regulator has to act as a bridge between developers and the consumers and the regulator simultaneously balancing the interest of both parties. He expressed his satisfaction that the regulators in India have contributed immensely in this regard. He narrated five principles of proportionality, consistency, accountability, transparency and targeting for better productivity. Shri Goyal underlined the need for fast decision making and also to keep power affordable.

On the occasion, Sh. M.J. Akbar, Member of Parliament (RS), in his annual day lecture, emphasised the role of electricity in enhancing productivity of work, creation of jobs, elimination of poverty and democratisation of knowledge. Shri Gireesh Pradhan, Chairperson CERC, said that the institute has contributed to the growth and development of power sector over the years.

The Minister also inaugurated the modified website of CERC on the occasion. The website is given a new presentation in order to improve user interface and to provide better access

to information to the masses. Shri Goyal also unveiled new logo of CERC along with the website. The new logo was designed by National Institute of Design, Ahmedabad to symbolise the changing face of CERC in the country from merely being a 'tariff setter' to a 'facilitator of development' of power sector and the market. The existing logo of CERC was designed in late 1990s which basically focussed on CERC role of being fair and impartial regulator balancing the interest of generators of power and the consumers.

8.4.9 National Consumer Dispute Redressal Commission

- The National Consumer Disputes Redressal Commission is a quasi-judicial commission which was set up in 1988 under the Consumer Protection Act of 1986.
- The Consumer Protection Act, 1986 is a benevolent social legislation that lays down the rights of the consumers and works for promotion and protection of the rights of the consumers.
- National Consumer Disputes Redressal Commission is headed by a sitting or retired Judge of the Supreme Court of India.
- In order to help achieve the objects of the Consumer Protection Act, the National Commission has also been conferred with the powers of administrative control over all the State Commissions by calling for periodical returns regarding the institution, disposal and pendency of cases.

The National Commission is empowered to issue instructions regarding

- Adoption of uniform procedure in the hearing of the matters,
- Prior service of copies of documents produced by one party to the opposite parties,
- Speedy grant of copies of documents.
- Generally over-seeing the functioning of the State Commissions and the District Forums to ensure that the objects and purposes of the Act are best served, without interfering with their quasi-judicial freedom.
- The Consumer Protection Act covers 'goods' as well as 'services'. The goods are those which are manufactured or produced and sold to consumers through wholesalers and retailers. The services are in the nature of transport, telephone, electricity, housing, banking, insurance, medical treatment, etc.

Recent Initiatives

48,998 calls received at National Consumer helpline in e-commerce sector during April 2016–February 2017

The number of calls for e-commerce companies, as registered in the National Consumer Helpline, over the last three years is as under:

| Call Received at National Consumer Helpline in e-commerce Sector | |
|--|--------|
| Year | Calls |
| May 2014–March 2015 | 16,919 |
| April 2015–March 2016 | 28,331 |
| April 2016–February 2017 | 48,998 |

The redressal of the complaints are registered by a complainant with the three-tier system of quasi-judicial bodies namely the District Consumer Disputes Redressal Forum, State Consumer Disputes Redressal Commission and the National Consumer Disputes Redressal Commission established under the provisions of the Consumer Protection Act, 1986. Besides, Consumer Grievances addressed to the National Consumer Helpline (NCH) are redressed by forwarding the complaints to concerned departments and the companies and the progress is constantly monitored in their redressal. The NCH has established partnership with 225 companies under a convergence programme for speedy redressal.

The Government is aware about the functioning of e-commerce companies. The rights of the consumers involved in e-commerce are equally protected as per the provisions of the Consumer Protection Act, 1986, in a manner similar to transactions involving goods and services.

The draft amendment to the Packaged Commodities Rules, 2011 made under the provisions of Legal Metrology Act, 2009 proposes that the mandatory labeling declarations as per the rules shall be displayed on the online trading platforms.

A consumer dealing in e-commerce can file complaints in consumer courts for deficiency in service and defective products, under the provisions of the Consumer Protection Act, 1986 which has provisions regarding jurisdictional issues. The Consumer Protection Bill, 2015, introduced in August, 2015, seeks to strengthen the provisions regarding jurisdictional and also has provisions regarding Alternate Disputes Resolution.

8.4.10 Advertising Standards Council of India

A self-regulatory voluntary organisation of the advertising industry. The Advertising Standards Council of India (ASCI), established in 1985, is committed to the cause of self-regulation in advertising, ensuring the protection of the interests of consumers. ASCI was formed with the support of all four sectors connected with advertising, namely advertisers, advertising agencies, media (including broadcasters and the press) and others like PR Agencies, market research companies etc.

The Consumer Complaints Council is ASCI's heart and soul. It is the dedicated work put in by this group of highly respected people that has given tremendous impetus to the work of ASCI and the movement of self-regulation in the advertising.

Mission

To maintain and enhance the public's confidence in advertising.

Goals

ASCI seeks to ensure that advertisement conform to its code for self-regulation.

Advertisements need to be:

- Truthful and honest
- Truthful, fair and non-derogatory to competitors. Advertisements should not be misleading and plagiarised.
- Non-offensive to public
- Within the bounds of generally accepted standards of public decency and propriety
- Against harmful products/unsafe situations
- Not used indiscriminately for the promotion of products, hazardous or harmful to society or to individuals particularly minors, to a degree unacceptable to society at large.
- Fair in competition

It also ensure that advertisements observe fairness in competition so that the consumer's need to be informed on choices in the market place and the canons of generally accepted competitive behaviour in business are both served.

Functions

1. To monitor administer and promote standards of advertising practices in India with a view to
 - ensuring the truthfulness and honesty of representations and claims made through advertising and safeguarding against misleading advertising.
 - ensuring that advertising is not offensive to generally accepted norms and standards of public decency.
 - safeguarding against the indiscriminate use of advertising for the promotion of products or services which are generally regarded as hazardous to society or to individuals or which are unacceptable to society as a whole.
 - ensuring that advertisements observe fairness in competition and the canons of generally accepted competitive behaviour.
2. To adopt and from time to time modify the code of advertising practices in India and implement, administer, promote and publicise such a code.
3. To promote, maintain and uphold fair, sound, ethical and healthy principles and practices of advertising.
4. To promote better understanding of the benefits of fair, sound and ethical advertising amongst the practitioners of advertising and in society at large.
5. To represent, protect, inform and guide the members of the company on matters related to advertising.
6. To foster and promote cooperation amongst persons or companies engaged and involved in advertising.

Is ASCI a Government Body?

ASCI is not a Government body. It is a voluntary self-regulatory organisation. However, ASCI is represented in all committees working on advertising content in every Ministry of the Government of India.

Recent Updates:

ASCI releases guidelines for celebrities in advertising

Celebrities have been deployed by marketers to add credibility to their brand offering. These celebrities however have a huge responsibility to ensure that the products they endorse or feature in, are true to the claims made in those advertising messages. Advertising Standards Council of India (ASCI) has developed a set of guidelines to protect consumers' interest while encouraging celebrities and advertisers to refrain from endorsing misleading advertisements. At a time when the Consumer Affairs Ministry is intending to review the Consumer Protection Act and may have a provision to deal with misleading advertisements featuring celebrities, these guidelines by ASCI could serve as a good reference for advertisers.

The following guidelines would help while creating advertisements featuring celebrities or involving celebrity endorsements:

- Celebrities, for the purpose of this guideline, are those people who are from the field of entertainment and sports and would also include other well-known personalities like doctors, authors, activists, educationists, etc. who get compensated for appearing in advertising.
- All advertisements featuring celebrities should ensure that it does not violate any of the ASCI code in letter and spirit. Celebrities are expected to have adequate knowledge of these codes and it is the duty of the advertiser and the agency to make sure that the celebrity they wish to engage with is made aware of them.
- Testimonials, endorsements or representations of opinions or preference of celebrities must reflect genuine, reasonably current opinion of the individual(s) making such representations, and must be based upon adequate information about or experience with the product or service being advertised.
- Celebrity should do due diligence to ensure that all description, claims and comparisons made in the advertisements they appear in or endorse are capable of being objectively ascertained and capable of substantiation and should not mislead or appear deceptive.
- Celebrities should not participate in any advertisement of a product or treatment or remedy that is prohibited for advertising under:
 - (i) The Drugs & Magic Remedies (Objectionable Advertisements) Act 1954 as updated from time to time
 - (ii) The Drugs & Cosmetic Act 1940 and Rules 1945: (Schedule J) as updated from time to time
 - (iii) A product which by law requires a health warning ‘....is injurious to health’ on its packaging or advertisement.
- If the celebrity either directly or through the concerned advertiser/agency chooses to seek advertising advice from ASCI on whether the advertisement potentially violates any provisions of the ASCI code or not and if the advertisement is developed fully following the advertising advice provided by the ASCI, then the Celebrity would be considered as having completed due diligence.

However, ASCI’s advertising advice will not be construed as a pre-clearance of the advertisement.

8.4.11 Animal Welfare Board of India

The Animal Welfare Board of India is a statutory advisory body on Animal Welfare Laws and promotes animal welfare in the country. Established in 1962 under Section 4 of the Prevention of Cruelty to Animals Act, 1960 (No. 59 of 1960), the Animal Welfare Board of India was started under the stewardship of Late Smt. Rukmini Devi Arundale, well known humanitarian. From ensuring that animal welfare laws in the country are diligently followed, to provide grants to Animal Welfare Organisations and advising the Government of India on animal welfare issues, the Board has been the face of the animal welfare movement in the country for the last 50 years.

The Board consists of 28 Members. The term of office of Members is for a period of three years.

Constitution of Animal Welfare Board of India

The Animal Welfare Board of India, the first of its kind to be established by any Government in the world, was set up in 1962, in accordance with Section 4 of the Prevention of Cruelty to Animals Acts 1960 (No.59 of 1960).

Shrimati Rukmini Devi Arundale pioneered the setting up of the Board, with its headquarters at Chennai. She guided the activities of the Board for nearly 20 years till her demise in 1986.

The Board consists of 28 members who are as follows:

| | | |
|-------|---|----|
| 1. | Chairman | |
| 2. | Vice-Chairman | |
| 3. | Inspectors General of Forests | 1 |
| 4. | Animal Husbandry Commissioner | 1 |
| 5. | Representative of Ministry of Home Affairs | 1 |
| 6. | Representation of Ministry of HRD (Education) | 1 |
| 7. | MPs – Lok Sabha* | 4 |
| 8. | MPs – Rajya Sabha* | 2 |
| 9. | Individuals | 3 |
| 10. | Humanitarians | 3 |
| 11. | SPCAs | 3 |
| 12. | AWOs | 3 |
| 13. | Representative of Indian Board for Wildlife | 1 |
| 14. | Representative of Indian Veterinary Association | 1 |
| 15. | Representative of Indian Medicine | 1 |
| 16. | Representative of Allopathic Medicine | 1 |
| 17. | Municipal Corporations | 2 |
| Total | | 28 |

* To be nominated

Functions

1. To keep the law in force in India for the Prevention of Cruelty to Animals under constant study and to advise the government on the amendments to be undertaken in any such law from time to time.
2. To advise the Central Government on the making of rules under the Act with a view to preventing unnecessary pain or suffering to animals generally, and more particularly when they are being transported from one place to another or when they are used as performing animals or when they are kept in captivity or confinement.

3. To advise the Government or any local authority or other person on improvements in the design of vehicles so as to lessen the burden on draught animals.
4. To take all such steps as the board may think fit for amelioration of animals by encouraging, or providing for the construction of sheds, water troughs and the like and by providing for veterinary assistance to animals.
5. To advise the government or any local authority or other person in the design of slaughter houses or the maintenance of slaughter houses or in connection with slaughter of animals so that unnecessary pain or suffering, whether physical or mental, is eliminated in the pre-slaughter stages as far as possible, and animals are killed, wherever necessary, in as humane a manner as possible.
6. To take all such steps as the Board may think fit to ensure that unwanted animals are destroyed by local authorities, whenever it is necessary to do so, either instantaneously or after being rendered insensible to pain or suffering.
7. To encourage by the grant of financial assistance or otherwise, the formation or establishment of Pinjara poles, rescue homes, animals shelters, sanctuaries and the like, where animals and birds may find a shelter when they have become old and useless or when they need protection.
8. To cooperate with, and coordinate the work of associations or bodies established for the purpose of preventing unnecessary pain or suffering to animals or for the protection of animals and birds.
9. To give financial assistance and other assistance to Animal Welfare Organisations functioning in any local area or to encourage the formation of Animal Welfare Organisations in any local area which shall work under the general supervision and guidance of the Board.
10. To advise the Government on matters relating to the medical care and attention which may be provided in animal hospitals, and to give financial and other assistance to animal hospitals whenever the Board think it is necessary to do so.
11. To impart education in relation to the humane treatment of animals and to encourage the formation of public opinion against the infliction of unnecessary pain or suffering to animals and for the promotion of animal welfare by means of lectures books, posters, cinematographic exhibitions and the like.
12. To advise the Government on any matter connected with animal welfare or the prevention of infliction of unnecessary pain or suffering on animals.

Recognition

The Board grants recognition to the newly started Animal Welfare Organisations (AWOs). For this purpose, the Board has framed certain guidelines according to which the AWO has to submit the registration certificate under the Societies Registration Act or Trust Act, Audited Statement of Accounts and Annual Reports for the last three years, two copies of Memorandum of Association/Bye-laws and Animal Welfare Activities Report. The AWO has to agree to nominate a representative of the AWBI on its Managing/Executive Committee and also for regular inspection of its functioning. The new organisations are inspected by Board Members/authorised Inspection Agencies and if the inspection report is satisfactory, then they are considered for grant of recognition.

Financial Assistance

One of the most important functions of the Board is to provide financial assistance to the recognised Animal Welfare Organisations (AWOs). The applications in the prescribed format received from the AWOs are scrutinised and eligible applications are placed before the Board for sanction of grant. Financial assistance is released in two instalments after obtaining audited statement of accounts and utilisation certificate for the earlier grants and satisfactory Inspection reports. The Board provides financial assistance to AWOs under various schemes viz. Regular Grant, Cattle Rescue Grant, Provision of Shelter House for looking after the Animals, Animal Birth Control (ABC) Programme, Provision of Ambulance for the animals in distress and Natural Calamity grant.

Recent Initiatives (incidents involving AWBI)

Animal Welfare Board moved to SC challenging the Tamil Nadu government's new law allowing Jallikattu. The petitions were submitted in the back drop of the Tamil Nadu assembly, in a special session, passed an amendment to conduct Jallikattu in the state without any hurdles replacing an ordinance promulgated earlier.

The Animal welfare Board of India has moved to the Supreme Court challenging the new Act allowing the traditional sport of Jallikattu in Tamil Nadu. The court has listed the matter for 30th January, 2017 along with the Centre's plea for withdrawing the 2016 notification allowing Jallikattu.

8.4.12 Bureau of Civil Aviation Security

History

The Bureau of Civil Aviation Security was initially set up as a cell in the Directorate General of Civil Aviation (DGCA) in January 1978 on the recommendation of the Pande Committee constituted in the wake of the hijacking of the Indian Airlines flight on 10th September, 1976. The role of the cell was to coordinate, monitor, inspect and train personnel in Civil Aviation Security matters.

The BCAS was reorganised into an independent department on 1st April, 1987 under the Ministry of Civil Aviation as a sequel to the Kanishka Tragedy in June 1985. The main responsibility of BCAS are to lay down standards and measures in respect of security of civil flights at International and domestic airports in India.

Organisation

BCAS is the regulatory authority for civil aviation security in India. It is headed by an officer of the rank of Director General of Police and is designated as Commissioner of Security (Civil Aviation).

Commissioner of Security (CA) is the appropriate authority for implementation of Annexure 17 to Chicago Convention of International Civil Aviation Organisation (ICAO).

Commissioner of Security (CA) is responsible for the development, implementation and maintenance of the National Civil Aviation Security Programme.

BCAS Headquarters is located at 'A' Wing, I-III floor, Janpath Bhavan, Janpath, New Delhi-110001. It has got four Regional Offices located at International airports, that is, i.e. Delhi, Mumbai, Kolkata and Chennai. The Regional Office is headed by an officer of the rank of Deputy Commissioner of Security (CA).

Functions

- Lay down Aviation Security Standards in accordance with Annex 17 to Chicago Convention of ICAO for airport operators, airlines operators, and their security agencies responsible for implementing AVSEC measures.
- Monitor the implementation of security rules and regulations and carrying out survey of security needs.
- Ensure that the persons implementing security controls are appropriately trained and possess all competencies required to perform their duties.
- Plan and coordinate aviation security matters.
- Conduct surprise/dummy checks to test professional efficiency and alertness of security staff
- Conduct mock exercise to test efficacy of contingency plans and operational preparedness of the various agencies.

AVSEC Rules and Regulations

Acts

AIRCRAFT ACT- 1934

AIRCRAFT RULES-1937

Tokyo Convention 1975 Act

Anti-Hijacking Act 1982

Anti Hijacking Act 1994 (Amendments 1994)

The Suppression of Unlawfull Acts Against Safety of Civil Aviation Act 1982

The Suppression of Unlawfull Acts Against Safety of Civil Aviation Act 1994

International Conventions

Recent Updates:

In a major exercise by the Bureau of Civil Aviation Security (BCAS), it has suspended the licence of budget carrier IndiGo's aviation security training facility for alleged lapses in the examination system conducted by it. Indigo's aviation security training centre licence has been suspended for leaking question papers. BCAS suspended the licence of IndiGo's aviation security training centre on Friday after several lapses were detected in the examination procedure it was following. If security training is being compromised, it raises serious questions

1. BCAS has made it mandatory to furnish Aadhaar card while applying for the Airport Entry Pass (AEP). The AEP is issued by the BCAS after obtaining complete details from those seeking the pass for entry into the airport and for exit. The entry pass is issued to officials and staff of Airports Authority of India (AAI), personnel of the CISF guarding the airport, officials of Customs, Immigration, airlines and other agencies working at the airport. The AEP which contains the photograph of the pass holder and their complete details is valid for a period of one year. It is sent for renewal to the BCAS on expiry. Without the AEP the CISF personnel providing round-the-clock security would not allow any person inside the airport

8.4.13 Bureau of Indian Standards (BIS)

Overview

BIS is the National Standard Body of India established under the BIS Act 1986 for the harmonious development of the activities of standardisation, marking and quality certification of goods and for matters connected therewith or incidental thereto.

BIS has been providing traceability and tangibility benefits to the national economy in a number of ways – providing safe reliable quality goods; minimising health hazards to consumers; promoting exports and imports substitute; control over proliferation of varieties etc. through standardisation, certification and testing.

Origin of BIS

In the twilight years of British rule in India, when the country was faced with the gigantic task of building up the industrial infrastructure, it was the Institution of Engineers (India), which prepared the first draft of the Constitution of an Institution which could take up the task of formulation of National Standards. This led to the Department of Industries and Supplies issuing a memorandum on 3rd September, 1946, formally announcing the setting of an organisation called the 'Indian Standards Institution'. The Indian Standards Institution (ISI) came into being on the 6th January, 1947 and in June 1947 Dr. Lal C. Verman took over as its first Director.

In the initial years, the organisation concentrated on standardisation activity. To provide the advantages of standardisation to common consumers, the Indian Standards Institution started operating the Certification Marks Scheme under the Indian Standards Institution (Certification Marks) Act, 1952. The Scheme, which was formally launched by ISI in 1955–1956, enabled it to grant licences to manufacturers producing goods in conformity with Indian Standards and to apply ISI Mark on their products. To meet the requirements of the Certification Marks Scheme, the nucleus of a laboratory was started in 1963. While the product certification was being operated under the Indian Standards Institution (Certification Marks) Act, 1952, the formulation of standards and other related work were not governed by any legislation. A Bill with this objective was therefore introduced in the Parliament on 26th November, 1986.

Bureau of Indian standards (BIS) came into existence, through an act of Parliament dated 26th November, 1986, on 1st April, 1987, with a broadened scope and more powers taking over the staff, assets, liabilities and functions of erstwhile ISI. Through this change over, the government envisaged building a climate for quality culture and consciousness and greater participation of consumers in formulation and implementation of national standards.

The Bureau is a Body Corporate consisting of 25 members representing both Central and State governments, Members of Parliament, industry, scientific and research institutions, consumer organisations and professional bodies; with Union Minister of Consumer Affairs, Food and Public Distribution as its President and with Minister of State for Consumer Affairs, Food and Public Distribution as its Vice-President.

Vision

The Bureau of Indian Standards (BIS), the National Standards Body of India, resolves to be the leader in all matters concerning Standardisation, Certification and Quality.

Mission

BIS Act 1986 provides for the establishment of a Bureau for the harmonious development of the activities of standardisation, marking and quality certification of goods and for matters connected therewith or incidental thereto.

Objectives

1. Formulate need-based standards and participate in International Standardisation
2. Satisfy the customer's need for quality and safety of goods and services through operation of Certification Schemes (Product Certification, Registration, Management System Certification, Hallmarking) of BIS.
3. Test samples generated through product certification scheme of BIS
4. Organise training programmes for Industry to enable and encourage them to produce quality goods.
5. Generate awareness on standards, standard mark, and safety and quality of products through seminars, awareness programmes and publicity campaigns.
6. Improve the quality and competitiveness of Indian industry and thereby enhance export of Indian goods and services through conformance to Indian Standards and acceptance of BIS mark by importers.
7. Improve transparency in functioning and thereby allowing greater participation of stakeholders in various activities of BIS.

Functions

The major functions of Bureau of Indian Standards are to establish, publish and promote the Indian Standard, in relation to any article or process.

1. Recognise as an Indian Standard, any standard established by any other Institution in India or elsewhere, in relation to any article or process.
2. Specify a Standard Mark to be called the Bureau of Indian Standards Certification Mark which shall be of such design and contain such particulars as may be prescribed to represent a particular Indian Standard.
3. Grant, renew, suspend or cancel a licence for the use of the Standard Mark.
4. Seek recognition of the Bureau and of the Indian Standards outside India on such terms and conditions as may be mutually agreed upon by the Bureau with any corresponding institution or organisation in any country.

BIS is involved in various activities as follows:

- Standards Formulation
- Product Certification Scheme
- Compulsory Registration Scheme
- Foreign Manufacturers Certification Scheme
- Hall Marking Scheme
- Laboratory Services
- Laboratory Recognition Scheme
- Sale of Indian Standards
- Consumer Affairs Activities

- Promotional Activities
- Training Services, National & International level
- Information Services

Foreign Manufacturers Certification Scheme

Bureau of Indian Standards (BIS) has been operating a Foreign Manufacturers Certification Scheme (FMCS) since the year 2000 under BIS Act, 1986 and Rules & Regulations framed there under.

Under FMCS, licence is granted to a Foreign Manufacturer for use of Standard Mark on a product that conforms to an Indian Standard.

The Scheme is applicable for grant of licence for all products except Electronics and IT Goods notified by DeitY.

The licence is granted by Foreign Manufacturers Certification Department (FMCD) located at BIS Headquarters, New Delhi.

Product Certification

The Bureau of Indian Standards, empowered through an Act of the Indian Parliament, known as the Bureau of Indian Standards Act, 1986, operates a product certification scheme by which it grants licences to manufacturers covering practically every industrial discipline from agriculture to textiles to electronics. The certification allows the licensees to use the popular ISI Mark, which has become synonymous with quality products for the Indian and neighbouring markets over the last more than 55 years. The Bureau's predecessor, the Indian Standards Institution began operating the product certification Scheme since 1955.

Operating Principle

The BIS Product Certification Scheme operates in an impartial, non-discriminatory and transparent manner. The documents stating the powers, functions and responsibilities of BIS are published by the Government of India as the Bureau of Indian Standards Act, 1986, BIS Rules, 1987 and BIS (Certification) Regulations, 1988. The specific procedure for operating a licence is given in another document called the Scheme of Testing and Inspection (STI), described later. Procedures provide for maintaining a very high degree of confidentiality and integrity among its personnel who perform certification-related tasks. A body called the 'Certification Advisory Committee', composed of persons from varied sectors like manufacturers, consumers, Government agencies, industries associations, reviews the performance of the scheme and advises on policy issues.

Certification System

The BIS product certification scheme is essentially voluntary in nature, and is largely based on ISO/IEC Guide 28 which provides general rules for third party certification system of determining conformity with product standards through initial testing and assessment of a factory quality management system and its acceptance followed by surveillance that takes into account the factory Quality management system and the testing of samples from the factory and the open market. All BIS certifications are carried out in accordance with Indian Standards, which are amenable to certification. A large number of operational elements of the BIS product certification scheme correspond with the requirements of ISO/IEC 17065.

Types of Licensing

Although, the scheme itself is voluntary in nature, the Government of India, in public interest (for example: public health and safety, security, infrastructure requirements, mass consumption) has enforced mandatory certification on various products through various Quality Control Orders issued from time to time under various Acts. While BIS continues to grant licences on application, the enforcement of compulsory certification is done by the authorities notified in such quality control orders. For the list of items brought under mandatory certification, together with the corresponding Indian Standard Number, and the authorities responsible for enforcing the orders.

List of Products under Mandatory Certification

Under separate arrangements with Statutory agencies, some products have been placed under special certification schemes of lot or batch inspection carried out by BIS Inspecting officers. A majority of gas cylinders, regulators and valves are certified through such schemes.

For all other products, the manufacturer is permitted to self-certify the products after ascertaining its conformity to the standard licensed for. Through its surveillance operations, the Bureau maintains a close vigil on the quality of certified goods.

The BIS Product Certification Scheme is open to manufacturers in all countries without discrimination. Overseas applicants are also granted licence for use of ISI mark under separately designed scheme, FMCS

Resources

The finances of the Bureau are self-managed, with certification operations accounting for about 90% of the revenue. The BIS employs competent engineers and scientists to cater to all its fields of operations. They are trained into evaluation and assessment techniques to a high degree of professional competence. All preliminary and surveillance inspections are carried out by qualified personnel only. BIS has set up eight laboratories in different cities of India for testing samples of products taken during preliminary and surveillance operations. In addition, independent laboratories having demonstrated ability and a quality system complying with IS/ISO/IEC 17025 have been recognised for testing of samples.

The certification scheme operates through a network of 34 branch offices set up in state capitals or major industrial towns and five regional offices overseeing the work of the Branch offices BIS directory.

Environment Management System Certification

The Bureau is operating EMS certification scheme against IS/ISO 14000 standards under the BIS Act, 1986.

Technical Information Services

The world trade is growing bigger day by the day and with it comes the increased number of standards, technical regulations and conformity assessment procedures. The exporters and importers, user organisations and government agencies are today faced with lack of information/clarity on the above.

The Technical Information Services Department of BIS offers a range of services as enumerated in the following list:

1. WTO-TBT Enquiry Point
2. Technical Enquiries about standards and technical regulations
3. World Manufacturer Identifier (WMI) Code
4. Issuers Identification Number (IIN)
5. Registered Application Provider Identifier (RID)

Rajiv Gandhi National Quality Award

Rajiv Gandhi National Quality Award was instituted by the Bureau of Indian Standards in 1991, with a view to encouraging Indian manufacturing and service organisations to strive for excellence and giving special recognition to those who are considered to be the leaders of quality movement in India. It is one of the most prestigious awards for organisations who have excelled in the field of 'quality', either in manufacturing sector or in service sector. The recipients of this award, over the years, have excelled to become the benchmark of quality in their respective fields, for which they have even earned international recognition.

Rajiv Gandhi National Quality Award would help Indian Industry to improve quality by:

- a. Encouraging Indian Industry to make significant improvements in quality for maximising consumer satisfaction and for successfully facing competition in the global market as well.
- b. Recognising the achievements of those organisations which have improved the quality of their products and services and thereby set an example for others.
- c. Establishing guidelines and criteria that can be used by industry in evaluating their own quality improvement efforts.

The award has been designed in line with similar awards in other developed countries, like Malcolm Baldrige National Quality Award in USA, Deming Prize in Japan and European Quality Award.

Consumer Protection

Complaint regarding BIS certified products under various schemes/services can be lodged in the following manner:

- Through Online Complaint Registration on BIS website at www.bis.org.in or mobile application or by email at complaints@bis.gov.in
- Personally contacting/writing to Public Grievance officer of the nearest Regional/Branch office of BIS or directly to the Head (Consumer Affairs Department)

BIS and Consumer Rights

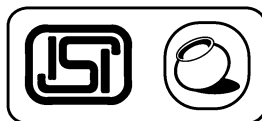
1. Right to be protected against the marketing of goods which are hazardous to life and property.
2. Right to be informed about the quality, quantity, potency, purity, standard and price of goods so as to protect the consumer against unfair trade practices.
3. Right to be assured, whenever possible, access to variety of goods at competitive prices.
4. Right to be heard and to be assured that consumers interests will receive due consideration at appropriate forums.
5. Right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers.
6. Right to consumer education.



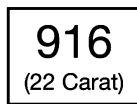
Product Certification Mark



Quality Systems Certification Mark



Environment Friendly Products Mark



Hallmarking of Gold Jewellery

The Bureau of Indian Standards Bill, 2015

- The Bureau of Indian Standards Bill, 2015 was introduced in Lok Sabha by Mr. Ram Vilas Paswan, Minister of Consumer Affairs, Food and Public Distribution on August 7, 2015. The Bill replaces the Bureau of Indian Standards Act, 1986. The Act establishes a Bureau for the purpose of standardisation, marking and certification of articles and processes. The Bill seeks to broaden its ambit, and allow the Central Government to make it mandatory for certain notified goods, articles, processes, etc. to carry the standard mark.
- **Ambit of the Bureau of Indian Standards:** Under the 1986 Act, standardisation, marking and certification processes applied to certain articles and processes. The Bill includes goods, services and systems. A good, service, article, process and system have been defined in the Bill.

- **Establishment of the Bureau of Indian Standards:** The Bureau of Indian Standards will be a national body which will formulate, implement and certify certain standards of quality for goods, services, articles, processes and systems. The Bureau will constitute technical committees of experts for the purpose of formulating such standards. The Bill constitutes a Governing Council which would be responsible to look at the general superintendence, direction and management of the Bureau.
- **Certification of goods, services, articles, etc:** The Bureau would be a licensing authority for quality standards. A person may apply to the Bureau for a license to use a standard mark, or a certificate of conformity, depending on the good, article, process, etc. A license or certificate of conformity indicates that the item conforms to the Indian standard as set by the Bureau. The Bureau will establish and maintain testing laboratories for quality assurance and conformity assessment of goods, articles, services, etc.
- **Certification of precious metals:** A hallmark will be used to certify precious metal articles including silver, gold, platinum and palladium or their alloys. A hallmark indicates a proportionate content of the precious metal in the article, as per the Indian standard. Such articles will be sold in certified sales outlets.
- **Mandatory certification of certain goods:** The Bill allows the central government to notify certain goods, articles, etc., which will need to compulsorily carry a standard mark. Such goods or articles will be notified by the government if it thinks them to be necessary for: (i) public interest or for the protection of human, animal or plant health, (ii) safety of the environment, (iii) prevention of unfair trade practices, or (iv) national security.
- **Recall of goods, services, articles etc.:** The Bureau may recall a good or article which is already out for sale or supply. This will be done if the Bureau is convinced that the good or article does not conform to the requirement of a particular standard.
- **Penalties:** The penalty for improper use of the Indian standard mark will be a fine of up to five lakh rupees. The Bill also prescribes penalties for: (i) the improper use of the standard mark by testing and marking centres, and (ii) manufacturing or selling goods and articles which do not carry a standard mark and have been mandated to do so, among others. The Bill provides for compounding of offences punishable with fine except when a person has committed such an offence for the second time or if such an offence committed by him has been compounded earlier.
- **Offences by companies:** When a company commits an offence under the Bill, the persons responsible for or in charge of the company will be presumed to be guilty irrespective of whether the offence was committed without their knowledge, consent or connivance.
- **Appeals:** An appeal against an order regarding the granting of a license or certificate of conformity, or compounding of offences, may be made to the Director General of the Bureau. A further appeal against the order of the Director General may then be made to the Central Government.

8.4.14 Central Board of Film Certification (CBFC)

Introduction

Central Board of Film Certification (CBFC) is a statutory body under Ministry of Information and Broadcasting, regulating the public exhibition of films under the provisions of the

Cinematograph Act 1952. Films can be publicly exhibited in India only after they have been certified by the Central Board of Film Certification. The Board consists of non-official members and a Chairman (all of whom are appointed by Central Government) and functions with headquarters at Mumbai. It has nine Regional offices, one each at Mumbai, Kolkata, Chennai, Bangalore, Thiruvananthapuram, Hyderabad, New Delhi, Cuttack and Guwahati. The Regional Offices are assisted in the examination of films by Advisory Panels. The members of the panels are nominated by Central Government by drawing people from different walks of life for a period of 2 years. The Certification process is in accordance with The Cinematograph Act, 1952, The Cinematograph (certification) Rules, 1983, and the guidelines issued by the Central government u/s 5 (B)

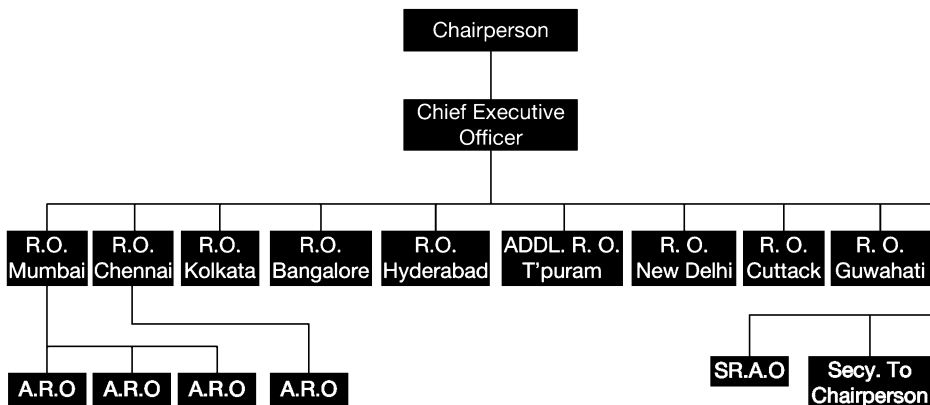
Vision

To ensure the good and healthy entertainment in accordance with the provisions of the Cinematograph Act 1952 and the Cinematograph (Certification) Rules 1983.

Mission

1. Ensure healthy entertainment, recreation and education to the public.
2. Make the certification process transparent and responsible.
3. Create awareness among advisory panel members, media and film makers about the guidelines for certification and current trend in films through workshops and meetings.
4. Adopt modern technology for certification process through computerisation of certification process and upgradation of infrastructure.
5. Maintain transparency about Board's activities through voluntary disclosures, implementation of e-governance, prompt replies to RTI queries and publication of annual report.
6. Develop CBFC as a Centre of Excellence

Organisation



Basic Functions

1. Ensure the good and healthy entertainment in accordance with the provisions of the Cinematograph Act 1952 and the Cinematograph (Certification) Rules 1983 by certifying the films produced in and outside India for public exhibition as under

- a. 'U' certificate for universal exhibition
 - b. 'A' certificate for public exhibition to Adults only
 - c. 'UA' certificate for public exhibition of films which can be viewed by children below the age of 12 years under parental guidance only
 - d. 'S' certificate for public exhibition of films meant for members of any profession or any class of persons
2. Refuse certificate to the film unsuitable for public exhibition if the film or any part of it is against the interests of the sovereignty and integrity of India, the security of the States, friendly relations with foreign state, public order, decency or morality or involves defamation or contempt of court or is likely to incite commission of any offence.

The Central Board of Film Certification is responsible for certifying films. The enforcement of compliance to the provisions of the Cinematograph Act, 1952 is entrusted to the State Governments/Union Territory Administrations, since exhibition of films is a state subject.

The violation of the provisions of the Act and Rule may take place in various forms which are discussed in the following section.

Violations of Cinematograph act and penalties.

The following are the major violations that agitate the minds of the public:

- a. Exhibition of an A certified film to a non-adult
- b. Exhibition of an S certified film to persons other than those for whom it is meant;
- c. Exhibition of a film in a form other than the one in which it was certified. Such violations are known as interpolations. Interpolations can be described as follows
 - (i) Re-insertion in the prints of a film, those portions which were deleted by the Board while certifying the film
 - (ii) Insertion in the prints of a film, portions which were never shown to the Board for certification;
 - (iii) Exhibition of 'bits' unconnected with the certified film.
- d. Exhibition of a film which was refused a certificate (or banned in common parlance)
- e. Exhibition of uncertified films with forged certificates of other films.
- f. Exhibition of films without CBFC certificate.

Violations of Cinematograph act and penalties.

Offences with regard to violations of certification provisions are cognizable. Furthermore, they are non-bailable. Section 7 of the Cinematograph Act provides penalties for violation of censorship provisions. Penalty can also be imposed for failure to comply with section 6A which requires that any person delivering a film to an exhibitor or a distributor will also give to him details of all cuts, certification, title, length and conditions of certification.

A person guilty of violation while exhibiting celluloid films is punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ₹1 lakh, or with both, and with a further fine up to ₹20,000 for each day for continuing the offence. Similarly, showing of video films which violate the rules in the manner prescribed in this section will attract imprisonment of not less than three months which may be extended to three years and a fine of not less than ₹20,000 which may be extended to ₹1 lakh and a further fine up to ₹20,000 each day for a continuing the offence.

Furthermore, the trial court can direct that the offending film be forfeited to the Government. Under Section 7A, any police officer can enter a hall where an offending film is being screened, search the premises and seize the print. Films can also be seized when they are likely to be exhibited in violation of Cinematograph Act.

Guidelines

The Cinematograph Act lays down that a film shall not be certified if any part of it is against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or involves defamation or contempt of court or is likely to incite commission of any offence.

Under Section 5B(2) the Central Government has issued the following guidelines.

A film is judged entirely from the point of view of its overall impact and is examined in the light of the period depicted in the film and the contemporary standards of the country and the people to whom the film relates, provided that the film does not deprave the morality of the audience. Guidelines are applied to the titles of the films also.

1. Objectives of Film Certification

- (i) The medium of film remains responsible and sensitive to the values and standards of society.
- (ii) Artistic expression and creative freedom are not unduly curbed.
- (iii) Certification is responsible to social changes.
- (iv) The medium of film provides clean and healthy entertainment.
- (v) As far as possible, the film is of aesthetic value and cinematically of a good standard.

2. In pursuance of the above objectives, the CBFC shall ensure that

- (i) Anti-social activities such as violence are not glorified or justified.
- (ii) The modus operandi of criminals, other visuals or words likely to incite the commission of any offence are not depicted.
- (iii) Scenes
 - a. showing involvement of children in violence as victims or perpetrators or as forced witnesses to violence, or showing children as being subjected to any form of child abuse.
 - b. showing abuse or ridicule of physically and mentally handicapped persons; and
 - c. showing cruelty to, or abuse of animals, are not presented needlessly
- (iv) Pointless or avoidable scenes of violence, cruelty and horror, scenes of violence primarily intended to provide entertainment and such scenes as may have the effect of de-sensitising or de-humanising people are not shown.
- (v) Scenes which have the effect of justifying or glorifying drinking are not shown.
- (vi) Scenes tending to encourage, justify or glamorise drug addiction are not shown.
- (vii) Scenes tending to encourage, justify or glamorise consumption of tobacco or smoking are not shown.
- (viii) Human sensibilities are not offended by vulgarity, obscenity or depravity.
- (ix) Such dual meaning words as obviously cater to baser instincts are not allowed.
- (x) Scenes degrading or denigrating women in any manner are not presented.

- (xi) Scenes involving sexual violence against women like attempt to rape, rape or any form of molestation or scenes of a similar nature are avoided, and if any such incidence is germane to the theme, they shall be reduced to the minimum and no details are shown.
- (xii) Scenes showing sexual perversions shall be avoided and if such matters are germane to the theme they shall be reduced to the minimum and no details are shown
- (xiii) Visuals or words contemptuous of racial, religious or other groups are not presented.
- (xiv) Visuals or words which promote communal, obscurantist, anti-scientific and anti-national attitude are not presented.
- (xv) The sovereignty and integrity of India is not called in question.
- (xvi) The security of the State is not jeopardised or endangered.
- (xvii) Friendly relations with foreign states are not strained.
- (xviii) Public order is not endangered.
- (xix) Visuals or words involving defamation of an individual or a body of individuals, or contempt of court are not presented. Scenes that tend to create scorn, disgrace or disregard of rules or undermine the dignity of court will come under the term 'Contempt of Court'.
- (xx) National symbols and emblems are not shown except in accordance with the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950 (12 of 1950).

3. The Board of Film Certification shall also ensure that the film

- (i) is judged in its entirety from the point of view of its overall impact.
 - (ii) is examined in the light of the period depicted in the films and the contemporary standards of the country and the people to which the film relates provided that the film does not deprave the morality of the audience.
4. Films that meet the above-mentioned criteria but are considered unsuitable for exhibition to non-adults shall be certified for exhibition to adult audiences only.
5. (i) While certifying films for unrestricted public exhibition, the Board shall ensure that the film is suitable for family viewing, that is to say, the film shall be such that all the members of the family including children can view it together.
- (ii) If the Board, having regard to the nature, content and theme of the film is of the opinion that it is necessary to caution the parents/guardian to consider as to whether any child below the age of twelve years may be allowed to see such a film, the film shall be certified for unrestricted public exhibition with an endorsement to that effect.
- (iii) If the Board having regard to the nature, content and theme of the film, is of the opinion that the exhibition of the film should be restricted to members of any profession or any class of persons, the film shall be certified for public exhibition restricted to the specialised audiences to be specified by the Board in this behalf.
6. The Board shall scrutinise the titles of the films carefully and ensure that they are not provocative, vulgar, offensive or violative of any of the above-mentioned guidelines.

Recent updates related to CBFC:

Report of the Expert Committee on CBFC

An Expert Committee (Chaired by Mr. Shyam Benegal) constituted to recommend guidelines for certification of films by the Central Board of Film Certification (CBFC) submitted its report in April 2016.

- The Committee was created on January 1, 2016, by the Ministry of Information & Broadcasting. The terms of reference of the Committee included: (i) to study the procedures of certification being followed by CBFC, (ii) to recommend guiding principles with respect to certification of films, within the ambit of the Cinematograph Act, 1952 and (iii) suggest a suitable staffing structure for a more efficient service.
- **Role of CBFC:** The Committee observed that an owner of a film has complete rights over it. Any alteration or change in the film can only be made by the owner or with his consent. It is recommended that the current system of suggesting modifications and amendments to a film by the CBFC should be done away with and the Board must function only as a film certification body.
- **Modification to 1991 guidelines:** Guidelines were issued in 1991 under section 5B of the Cinematograph Act, 1952. Section 5B states that a film will not be certified if a part of it or the entire film is against the interest of the sovereignty and integrity of the country, decency or morality, etc. The Committee noted that some of the objectives under these guidelines, such as requiring the film to be sensitive to the values of the society, providing clean and healthy entertainment, were not within the ambit of the CBFC.
- In this regard, the Committee has drafted a new set of guidelines. The objective of the guidelines is: (i) artistic expression and creative freedom of filmmakers is protected through parameters that are objective, (ii) audiences are empowered to make informed viewing decisions, and (iii) the process of certification is responsive to social change. The guidelines also state that an applicant must mention in his application, (i) the category of certification he seeks and (ii) the target audience. Further, any cuts in a film can only be made by the applicant, depending on the certification he needs for his film.
- **Sub-division of existing categories of certification:** The Committee also suggested that **two categories of certification**, that is **UA** (films that contain certain scenes not suitable for children below the age of 12) and **A** (films suitable for adults only), should be **further sub-divided into sub-categories**. The UA category should be divided into two sub-categories: UA 12+ and UA 15+. While UA 12+ will cater to young teenagers yet to be exposed to the adult world, UA 15+ will cater to young adolescents at an age where they are being exposed to issues in the adult world, in a moderate manner. The A category should include an A-C (films suitable for adults only, with caution) sub-category, for films that may contain explicit material, such as nudity, violence, etc. This categorisation will help audiences to make distinct choices.
- **Guidelines for certification:** The Committee has proposed guidelines for certification which have been divided into three categories: (i) general, (ii) issue related, and (iii) category specific. The general guidelines define the approach to be followed while certifying a film, with respect to general factors in a film, such as context, theme, etc. The

issue-related guidelines list issues in a society that apply to all categories of certification. Category-specific guidelines lay down the approach that CBFC should take with respect to various categories of film certification.

- **Functions of CBFC:** The Committee recommended that the CBFC should confine itself to
 - (i) submission of an annual report to the central government, containing an analytical study of the trends in the film industry, to be tabled in Parliament each year
 - (ii) prescribing the manner in which the records and accounts of the Board will be kept.
 - (iii) reviewing the work of regional officers and the Regional and Central Advisory Panels.
 - (iv) periodically review guidelines laid down for certification of films, etc.
- **Staffing pattern of CBFC:** In order to reduce the human interface between applicants and officials of the CBFC, the Committee recommended that process of application, and selection of members for the Examining Committee (that will sit through the screening of a film and deliberate on it) and Revising Committee (that will function as the first point of appeal) should be done through a computerised software.

Censorship

In most countries of the world there is a mechanism/process of certifying feature films and documentaries. However, it has to be ensured that in doing so, artistic creativity and freedom do not get stifled/curtailed and the people tasked with the work of certification understand these nuances. Indian films have glorious history. A whole lot of Indian films have enriched the cultural milieu of the country besides making astonishing advances in technical aspects of film making.

The Central Board of Film Certification is there to certify films, not censor them. That's one argument that's often been voiced, especially in recent days

When did the Central Board of Film Certification (CBFC) begin working like a censor board?

As it turns out, from the time it started certifying films.

The CBFC is a body constituted under the Cinematograph Act, 1952. Indeed, when it was created it was called the Board of Film Censors. Its powers of certifying a film for public consumption was introduced by way of an amendment in 1959.

The Cinematograph Act prescribes that all movies aimed at 'public exhibition' will be first examined by the CBFC. The Board can ask for parts of the movie to be cut or removed before showcasing it in public in case it is 'against the interests of the sovereignty and integrity of India the security of the state, friendly relations with foreign states, public order, decency or morality, or involves defamation or contempt of court or is likely to incite the commission of any offence'.

This power to censor, was justified by the apex court when it said the CBFC had the right to ask for cuts while certifying a film. The question was decided by the Supreme Court, in the case of K.A. Abbas versus Union of India, in September 1970. That case involved Abbas' documentary *A Tale of Four Cities* in which the CBFC asked for certain scenes to be cut. The award-winning filmmaker approached the Supreme Court saying the cuts asked for amounted to a violation of his freedom of expression.

The court (in a judgement delivered by then chief justice Mohammad Hidayatullah) approved of censorship and noted in its judgement, 'Our standards must be so framed that we are not reduced to a level where the protection of the least capable and the most depraved amongst us determines what the morally healthy cannot view or read. The standards that we set for our censors must make a substantial allowance in favour of freedom thus leaving a vast area for creative art to interpret life and society with some of its foibles along with what is good'.

The court said films were a powerful media and had greater impact than books. It ruled that censorship, including cutting parts of movies before public release, was valid under the Constitution.

It also ruled that in the absence of any self-regulatory organisation that could suggest or ask for cuts in films, it was up to the government appointed CBFC to do so.

8.4.15 Competition Commission of India (CCI)

Competition is the best means of ensuring that the 'Common Man' or 'Aam Aadmi' has access to the broadest range of goods and services at the most competitive prices. With increased competition, producers will have maximum incentive to innovate and specialise. This would result in reduced costs and wider choice to consumers. A fair competition in market is essential to achieve this objective. Our goal is to create and sustain fair competition in the economy that will provide a 'level playing field' to the producers and make the markets work for the welfare of the consumers.

The Competition Act

The Competition Act, 2002 was passed by the Parliament in the year 2002, to which the President accorded assent in January, 2003. It was subsequently amended by the Competition (Amendment) Act, 2007. In accordance with the provisions of the Amendment Act, the Competition Commission of India and the Competition Appellate Tribunal have been established. The Competition Commission of India is now fully functional with a Chairperson and six members. The Act prohibits anti-competitive agreements, abuse of dominant position by enterprises and regulates combinations (acquisition, acquiring of control and M&A), which causes or likely to cause an appreciable adverse effect on competition within India.

Competition Commission of India

The objectives of the act are sought to be achieved through the Competition Commission of India (CCI), which has been established by the Central Government with effect from 14th October 2003. CCI consists of a Chairperson and six Members appointed by the Central Government. It is the duty of the Commission to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade in the markets of India. The Commission is also required to give opinion on competition issues on a reference received from a statutory authority established under any law and to undertake competition advocacy, create public awareness and impart training on competition issues.

The CCI is quasi-judicial statutory body established under The Competition Act, 2002. It was established in 2003 to eliminate practices that adversely affect competition in different industries and protect interests of consumers and ensure freedom of trade. Its predecessor was the MRTPC (Monopolies and Restrictive Trade Practices Commission) which was functional prior to 1991 Economic Reforms.

Vision

To promote and sustain an enabling competition culture through engagement and enforcement that would inspire businesses to be fair, competitive and innovative; enhance consumer welfare; and support economic growth.

Mission

Competition Commission of India aims to establish a robust competitive environment by

- proactive engagement with all stakeholders, including consumers, industry, government and international jurisdictions.
- being a knowledge intensive organisation with high competence level.
- professionalism, transparency, resolve and wisdom in enforcement.

Objectives of the Commission

- Prevent practices having adverse effect on competition
- Promote and sustain competition in markets
- Protect the interests of consumers
- Ensure freedom of trade

Split between Regulation and Competition

Business regulation is perhaps as old as the businesses themselves. While modern, liberalised economies have increasingly relied upon markets for allocation of resources, markets can also fail and lead to undesirable upshots. These extreme possibilities with the market has ensured that governments oscillate between the limbs of regulation and competition in order to ensure that when market fails, it does not crash land but is provided with a suitable parachute. Regulation, implemented through sector-specific regulators and competition regulation, through the competition authority, differ in their approach to regulating business in the market. Competition law seeks to promote efficient allocation and utilisation of resources, which are usually scarce in developing countries. A good competition law lowers the entry barriers in the market and makes the environment conducive to promoting entrepreneurship.

Regulations, on the other hand, are public constraints on market behaviour or structure. They usually refer to a diverse set of instruments by which governments set requirements on businesses and citizens. Regulations can be categorised as under: (i) Economic Regulations – Those which intervene in market decisions such as pricing, competition and entry/exit. (ii) Technical Regulations: Those which regulates the technical aspects which are distinct and unique to the sector (iii) Social regulations – Those which protect public interest such as health, safety, environment. (iv) Administrative regulations – administrative formalities through which government collects information and intervenes in individual economic decisions. The objective of a sectoral regulator is to provide good quality service at affordable rates, but the promotion of competition and prevention of anticompetitive behaviour may not be high on its agenda or the laws governing the regulator may be silent on this aspect. It is not uncommon for sectoral regulators to be more closely aligned with the interest of the firms being regulated, which is also known as ‘regulatory capture’. Besides, a sectoral regulator may not have an overall view of the economy as a whole and may tend to apply yardsticks which are different from the ones used by the other sectoral regulators. In other words, there is a possibility of the lack of consistency across sectors. The following table summarizes the difference in their approach.

Sector-specific Regulator Competition Authority tells businesses ‘what to do’ and ‘how to price products’, also tells businesses ‘what not to do’, focuses upon specific sectors of the economy, focuses upon the entire economy and functioning of the market. Ex ante addresses behavioural issues before problem arises, Ex post addresses behavioural issues after problem arises. It focuses upon orderly development of a sector that would presumably trickle down in a sector ensuring consumer welfare. It also focuses upon consumer welfare and unfair transfer of wealth from consumers to firms with market power. Sectoral regulators are usually more appropriate for access and price issues such as changing the structure of the market, reducing barriers to entry and opening up the market to effective competition. Competition legislation is usually more appropriate for affecting conduct and maintaining competition. Therefore, it is evident that the role of sector-specific regulators is overlapping but quite distinct. Unlike the sector-specific regulators, competition authority takes a holistic view of the economy and addresses behavioural issues after the problem arises. The competition authority also addresses the unfair transfer of wealth that may take place between the consumers and firms wielding market power.

What is bid rigging?

The explanation to sub-section (3) of Section 3, of the Act defines

‘bid rigging’ as ‘any agreement, between enterprises or persons referred to in sub-section (3) engaged in identical or similar production or trading of goods or provision of services, which has the effect of eliminating or reducing competition for bids or adversely affecting or manipulating the process for bidding’.

Bid rigging takes place when bidders collude and keep the bid amount at a pre-determined level. Such pre-determination is by way of intentional manipulation by the members of the bidding group. Bidders could be actual or potential ones, but they collude and act in concert

What is a cartel?

Cartel is defined in section 2, clause (c) of the Act:

‘Cartel’ includes an association of producers, sellers, distributors, traders or service providers who, by agreement amongst themselves, limit, control or attempt to control the production, distribution, sale or price of, or, trade in goods or provision of services;’

Cartels are agreements between enterprises (including a person, a government department and association of persons / enterprises) not to compete on price, product (including goods and services) or customers. The Act gives a detailed definition of an enterprise in Section 2 (h). The objective of a cartel is to raise price above competitive levels, resulting in injury to consumers and to the economy. For the consumers, cartelisation results in higher prices, poor quality and less choice for goods or/and services.

What constitutes competition law and policy?

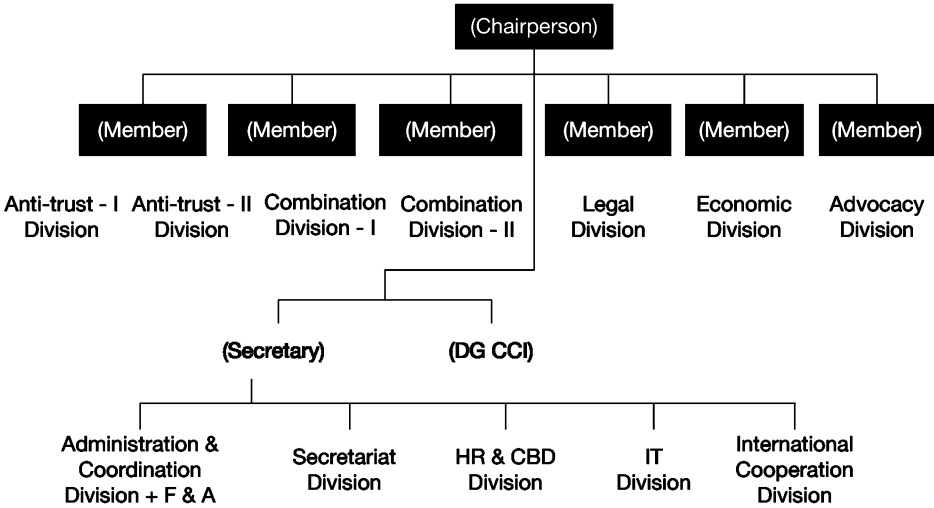
Competition law and policy is defined as those Government measures that affect the behaviour of enterprises and structure of the industry with a view to promote efficiency and maximise welfare.

There are two elements of such government measures:

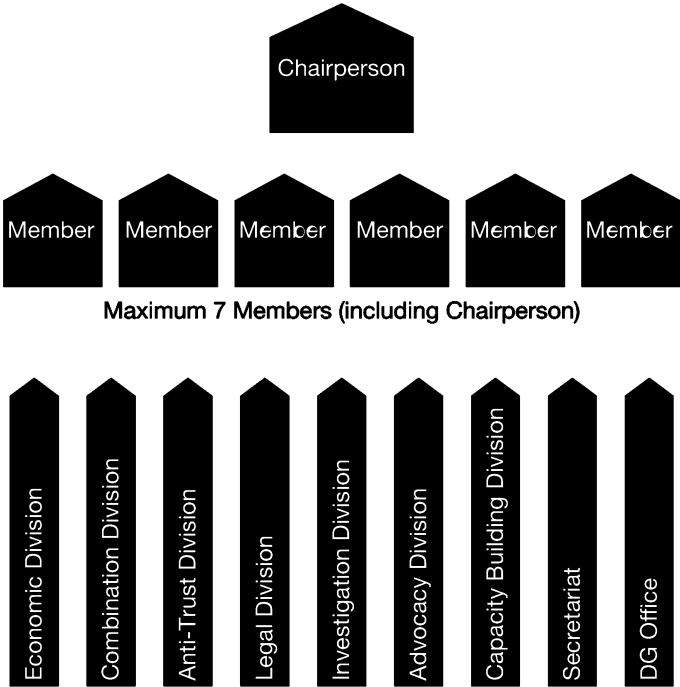
Competition policy: Set of policies, such as liberalised trade policy, relaxed FDI policy, de-regulation, etc., that enhances competition in the markets.

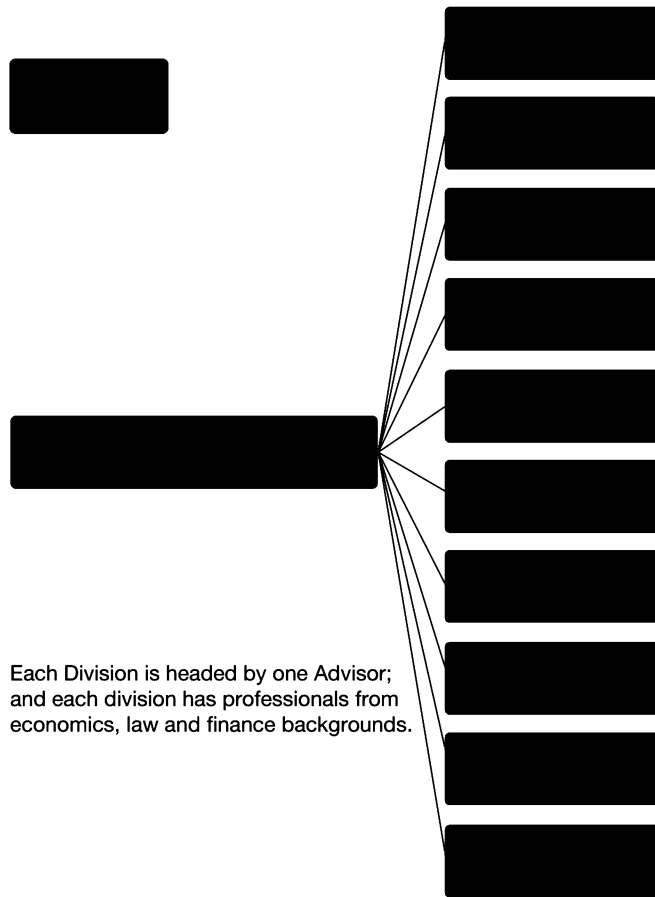
Competition law: To prevent anti-competitive practices with minimal intervention.

Organisational Chart



ORGANOGRAM





Functions of the Commissions:

- Enforcement
- Advocacy

Duties & Powers of CCI

- Sustain competition in markets, protect freedom of trade and interests of consumers in markets.
- Sustain competition in markets, CCI has power to make inquiries in case of any certain agreement, abuse of dominant position or any combination by any person or body corporate on its own or on receipt of complaint by consumer or by reference of government or any authority.
- Inquire into any of acts outside India that causes adverse impacts on competition within India.
- The Chairperson shall constitute benches to exercise powers of CCI and a bench shall consist of at least 2 members include at least 1 judicial member (qualified to be a judge of High Court). The Bench where Chairperson presides is known as Principal bench and others are known as additional benches.

- The CCI has power to make inquiry (either suo motu or on request of any person, consumer or trade association) and pass order for any certain agreement, abuse of dominant position or any combination that cause adverse effect on competition within India.
- The CCI can impose penalties on enterprises or on persons which shall not be > 10% of turnover of enterprise or person in case of any offence as provided under this act. Also CCI can order to any enterprise or person to pay compensation to person or enterprise who suffered from acts of that person or enterprise.
- The CCI can advise Central government for division of a dominant enterprise to ensure that it does not abuse its position. Consequently, government can take action either same as advised by CCI or in other form as the case may be.
- The CCI has power equivalent to a civil court while discharging its functions in matters such as summoning, producing evidences etc. Also has power to regulate its own procedure such as place of sittings, timings, etc.
- Any person or enterprise can appeal to Supreme Court against order of CCI within 60 days from the date of order. But no appeal shall be allowed if order passed by CCI involves consent of both parties.
- No Civil court can exercise jurisdiction on any matter under this act or any matter on which CCI is empowered to exercise jurisdiction.

Power of Central Government to issue directions

1. Without prejudice to the foregoing provisions of this Act, the Commission shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time: Provided that the Commission shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub- section.
2. The decision of the Central Government whether a question is one of policy or not shall be final. Power of Central Government to supersede Commission 56. (1) If at any time the Central Government is of the opinion—
 - a. that on account of circumstances beyond the control of the Commission, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or
 - b. that the Commission has persistently made default in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Commission or the administration of the Commission has suffered; or
 - c. that circumstances exist which render it necessary in the public interest so to do,

The Central Government may, by notification and for reasons to be specified therein, supersede the Commission for such period not exceeding six months, as may be specified in the notification:

Provided that before issuing such notification, the Central Government shall give a reasonable opportunity to the Commission to make representations against the proposed supersession and shall consider representations, if any, of the Commission.

Amendment 2007 (Key Features)

- A Competition Appellate Tribunal (CAT) is established to hear and dispose of appeals against certain decisions made by the CCI. Some of the decisions that can be challenged include:
 1. The CCI's decision that an agreement is not causing adverse effect on competition or an enterprise is not abusing its dominant position.
 2. The CCI's order to discontinue the abuse of dominant position, modify agreements or divide an enterprise.
 3. The CCI's decision on whether a combination is having an adverse effect on competition, and if so, the steps to be taken to rectify the matter.
 - The CAT would consist of a Chairperson and a maximum of two members, appointed by the Central Government from the panel of names proposed by the Selection Committee. The Chairperson would have to be a Judge of the SC or the Chief Justice of the HC.
 - Any person can appeal the decision of the CAT in the SC within 60 days from the date on which the order of the CAT is communicated to the person.
 - The bill also repeals the MRTP Act, 1969 but MRTP Commission may continue work for next 2 years on subjects it was working on before this act.

Issues with the Bill

- Both the CCI and certain sectoral regulators are mandated to deal with anti-competitive practices. Such overlap could lead to turf issues between these bodies.
- Although one of the main functions of the CCI is to promote competition, it does not have the power to give its opinion on competition-related issues to the Central and State Governments on its own accord.
- The CCI can grant reduced penalty to any member of a cartel who is willing to disclose vital information. However, the Bill does not lay down the extent of the reduction in penalty or what kind of information would be considered as vital.
- Enterprises can impose reasonable conditions to protect their intellectual property rights. However, the term 'reasonable conditions' has not been defined.
- The employees of MRTPC are to be absorbed in the CCI or the CAT after two years. This differs from the Principal Act, which placed the onus of absorbing these employees on the central government.

Recent Steps Taken by CCI

1. **The Competition Commission of India (CCI) has imposed penalties on 10 cement companies**

The Competition Commission of India (CCI) has imposed penalties on 10 cement companies and their umbrella association – Cement Manufacturers Association (CMA) for cartelisation. The CCI has levied penalties on 10 cement companies namely ACC, ACL, Binani, Century, India Cements, JK Cements, Lafarge, Ramco, UltraTech and Jaiprakash Associates. The final order has been passed by CCI pursuant to the directions issued by Competition Appellate Tribunal remanding the matter back while setting aside the original order of CCI.

While holding the cement companies and CMA in contravention of the Act, it was noted by CCI that the cement companies used the platform provided by CMA and shared details relating to prices, capacity utilisation, production and dispatch and thereby restricted production and supplies in the market, contravening the provisions of Section 3(1) read with Section 3(3)(b) of the Act. Further, CCI also found the cement companies to be acting in concert in fixing prices of cement in contravention of the provisions of Section 3(1) read with Section 3(3)(a) of the Act.

While highlighting the role played by trade associations in promoting the interests of their members and the industry they serve, CCI noted in its order that cement companies were interacting using the platform made available by the trade association (CMA). Such interactions have been found to have transgressed the limits in sharing of information and extended to discussions on cost, prices, production and capacities, thereby, facilitating the enterprises to determine prices and production in a concerted and collusive manner, than in a competitive manner. CCI cautioned that all those who participate in association activities, through meetings or otherwise, whether as a member or an executive or manager or employee, have to be sensitive to the discussions not transgressing advertently or otherwise into anti-trust behaviour or practices

2. CCI imposes penalty on bidders for cartelisation in tenders of Indian Railways

The Competition Commission of India 'CCI' has imposed penalties on three firms for bid rigging of tenders floated by Indian Railways for procurement of Brushless DC fans in the year 2013. A final order has been passed by CCI in a case taken up suo motu under Section 19 of the Competition Act, 2002 ('the Act') based on the information received from Central Bureau of Investigation, New Delhi.

CCI has held that the firms had shared the market by way of allocation of tenders of Indian Railways for Brushless DC fans amongst themselves under an agreement/arrangement and indulged in bid rigging/collusive bidding in contravention of the provisions of Section 3(3)(c) and 3(3)(d) read with Section 3(1) of the Act. The anti-competitive conduct of the firms has been established based on exchange of rates to be quoted in upcoming tenders amongst the errant firms, numerous calls amongst the key persons of these firms before and during the period of the tenders and admission by one of the firms which confirmed and revealed the existence and modus operandi of the cartel.

Accordingly, a penalty of ₹62.37 lakhs, ₹20.01 lakhs and ₹2.09 crores was imposed on the firms M/s Pyramid Electronics, M/s R. Kanwar Electricals and M/s Western Electric and Trading Company, respectively in terms of provision to Section 27 (b) of the Act. While imposing penalty, Commission took into consideration all the relevant factors including the duration of the cartel, volume of the tender affected by the cartel and value thereof and decided to impose penalty on M/s Pyramid Electronics and M/s Western Electric and Trading Company calculated at 1.0 time of their profit respectively in the year 2012–2013 and on M/s R. Kanwar Electricals at the rate of 3% of its turnover for the year 2012–2013.

Additionally, considering the totality of facts and circumstances of the case, penalty was also imposed on persons-in charge of the three firms, that is, Shri Sandeep Goyal of M/s Pyramid Electronics, Shri Ashish Jain of M/s R. Kanwar Electricals and Shri Ramesh Parchani of M/s Western Electric and Trading Company at the rate of 10% of the average of their income for the last three preceding financial years

CCI had received an application under Section 46 of the Act read with Regulation 5 of the Competition Commission of India (Lesser Penalty) Regulations, 2009 from

M/s Pyramid Electronics. This application was received when the investigation in the matter was in progress and the report from the DG was pending. Considering the cooperation extended by M/s Pyramid Electronics in conjunction with the value addition provided by it in establishing the existence of cartel and the stage at which it had approached CCI, it was granted 75% reduction in the penalty than would otherwise have been imposed, had it not cooperated with the Commission. Accordingly, the penalty imposed on M/s Pyramid Electronics was reduced to ₹15.59 lakhs and penalty imposed on Shri Sandeep Goyal was reduced to ₹11,648 only.

CCI invites comments from public in respect of proposed merger between Sun Pharma and Ranbaxy

On 6th May, 2014, the Competition Commission of India received a notice from Sun Pharmaceuticals Industries Limited (Sun Pharma) and Ranbaxy Laboratories Limited (Ranbaxy) in relation to the merger of Ranbaxy into Sun Pharma.

In terms of Section 29(2) of the Competition Act, 2002 (Act), the Commission formed a prima facie opinion that the combination is likely to have an appreciable adverse effect on competition and accordingly directed Sun Pharma and Ranbaxy (Parties) to publish details of the combination within 10 working days for bringing the combination to the knowledge or information of the public and persons affected or likely to be affected by such combination. The parties are required to publish the details of the combination in All India editions of four leading daily newspapers, including at least two business newspapers, and also host the same on their respective websites.

As per the provisions of Section 29(3) of the Act, the Commission invites comments/objections/ suggestions in writing, from any person(s) adversely affected or likely to be affected by the combination, to be addressed to the Secretary, Competition Commission of India.

Predatory Pricing

The 'predatory price' under the Act means 'the sale of goods or provision of services, at a price which is below the cost, as may be determined by regulations, of production of goods or provision of services, with a view to reduce competition or eliminate the competitors'.

Predation is exclusionary behaviour and can be indulged in only by enterprises(s) having dominant position in the concerned relevant market.

The major elements involved in the determination of predatory behaviour are:

- Establishment of dominant position of the enterprise in the relevant market
- Pricing below cost for the relevant product in the relevant market by the dominant enterprise ['Cost', for this purpose, has been defined in the Competition Commission of India (Determination of Cost of Production) Regulations, 2009 as notified by the Commission.]
- Intention to reduce competition or eliminate competitors This is traditionally known as the predatory intent test

Abuse of Dominance

Dominance is not considered bad per se but its abuse is. Abuse is stated to occur when an enterprise or a group of enterprises uses its dominant position in the relevant market in an exclusionary or/ and an exploitative manner.

The Act gives an exhaustive list of practices that shall constitute abuse of dominant position and, therefore, are prohibited. Such practices shall constitute abuse only when adopted by an enterprise enjoying dominant position in the relevant market in India.

Abuse of dominance is judged in terms of the specified types of acts committed by a dominant enterprise. Such acts are prohibited under the law. Any abuse of the type specified in the Act 5 by a dominant firm shall stand prohibited.

Section 4 (2) of the Act specifies the following practices by a dominant enterprises or group of enterprises as abuses:

- (i) Directly or indirectly imposing unfair or discriminatory condition in purchase or sale of goods or service
- (ii) Directly or indirectly imposing unfair or discriminatory price in the purchase or sale (including predatory price) of goods or service
- (iii) Limiting or restricting production of goods or provision of services or market
- (iv) Limiting or restricting technical or scientific development relating to goods or services to the prejudice of consumers
- (v) Denying market access in any manner
- (vi) Making conclusion of contracts subject to acceptance by other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.
- (vii) Using its dominant position in one relevant market to enter into, or protect, other relevant market

Central Information Commission and State Information Commission

The central information commission was set up under Right to Information Act, 2005. It entertains complaints and appeals pertaining to offices, financial institutions, public sector undertaking, etc., under the central government and union territories.

It includes one chief commissioner and not more than 10 information commissioners to be appointed by the president of India. The appointment committee includes Prime minister (Chair), leader of the opposition in the Lok Sabha and Union cabinet minister to be nominated by Prime Minister. The members to be appointed as Information Commissioners should not be a Member of the Parliament and should not hold any office of profit.

State Information Commission:

- It is constituted by state government through a gazette notification.
- It will have state chief commissioners and not more than 10 state information commissions to be appointed by the governors.
- Appointment committee will be headed by chief minister, Leader of Opposition in the legislative assembly and one cabinet minister nominated by the Chief Minister.

Power and function of Information Commission

1. The Central Information Commission/State Information Commission has a duty to receive complaints from any person who has not been allowed to submit an information request because a Public Information Officer has not been appointed, refused to give information, received no response to this/his information at specified time, information given was incomplete false, thinks fees charged was unreasonable, and other matter relating to obtaining information under this law.
2. Powers to order inquiry if there are reasonable grounds.
3. CIC/SIC will have powers of civil courts such as,
 - Summoning and enforcing attendance of persons, compelling them to give oral written evidence on oath and to produce documents or things.

- Requiring the discovery and inspection of documents.
 - Receiving evidence on affidavit.
 - Requisitioning public records or copies from any court or office.
 - Issuing summons for examination of witnesses or documents.
 - Any matter which can be prescribed.
4. All records covered by this law (including those covered by exemptions) must be given to CIC/SIC during inquiry for examination.
 5. The commission has power to secure compliance of its decision from the public authority and these powers include
 - Providing access to information in a particular form.
 - Directing the public authority to appoint a public information officer.
 - Publishing information or categories of information.
 - Making necessary changes to the practices relating to management, maintenance and destruction of records.
 - Enhancing training provision for officials on the right information.
 - Seeking an annual report from the public authority on compliance with this act.
 - Requiring the public authority to compensate for any loss or other detriment suffered by the applicant.
 - Imposing penalties under this act.
 - Rejecting the application.
 6. The Central Information Commission submits an annual report to the Central Government on the implementation of the provision of this set and state information commission to State Government and it places this report before each house of the Parliament and SIC to state legislative assembly.

8.4.16 Central Pollution Control Board (CPCB)

The **Central Pollution Control Board (CPCB)**, statutory organisation, was constituted in September, 1974 under the Water (Prevention and Control of Pollution) Act, 1974. Further, CPCB was entrusted with the powers and functions under the Air (Prevention and Control of Pollution) Act, 1981.

It serves as a field formation and also provides technical services to the Ministry of Environment and Forests of the provisions of the Environment (Protection) Act, 1986. It coordinates the activities of the State Pollution Control Boards by providing technical assistance and guidance, and also resolves disputes among them. It is the apex organisation in country in the field of pollution control, as a technical wing of MoEF. The board is led by its chairman, who is nominated by the Central Government. CPCB along with its state counterparts, the State Pollution Control Boards (SPCBs), are responsible for the implementation of legislation relating to prevention and control of environmental pollution.

Basic Functions/Objectives

Principal Functions of the CPCB, as spelt out in the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981,

- (i) Promote cleanliness of streams and wells in different areas of the states by prevention, control and abatement of water pollution.
- (ii) Improve the quality of air and to prevent, control or abate air pollution in the country.

Functions of the Central Board at the National Level

1. Advise the Central Government on any matter concerning prevention and control of water and air pollution and improvement of the quality of air.
2. Plan and execute a nation-wide program for the prevention, control or abatement of water and air pollution.
3. Coordinate the activities of the State Board and resolve disputes among them.
4. Provide technical assistance and guidance to the state boards, carry out and sponsor investigation and research relating to problems of water and air pollution, and for their prevention, control or abatement.
5. Plan and organise training of persons engaged in programme on the prevention, control or abatement of water and air pollution.
6. Organise through mass media, a comprehensive mass awareness programme on the prevention, control or abatement of water and air pollution.
7. Collect, compile and publish technical and statistical data relating to water and air pollution and the measures devised for their effective prevention, control or abatement.
8. Prepare manuals, codes and guidelines relating to treatment and disposal of sewage and trade effluents as well as for stack gas cleaning devices, stacks and ducts;
9. Disseminate information in respect of matters relating to water and air pollution and their prevention and control.
10. Lay down, modify or annul, in consultation with the state governments concerned, the standards for stream or well, and lay down standards for the quality of air.
11. Perform such other functions as may be prescribed by the Government of India.

Functions of the Central Board as State Boards for the Union Territories

1. Advise the Governments of Union Territories with respect to the suitability of any premises or location for carrying on any industry which is likely to pollute a stream or well or cause air pollution.
2. Lay down standards for the treatment of sewage and trade effluents and for emissions from automobiles, industrial plants, and any other polluting source.
3. Evolve efficient methods for disposal of sewage and trade effluents on land.
4. Develop reliable and economically viable methods of treatment of sewage, trade effluent and air pollution control equipment.
5. Identify any area or areas within Union Territories as air pollution control area or areas to be notified under the Air (Prevention and Control of Pollution) Act, 1981.
6. Assess the quality of ambient water and air, and inspect wastewater treatment installations, air pollution control equipment, industrial plants or manufacturing process to evaluate their performance and to take steps for the prevention, control and abatement of air and water pollution.

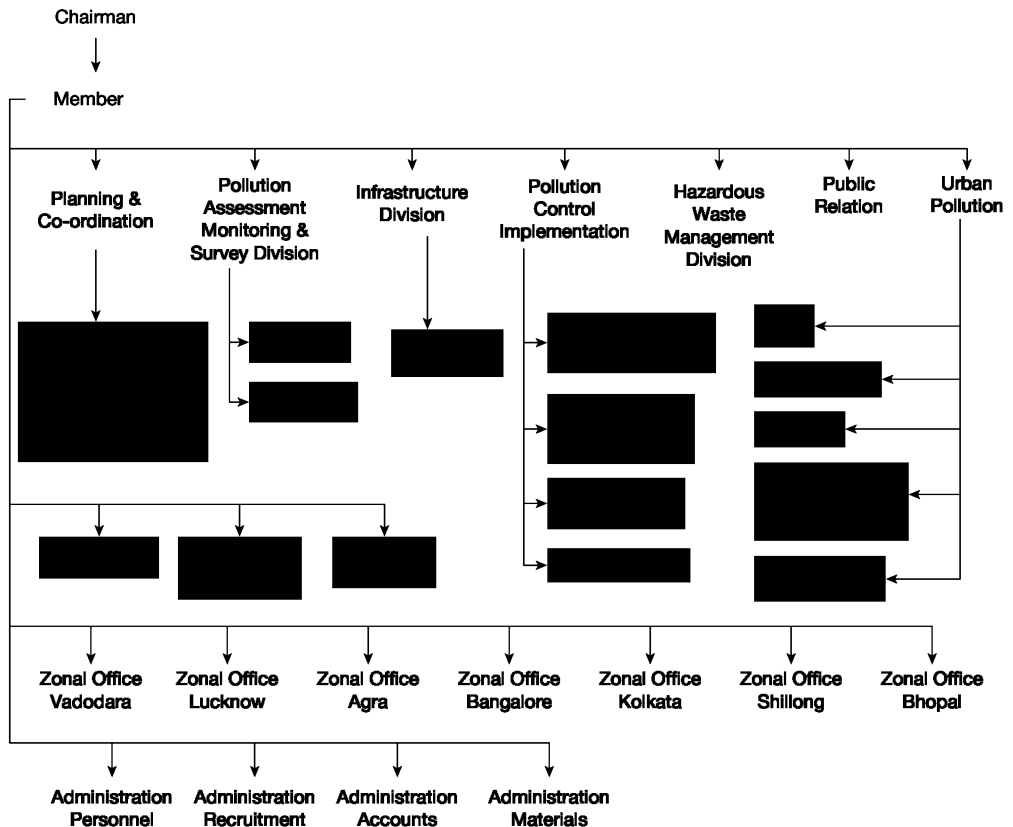
As per the policy decision of the Government of India, the CPCB has delegated its powers and functions under the Water (Prevention and Control of Pollution) Act, 1974, the Water (Prevention and Control of Pollution) Cess Act, 1977 and the Air (Prevention and Control of Pollution) Act, 1981 with respect to Union Territories to respective local administrations. CPCB along with its counterparts State Pollution Control Boards (SPCBs) are responsible for implementation of legislations relating to prevention and control of environmental pollution.

Organisation

CPCB is led by its *Chairman* following by the *Member Secretary*. The CPCB performs its various functions through the following nine major project\ budget heads:

1. Pollution assessment (survey and monitoring)
2. R&D and laboratory management
3. Development of standards and guidelines for industry-specific emissions and effluents standards
4. Training
5. Information database management and library
6. Pollution control technology
7. Pollution control enforcement
8. Mass awareness and publications
9. Hazard waste management

To execute these schemes, CPCB has drawn detailed organisational structure (Figure 1) comprising of various divisions. The schemes are executed through in-house technical manpower or by outsourcing some of the components to the Government and Private Consultants. The State Pollution Control Boards/Committees are also entrusted for the execution of certain components to get State specific feedback.



Departments

- Pollution Control Planning Division
- Pollution, Assessment, Monitoring & Survey
- Pollution Control Implementation Division –I
- Pollution Control Implementation Division –II
- Pollution Control Implementation Division –III
- Urban Pollution Control Division
- Hazardous Waste Management Division
- Environment Surveillance Squad Division
- Information Technology
- Material
- Environmental Training Unit
- Legal Cell
- PR Section
- Assistant Secretary Section
- Building Section
- Library
- Hindi Section
- Administration (recruitment)
- Pollution Control Implementation (Small Scale Industries)
- Accounts

Recent updates:

1. Supreme Court directs CPCB to receive one per cent Environment protection charge from manufacturers/dealers in Delhi & National Capital region

Hon'ble Supreme Court has directed all manufacturers/dealers of Delhi-NCR, selling diesel cars with engine capacity of 2000 cc and above, to pay 1% Environment Protection Charge (1% of ex-showroom price of the vehicle). Central Pollution Control Board (CPCB) has been directed by Hon'ble Supreme Court to open a separate account for this purpose in a Scheduled Public Sector bank

2. Disposal of Bio-Medical Waste

Government of India (GoI) has notified the Bio-medical Waste (Management & Handling) Rules, 1998 under the Environment (Protection) Act, 1986 and these rules are further amended in the year 2000 and 2003. In suppression of the Bio-medical Waste (Management & Handling) Rules, 1998, Government of India (GoI) has notified the revamped Bio-medical Waste Management Rules, 2016 which came into force on 28th March, 2016. According to Rule 7 (i) Treatment and disposal: the health care facilities (HCFs) and common bio-medical waste treatment facility (CBWTF) shall treat and dispose the bio-medical waste in accordance with Schedule-I, and in compliance with the standards provided in Schedule-II.

Central Pollution Control Board (CPCB), vide letter dated 25th October, 2016 requested all the State Pollution Control Board (SPCBs), Pollution Control Committees (PCCs) and Director General Armed Forces Medical Services (DGAFMS) for (i) Constitution of 'State Level Advisory Committee (SLAC)' by the State Government or UT Administration in the respective State or UT and the activities initiated by the

SLAC; and (ii) Constitution of the 'District Level Monitoring Committee (DLMC)' by the State Government or UT Administration in the respective State/UT and the activities initiated by the State Level Advisory Committee (SLAC) and also to take necessary steps for ensuring effective implementation of the Bio-medical Waste Management Rules, 2016 notified under the Environment (P) Act, 1986.

CPCB has also prepared the following guidelines relating to management of Bio-Medical Waste:

1. Common Bio-Medical Waste Treatment Facilities (CBWTFs).
2. Design & Construction of Bio-Medical Waste incinerators.
3. Disposal of Bio-Medical Waste generated during Universal Immunisation Programme.
4. Guidelines for Environmentally Sound Management of Mercury Waste generated from the Health Care Facilities.

The above guidelines are circulated to all State Pollution Control Board/Pollution Control Committees for its implementation and the same is also uploaded at CPCB website, <http://www.cpcb.nic.in/guidelines.php>, for access of various stakeholders to help in complying the standards stipulated in the BMW Rules.

CPCB regularly carries out inspection of AFHCEs falling under the jurisdiction of Director General Arms Forces Medical Services as required by the rules and recommendations communicated to Director General Armed Forces Medical Services (DGAMFS) periodically for carrying out necessary improvement. During the last eight years, from February 2008 to February 2016, CPCB inspected 52 number of AFHCEs and recommendations communicated to the DGAFMS for ensuring necessary improvements.

8.4.17 Directorate General of Civil Aviation (DGCA)

The Directorate General of Civil Aviation (DGCA) is the regulatory body in the field of Civil Aviation, primarily dealing with safety issues.

It is responsible for regulation of air transport services to/from/within India and for enforcement of civil air regulations, air safety, and airworthiness standards. The DGCA also coordinates all regulatory functions with the International Civil Aviation Organisation (ICAO).

Vision

Endeavour to promote safe and efficient air transportation through regulation and proactive safety oversight system

Functions

The main function of the Directorate General of Civil Aviation is to regulate all civil aviation matter. Some of the salient functions are as follows:

- Regulation of air transport services to/from/within India in accordance with the provisions of the Aircraft Rules, 1937, including bilateral and multilateral with foreign countries and the policy pronouncements of the government.
- Registration of civil aircraft.
- Laying down airworthiness requirement for civil aircraft registered in India and grant of Certificate of Airworthiness to such aircraft.
- Licensing of pilots, aircraft maintenance engineers and monitoring of flight crew standards.

- Licensing of aerodromes and air carriers.
- Rendering advice to the Government on matters pertaining to civil aviation.
- Processing amendments to Aircraft Act, 1934 and the Aircraft Rules, 1937, and other acts relating to aviation, with a view to implementing in India the provisions of the Chicago Convention and Annexes thereto and other International Convention relating to aviation.
- Coordination of the work relating to International Civil Aviation Organisation and sending replies to state letters after consulting the concerned agencies.
- Investigation of minor air accidents and incidents and rendering technical assistance to the Courts/Committees of Inquiry.
- Supervision of training activities of flying/gliding clubs.
- Development of light aircraft, gliders and winches.
- Type certification of aircraft.

RECENT NEWS

UDAN scheme:

- The Ministry of Civil Aviation had launched the Regional Connectivity Scheme (RCS) (UDAN) on 21st October, 2016. RCS was a key component of the National Civil Aviation Policy which was released by the Ministry on 15th June, 2016. The scheme, which would be in operation for a period of 10 years, envisages providing connectivity to unserved and under-served regions of the country through revival of existing air-strips and airports. This would be achieved through a financial stimulus in the form of Central and State government concessions, as well as Viability Gap Funding to the interested airlines to kick-off operations from such airports, so that the passenger fares are kept affordable. The fare for a one-hour journey of approximately 500 km on a fixed wing aircraft or for a 30 minute journey on a helicopter would be capped at ₹2500 under the scheme, with proportionate pricing for routes of different lengths/duration. To ensure that operations on ground start with minimum time-gap after the bidding is completed, parallel action has also been initiated by the Ministry of Civil Aviation with AAI, State Governments, DGCA and Bureau of Civil Aviation Security.
- DCGA has asked domestic airlines to formulate a policy on electronic cigarettes and display warnings inside lavatories and passenger briefing cards as part of safety measures.
- In wake of an increasing number of pilots failing to report for duty or showing up late, thereby, causing last-minute flight disruptions, so India's aviation regulator has now decided to act tough against such pilots and also stated that actions of such pilots have a bearing on flight safety and public interest.
- The Directorate General of Civil Aviation has taken serious note of the incident and suspended the flying licenses of the two pilots. Putting the lives of passengers in danger, an IndiGo aircraft flew close to the road running parallel to the Jaipur Airport runway.
- The Directorate General of Civil Aviation (DGCA) has come out with the new guidelines following a review of the earlier block hours for different routes and in consultations with all stake holders including airlines and airport operators because of the domestic air passenger traffic growing by over 20% and airlines facing slot crunch.
- Aviation regulator DGCA has prohibited flight crew from taking selfies in aircraft besides asking the airlines to ensure that passengers do not 'indulge into photography' while boarding or deboarding a plane. Though earlier rules also put some restrictions on

in-flight photography, the fresh guidelines come in the wake of certain cases coming to the light about possible security risks from clicking cockpit selfies.

8.4.18 Food Safety and Standards Authority of India (FSSAI)

The Food Safety and Standards Authority of India (FSSAI) has been established under Food Safety and Standards, 2006 which consolidates various acts & orders that have hitherto handled food-related issues in various ministries and departments. FSSAI has been created for laying down science-based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import to ensure availability of safe and wholesome food for human consumption.

Highlights of the Food Safety and Standard Act, 2006

Various central acts like

- Prevention of Food Adulteration Act, 1954,
- Fruit Products Order, 1955,
- Meat Food Products Order, 1973,
- Vegetable Oil Products (Control) Order, 1947,
- Edible Oils Packaging (Regulation) Order 1988,
- Solvent Extracted Oil, De-Oiled Meal and Edible Flour (Control) Order, 1967,
- Milk and Milk Products Order, 1992

will be repealed after commencement of FSS Act, 2006.

The Act also aims to establish a single reference point for all matters relating to food safety and standards, by moving from multi-level, multi-departmental control to a single line of command. To this effect, the Act establishes an independent statutory Authority – the Food Safety and Standards Authority of India with head office at Delhi. Food Safety and Standards Authority of India (FSSAI) and the State Food Safety Authorities shall enforce various provisions of the Act.

Establishment of the Authority

Ministry of Health & Family Welfare, Government of India is the Administrative Ministry for the implementation of FSSAI. The Chairperson and Chief Executive Officer of Food Safety and Standards Authority of India (FSSAI) are appointed by Government of India. The Chairperson is in the rank of Secretary to Government of India.

Functions

1. Frame regulations to lay down the standards and guidelines in relation to articles of food and specifying appropriate system of enforcing various standards thus notified.
2. Lay down mechanisms and guidelines for accreditation of certification bodies engaged in certification of food safety management system for food businesses.
3. Lay down procedure and guidelines for accreditation of laboratories and notification of the accredited laboratories.
4. Provide scientific advice and technical support to Central Government and State Governments in the matters of framing the policy and rules in areas which have a direct or indirect bearing of food safety and nutrition.

5. Collect and collate data regarding food consumption, incidence and prevalence of biological risk, contaminants in food, residues of various, contaminants in foods products, identification of emerging risks and introduction of rapid alert system.
6. Create an information network across the country so that the public, consumers, panchayats, etc., receive rapid, reliable and objective information about food safety and issues of concern.
7. Provide training programmes to people who are involved or intend to get involved in food businesses.
8. Contribute to the development of international technical standards for food, sanitary and phyto-sanitary standards.
9. Promote general awareness about food safety and food standards.

Initiatives taken by FSSAI

1. Food Safety Voice

To secure National Food Safety, FSSAI wishes to bring each citizen on-board to share their concerns regarding food safety violations. This portal allows a consumer to share their concerns, know their rights, track Food Business Operators license/registration certificate authenticity and view related articles/videos on food safety.

Consumer can post their concern through either of the following modes:

- Web based
- Mobile based

Know Your Rights

1. A purchaser of food article may, if he so desires, can have the article analysed by the Food Analyst as per the provisions of the Act.
2. The purchaser shall pay the prescribed fee to the Food Analyst carrying out the analysis which will be refunded if the food sample is sub-standard.
3. The food analyst shall send to the purchaser his report on the analysis of the article of food and if the finding of the report is to the effect that the article of food is adulterated/misbranded/contaminated or does not conform to the standards prescribed under the act or the regulations, the purchaser shall be entitled to get a refund of the fees paid by him.

2. Labelling

It is mandatory that every package of food intended for sale should carry a label that bears all the information required under FSS (Packaging and Labelling) Regulation, 2011.

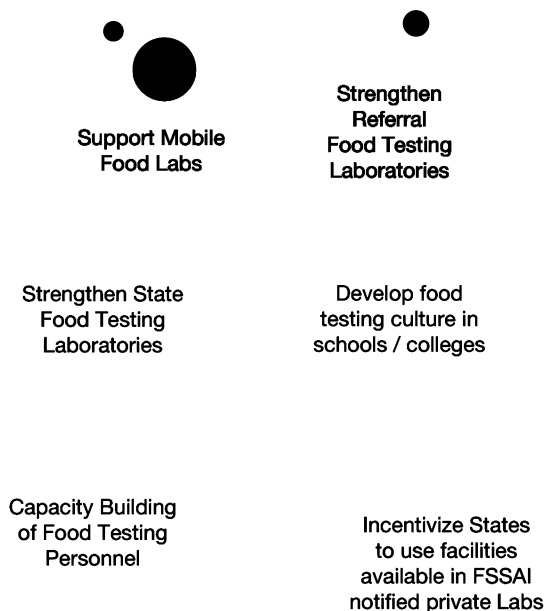
Food package must carry a label with the following information:

- Common name of the Product
- Name and address of the product's manufacturer
- Date of manufacture
- Ingredient list with additives

- Nutrition facts
- Best before/Expires on date
- Net contents in terms of weight, measure or count
- Packing codes/Batch number
- Declaration regarding vegetarian or non-vegetarian
- Country of origin for imported food

SoFTeL (Strengthening of Food Testing Laboratories)

Six Initiatives of the Scheme:



3. National Milk Quality Survey

Objective

A National Milk Quality Survey to assess the quality of milk with focus on unsafe/adulterated milk is being planned. The survey will be carried out in more than 120 cities across India which will be spread over all the states and Union Territories. Over 1700 samples will be picked up and tested for fat and SNF content and 13 common adulterants. Common sampling SOP has to be followed all over the country for picking up samples, sample transportation and delivery. Testing laboratories will follow common testing protocol provided by FSSAI for testing the samples.

- Over 1700 samples to be picked up.
- Survey to be carried out in all the States and Union territories across India.
- Active involvement of all stakeholders like State Food Safety Authorities, Dairy Co-operatives, Analytical Laboratories and Research Institutions.
- Tests to be carried out: FAT&SNF, Vegetable Oil, Detergent, Hydrogen Peroxide, Formalin, Sugar, Glucose, Urea, Starch, Boric Acid, Ammonium Sulphate, Nitrates, Cellulose Maltodextrin

8.4.19 Codex Alimentarius Commission

- The Codex Alimentarius Commission is an intergovernmental body of the United Nations, established by FAO and WHO in 1963.
- It develops harmonised international food standards, guidelines and codes of practice to protect the health of the consumers and ensure fair practices in the food trade.
- The Commission also promotes coordination of all food standards work undertaken by international governmental and non-governmental organisations.
- Codex standards and related texts are not a substitute for, or alternative to national legislation. Every country's laws and administrative procedures contain provisions with which it is essential to comply.
- Codex standards and related texts contain requirements for food aimed at ensuring for the consumer a safe, wholesome food product free from adulteration, correctly labelled and presented.

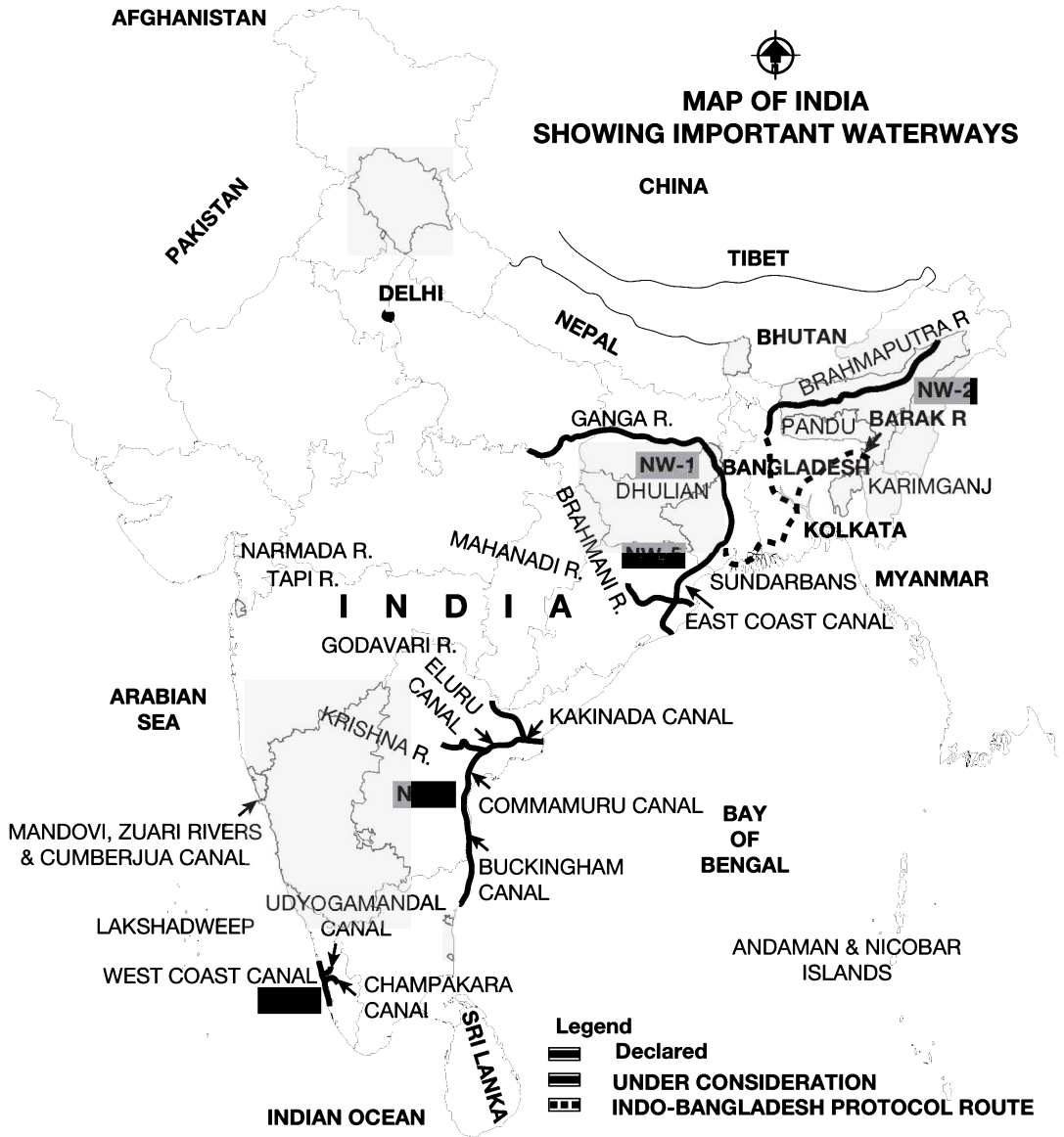
8.4.20 Inland Waterway Authority of India

The Inland Waterways Authority of India (IWAI) came into existence on 27th October, 1986 for development and regulation of inland waterways for shipping and navigation. The Authority primarily undertakes projects for development and maintenance of IWT infrastructure on national waterways through grant received from Ministry of Shipping. The head office of the Authority is at Noida. The Authority also has its regional offices at Patna, Kolkata, Guwahati and Kochi and sub-offices at Allahabad, Varanasi, Bhagalpur, Farakka, Hemnagar, Dibrugarh (Assam), Kollam, Bhubaneswar (Odisha) and Vijaywada (A.P.)

Inland water transport (IWT) offers cost effective, environment friendly and fuel-efficient mode of transport, especially for bulk goods, hazardous cargo and over-dimensional cargo.

Inland Waterways Authority of India is a statutory body duly constituted and established under Section 3 of Inland Waterways Authority of India Act, 1985, for the regulation and development of inland waterways for purposes of shipping and navigation and for matters connected therewith or incidental thereto.

India has about 14,500 km of navigable waterways which comprise of rivers, canals, backwaters, creeks, etc. About 55 million tonnes of cargo is being moved annually by Inland Water Transport (IWT), a fuel-efficient and environment-friendly mode of transport. Its operations are currently restricted to a few stretches in the Ganga-Bhagirathi-Hooghly rivers, the Brahmaputra, the Barak river, the rivers in Goa, the backwaters in Kerala, inland waters in Mumbai and the deltaic regions of the Godavari-Krishna rivers. Besides these organised operations by mechanised vessels, country boats of various capacities also operate in various rivers and canals and substantial quantum of cargo and passengers are transported in this unorganised sector as well.



Mandate

As per section 14 of IWAI Act, 1975, IWAI is mandated with the development and regulation of waterways which are declared as national waterways. 111 waterways have so far been declared as National waterways (NW). Besides NWs, IWAI is developing and maintaining the Indian side of Sunderbans waterways under the Indo-Bangladesh Protocol for transit and trade under which the inland vessels of one country can transit through specified routes of the other country.

Vision

To develop and maintain necessary infrastructure across national waterways in India with an aim of providing integrated logistics corridor which is efficient, safe and environment friendly.

Mission

The mission of IWAI is to regulate and develop inland waterways for the purpose of shipping and navigation by:

- Providing or permitting infrastructure facilities for national waterways.
- Carrying out surveys, investigations, conservancy measures, control activities, consultancy studies and research works in relation to the development, maintenance and management of national waterways and appurtenant land.
- Regulating construction or alteration of structures on or across or under the national waterways.
- Establishing and maintaining pilotage.
- Analysing the transport requirement with a view to coordinate inland water transport with other modes of transport.
- Executing all other works necessary for the safety and convenience of shipping and navigation and improvement of the national waterways etc.
- Advising MoS on matters related to IWT development.

IWT Policy

Inland Water Transport (IWT) is an economic, fuel-efficient and environment-friendly mode of transport. India has an extensive network of rivers, lakes and canals which, if developed for shipping and navigation, can provide an efficient network of inland transportation. An optimal mix of road, rail and inland water transport will provide an efficient transport infrastructure with mobility, flexibility and cost effectiveness. While the thrust so far has been in developing road and rail sectors, Government recognises the need to actively promote the IWT sector for it to take a reasonable share in the inter-modal mix of inland transport.

The Inland Waterways Authority of India Act, 1985 empowers the Government to declare waterways with potential for development of shipping and navigation as National Waterways and develop such waterways for efficient shipping and navigation. So far, waterways namely, the Ganga, the Brahmaputra and the West Coast Canal have been declared as National Waterways and are being developed for shipping and navigation by the Central Government.

The revival plan of Inland Water Transport would include increasing the coverage of National Waterways and provision of necessary infrastructure for shipping and navigation and in augmenting the IWT fleet. While there would be a need for budgetary support for the development of the IWT sector, equally important would be a large-scale private sector participation both for creation of infrastructure and for fleet operations.

The IWT strategy aims at generating a more pro-active role by various agencies for the development of this sector. It has now been decided to enlarge the scope of the role of the Government as a provider, facilitator and regulator and, at the same time, offer various concessions to the private sector for their effective participation by way of investment for creation of enhanced IWT infrastructure and fleet operations.

Functions

National Waterways

- Survey
- Navigation, infrastructure and regulations
- Fairway development
- Pilotage
- Coordination of IWT with other modes

General

- Advise Central Government
- Carry out hydrographic surveys
- Assist state governments
- Develop consultancy services
- Research and development
- Classification of waterways
- Standards and safety

Act, Rules, Regulations and Notifications

- The National Waterways Act, 2016
- Notification of The National Waterways Act, 2016
- IWAI Act, Regulations, Amendments & Classifications
- IV Act 1917 & Central Act
- Rule & Regulation Under IV Act 1917
- The synopsis of the statute on Inland Vessels

Indo-Bangladesh Protocol

An Inland water transit and trade protocol exists between India and Bangladesh under which inland vessels of one country can transit through the specified routes of the other country. The existing protocol routes are (i) Kolkata-Pandu-Kolkata, (ii) Kolkata-Karimganj-Kolkata, (iii) Rajshahi-Dhulian-Rajshahi and (iv) Pandu-Karimganj-Pandu. For inter-country trade, four ports of call have been designated in each country namely: Haldia, Kolkata, Pandu and Karimganj in India and Narayanganj, Khulna, Mongla and Sirajganj in Bangladesh. Under the Protocol, 50:50 cargo sharing by Indian and Bangladeshi vessels is permitted both for transit and inter-country trade. IWAI is the Competent Authority on Indian side.

Recent Updates

Development of Inland Waterways

Under the National Waterways Act, 2016, 111 inland waterways have been declared as National Waterways (NWs) in addition to the five existing NWs, across 24 states for utilising them as an environment friendly and sustainable mode of transport.

Out of these 111 NWs, the following waterways are operational:

- (i) NW-1: Ganga-Bhagirathi-Hooghly river system (Allahabad-Haldia)
- (ii) NW-2: River Brahmaputra
- (iii) NW-3: West Coast Canal (Kottapuram-Kollam) along with Udyogmandal and Champakara Canals

- (iv) NW -68: Mandovi
- (v) NW-97: Sundarbans waterways
- (vi) NW -111: Zuari

The **Jal Marg Vikas** Project has been commissioned for capacity augmentation of NW-1 (river Ganga) from Haldia to Varanasi with an objective to facilitate movement of 1500–2000 tonne vessels. The project has been undertaken with the technical and financial support of the World Bank at an estimated cost of ₹4200 crore. The project is scheduled to be completed in six years. Under this project, various sub projects include fairway development and construction of multimodal terminals at Varanasi, Sahibganj and Haldia and a new navigation lock at Farakka. On NW-2 (river Brahmaputra) a Ro-Ro service has started and a ship repair facility is being constructed at Pandu (Guwahati).

Commencement of development of six more waterways is planned in this financial year. These waterways are NW-4 (Kakinada–Puducherry Canal alongwith Krishna & Godavari Rivers), NW- 5 (East Coast Canal with Brahmani–Mahanadi Delta), NW-16 (Barak), NW-37 (Gandak), NW-40 (Ghagra River) and NW-58 (Kosi). The development of NW-4 and 5 has already been initiated.

Integrated National Transportation Waterway Grid Study

1. An Integrated National Waterways Transportation Grid (INTG) Study was undertaken by IWAI through RITES with an aim to link the National Waterways [viz. River Ganga from Haldia to Allahabad (NW-1: 1620 km), River Brahmaputra from Dhubri to Sadiya (NW-2: 891 km), West Coast Canal from Kottapuram to Kollam with Udyogmandal and Champakara Canals (NW-3: 205 km), Kakinada–Puducherry stretch of canals with River Godavari and River Krishna (NW-4: 1078 km), East Coast Canal with River Brahmani and River Mahanadi's delta (NW-5: 588 km), River Barak between Laxhipur–Bhanga (proposed NW-6: 121 km)] to National/ State Highways, Railways (wherever feasible) and Sea Ports (wherever feasible) so that all these waterways become an integral part of the total transportation grid.
2. As per outcome of this study an indicative investment of ₹22,763 crore is required to develop infrastructure such as fairway, terminals, ports, road and rail connectivity. This public investment is expected to attract private investment of about ₹65,600 crore on inland ship building ship repair and cargo movement in the IWT Sector by the end of the 13th Plan, that is, 2023.
3. Based on the outcome of the study, a Cabinet Note to undertake and implement the project for setting up of Integrated National Waterways Transportation Grid at an estimated cost of ₹2631 cr. for phase- I (2015- 18) and ₹20132 cr. for phase- ii (2018- 23) totalling ₹22763 cr. was prepared. Subsequently, an EFC Note for the proposal has since been circulated among the concerned Ministries for their concurrence.

Memorandum of Understanding (MoU) signed between IWAI and IPGPL on the Kaladan Multimodal Transit Transport Project

The Kaladan Multimodal Transit Transport Project (KMTTP) in Myanmar was conceptualised and is being administered by the Ministry of External Affairs (MEA) with a view to facilitate connectivity between the mainland and the North Eastern States of the country through maritime shipping, inland waterways and roads of Myanmar. The link between North Eastern States of India and Myanmar will pave the way for enhanced trade and commerce across

the border and enable cultural and social integration at the regional level. MEA had appointed Inland Waterways Authority of India (IWAI) as the Project Development Consultant (PDC) for the implementation of the Port and Inland Water Transport (IWT) component of the Kaladan Project on 19th March, 2009 and by Supplementary Agreement dated 28th April, 2016.

India Ports Global Private Limited (IPGPL) has been established as a Joint Venture between Kandla Port Trust and Jawaharlal Nehru Port Trust for the purpose of development of ports overseas. IPGPL was asked to partner IWAI in the Kaladan project as a sub-PDC. This was suggested mainly to use and develop the capabilities of IPGPL which has been created for a specialised purpose, completing the implementation of Kaladan project within the scheduled timeframe of April 2019 and to provide relief to IWAI whose responsibilities have increased manifold due to declaration of 106 new National Waterways and implementing the ambitious 'Jal Marg Vikas' project.

Accordingly, a Memorandum of Understanding (MoU) has been signed between IWAI and IPGPL on 1st June, 2016 for implementation of the following three additional works, which are independent of the ongoing works and are estimated to cost ₹476 crore.

- (i) Container handling facilities at Sittwe and Paletwa
- (ii) Operation and Maintenance of the completed works
- (iii) Wrecks removed in Sittwe Port basin area

IWAI shall remain as the overall PDC to MEA for implementation of PORT and IWT component of Kaladan project.

8.4.21 Insurance Regulatory and Development Authority

IRDA – Insurance Regulatory Development and Authority is the statutory, independent and apex body that governs and supervises the Insurance Industry in India..

It was created upon the recommendations by the **Malhotra Committee** report of 1994. The report recommended that an independent authority to regulate the insurance industry in India should be established.

Objective

- Promote the interest and rights of policy holders.
- Promote and ensure the growth of Insurance Industry.
- Ensure speedy settlement of genuine claims and to prevent frauds and malpractices
- Bring transparency and orderly conduct of in financial markets dealing with insurance.

Composition of Authority

IRDA, a **ten-member body** consists of:

- One Chairman (For 5 years and Maximum Age – 60 years)
- Five whole-time Members (For 5 years and Maximum Age – 62 years)
- Four part-time Members (Not more than 5 years)

The chairman and members of IRDAI are appointed by the **Government of India**

Functions of Insurance Regulatory and Development Authority

The Insurance Regulatory and Development Authority (IRDA) is a national apex regulatory agency of the Government of India. It performs the following functions with respect to the insurance sector in India.

- It issues the certificate of registration or renewal to Insurance companies, insurance agents or surveyors and Insurance brokers. To function in the insurance sector, a company has to register with the IRDA.
- IRDA protects the interests of the policyholders in matters like nomination by policyholders, assigning of the policy, insurable interest, surrender values of the policy, settlement of insurance claim, and various other terms involved in the conditions of contracts of insurance.
- It specifies the requisite qualification, practical training, and code of conduct for agents, insurance brokers, and surveyors.
- IRDA is involved in promoting efficiency in insurance business conduction.
- It promotes and regulates professional organisations that connect with the insurance and re-insurance business.
- IRDA also specifies the code of conduct for surveyors and loss assessors.
- It regulates the fees and other similar charges levied by the insurance companies, brokers, agents, surveyors, etc.
- IRDA controls the rates, advantages, and terms and conditions which are offered by the insurers.
- It specifies the form and manner in which books of accounts are to be maintained by the insurers and other insurance intermediaries.
- It regulates the investment of funds made by the insurance companies and firms.
- IRDA settles disputes between insurers and intermediaries, whenever they arise.
- It also regulates the maintenance of margin of solvency (to possess sufficient funds to settle insurance claim amounts).
- It specifies the percentage of premium income of the insurer that can go to finance schemes for promotion and regulation of professional organisations.
- It also specifies the percentage of life insurance business and general insurance business that can be undertaken by the insurer in the social and rural sector.
- It supervises the working of the Tariff Advisory Committee also.
- IRDA has the power to frame regulations regarding the Insurance market.
- It promotes competition among the insurance companies and insurers in order to enhance customer satisfaction, by providing increased choice to consumers. Like it allowed Health Insurance Portability.
- IRDA is also involved in the field of consumer education and assistance.

Recent Initiatives

Pension and Life Insurance Fund Scheme for NRIs

The government has approved the Pension and Life Insurance Fund (PLIF) for overseas Indian workers having Emigration Check Required passports in January, 2012. The objective of PLIF scheme is to encourage and enable overseas Indian workers by giving co-contribution to (a) save for their return and resettlement, (b) save for their old age and (c) obtain a low-cost life insurance cover against natural death during the period of coverage.

Overseas Indian workers with emigration check required (ECR) passports and aged between 18 and 50 years who are emigrating overseas or have already emigrated overseas on an employment/contract visa are eligible to join the PLIF scheme. The scheme will benefit overseas Indian workers with ECR passports in ECR countries. These countries are Afghanistan, Bahrain, Indonesia, Iraq, Jordan, Kuwait, Saudi Arabia, Libya, Lebanon, Malaysia, Oman, Qatar, Sudan, Syria, Thailand, United Arab Emirates and Yemen.

The Lump sum return and resettlement withdrawals as well as pension benefits through NPS-Lite shall be paid into the bank account of each individual PLIF subscriber. The workers would also be given life insurance cover against natural death during the period of coverage.

Insurance Cover to Disabled Persons

As per Insurance Regulatory and Development Authority of India (IRDAI) mentally challenged people get covered under medical insurance policies sold by Public Sector General Insurance Companies (PSGICs). Presently, the PSGICs provide mental illness cover to children if covered with or both parents simultaneously in the policy. Some PSGICs also provide mental illness cover to the persons under Employer–Employee Group Health Insurance Policies. While Life Insurance Risk coverage is offered to handicapped and mentally challenged persons by the life insurance companies (both public sector and private sector) based on their board approved underwriting policy, the disclosures made in the proposal form, every life insurance company will rate the people to be insured from the point of view of risk assessment and underwriting as standard or sub-standard lives in order to determine acceptance of proposal and the premium to be charged. While there are no restrictions for providing insurance facilities to handicapped and mentally challenged persons, it is the professional decision of the insurance company based on their own risk bearing capacity and approach. There are no specific regulations/guidelines issued by the Authority in this regard.

8.4.22 National Biodiversity Authority

The National Biodiversity Authority (NBA) was established in 2003 to implement India's Biological Diversity Act (2002). The NBA is an autonomous body that performs facilitative, regulatory and advisory function for Government of India on issue of conservation, sustainable use of biological resources and fair equitable sharing of benefits of use.

The Biological Diversity Act (2002) mandates implementation of the act through decentralised system with the NBA focusing on advice of the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilisation of biological resources; advice the State Government in the selection of areas of biodiversity importance to be notified under sub-section (1) of section 37 as heritage sites and measures for the management of such heritage sites;

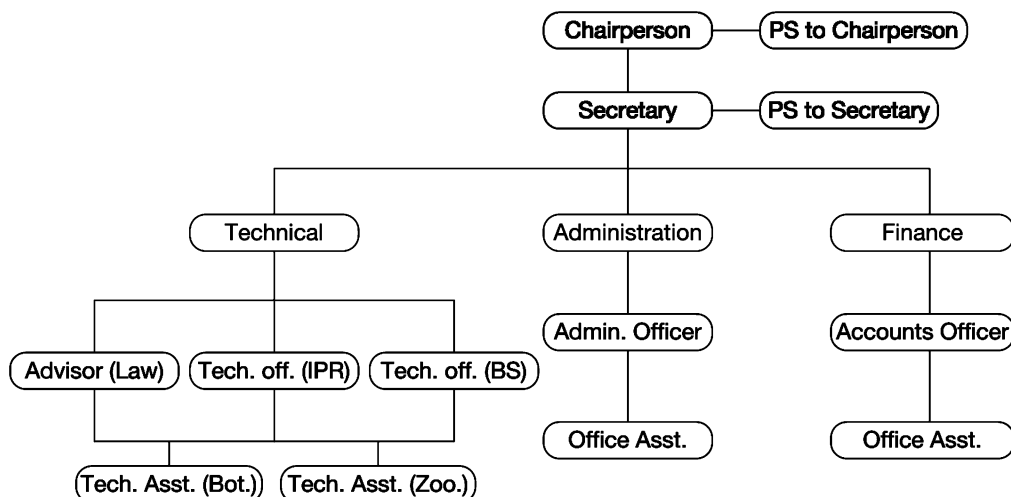
The State Biodiversity Board (SBBs) focuses on advice to the State Government, subject to any guidelines issued by the Central Government, on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of the benefits arising out of the utilisation of biological resources;

The SSBs also regulate, by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilization of any biological resource by Indians. The local level Biodiversity Management Committees (BMCs) are responsible for promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and microorganisms and chronicling of knowledge relating to biological diversity.

The NBA with its headquarters in Chennai, India delivers its mandate through a structure that comprises of the authority, secretariat, SBBs, BMCs and Expert Committees.

Since its establishment, NBA has supported creation of SBBs in 29 States, facilitated establishment of around 37,769 BMCs, advised notification.

Organisational Structure



Besides the above Officers and staff, the NBA is supported by the Consultants to assist in technical and miscellaneous matters as per Rule 12(6). The role of consultant is more or less similar to 'Amicus Curiae' in the Court of Law. Besides they assist Chairman and Secretary in preparation of scientific and position papers and project reports etc.

The functions of NBA include:

1. Creating an enabling environment, as appropriate, to promote conservation and sustainable use of biodiversity.
2. Advising the Government of India on matters relating to conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of utilisation of biological resources.
3. Regulating activities and issue guidelines for access to biological resources and for fair and equitable benefit sharing in accordance with the Sections 3, 4 and 6 of the Biological Diversity Act, 2002. Certain individuals/nationals/organisations require prior approval of NBA for obtaining biological resources and/or associated knowledge for use.
4. Taking necessary measures to oppose the grant of intellectual property rights in any country outside India on any biological resource obtained from India or knowledge associated with such biological resource derived from India illegally.
5. Advising the State Governments in the selection of areas of biodiversity importance.

Functional Committees

1. Expert Committee on Agro Biodiversity
2. Expert Committee on Normally Traded Commodities
3. Expert Committee on Access and Benefit Sharing
4. Expert Committee on Medicinal Plants
5. Expert Committee on Red Sanders
6. Expert Committee on Invasive Alien Species

Initiatives by NBA:**Centre for Biodiversity Policy and Law**

National Biodiversity Authority (NBA) has proposed to start a Centre for Biodiversity Policy and Law (CEBPOL) to deal with emerging and current biodiversity governance and policy related issues. The Government of Norway and India decided to collaborate and a letter of intent for technical and institutional cooperation was signed on 19th November, 2010 between Mr. Erik Solheim, Norwegian Minister of Environment and Development and Mr. Jairam Ramesh in New Delhi. The main objectives of the Centre include:

1. Provide professional support, advice and expertise to the Government of India and Norway on a sustained basis on matters relating to biodiversity policies and laws at the national level, as well as in international negotiations relating to biodiversity in multilateral forums.
2. Develop professional expertise in biodiversity-related policies and laws, inter alia through encouragement of research, development and training in matters relating to Convention on Biological Diversity, as well as its interface with other multilateral environment agreements and United Nations bodies.
3. Develop and implement an array of capacity building programmes through multidisciplinary research and customised training programmes for a wide range of stakeholders focusing on human resource development.
4. Facilitate interactive information sharing through web conferencing, web seminars and virtual meetings involving relevant research centres and environmental law associations within India, Norway and other countries where such expertise is available.
5. Help develop India as a regional and international resource centre for biodiversity policy and law through provision of training and human resource development.

8.4.23 Global Environmental Facility (GEF)

The objective of the UNEP-GEF MoEF project on ABS is to increase the institutional, individual and systemic capacities of stakeholders to effectively implement the Biological Diversity Act, 2002 and the Rules 2004 to achieve biodiversity conservation through implementing access and benefit sharing agreements in India.

This project is being implemented in 10 states of India namely Andhra Pradesh, Gujarat, Goa, Karnataka, Odisha, Telangana, Tripura, West Bengal, Himachal Pradesh and Sikkim. The executing organisation includes NBA in collaboration with the 10 SBBs, Botanical Survey of India (BSI), Zoological Survey of India (ZSI), United Nations Development Programme (UNDP), United Nations Environment Programme – Division of Environmental Law and Conventions (UNEP/DEL/C), United Nations University – Institute of Advanced studies (UNU-IAS) and Global Environment Facility (GEF).

The following are the objectives of the project:

- Develop standardised economic valuation methods for valuing biodiversity in the selected ecosystem
- Developing database on biological resources to tap ABS potential in project states
- Assessing and quantifying the economic value of biological diversity present at local, state and national levels using appropriate methodologies.

8.4.24 National Bank For Agriculture and Rural Development (NABARD) Genesis

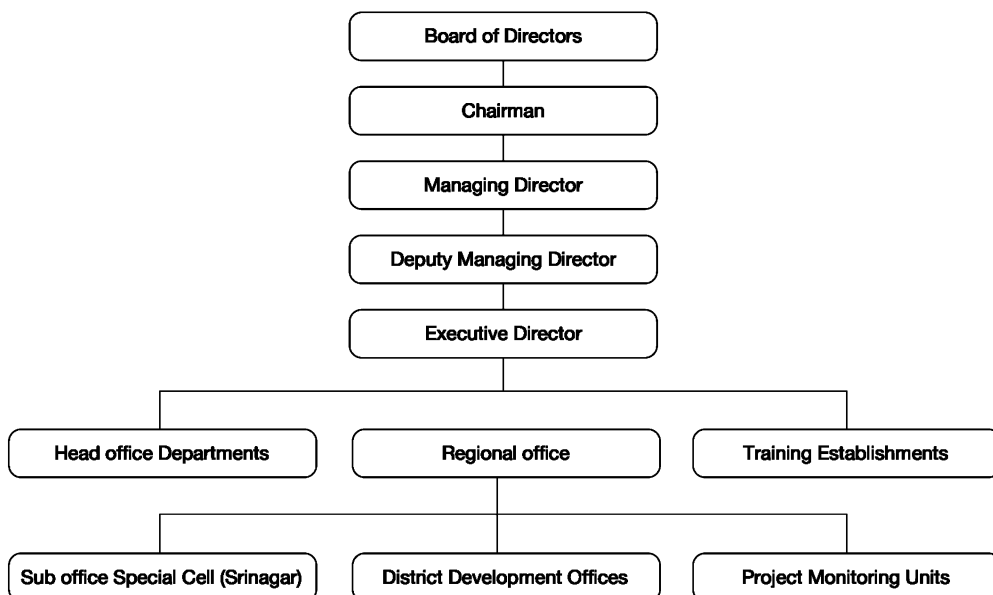
At the instance of Government of India, Reserve Bank of India (RBI) constituted a committee to review the arrangements for institutional credit for agriculture and rural development (CRAFICARD) on 30 March 1979, under the Chairmanship of Shri B. Sivaraman, former member of Planning Commission, Government of India to review the arrangements for institutional credit for agriculture and rural development. The Committee, in its interim report, submitted on 28 November 1979, felt the need for a new organisational device for providing undivided attention, forceful direction and pointed focus to the credit problems arising out of integrated rural development and recommended the formation of National Bank for Agriculture and Rural Development (NABARD). The Parliament, through Act 61 of 1981, approved the setting up of NABARD. The bank came into existence on 12th July, 1982 by transferring the agricultural credit functions of RBI and refinance functions of the then Agricultural Refinance and Development Corporation (ARDC). NABARD was dedicated to the service of the nation by the late Prime Minister Smt. Indira Gandhi on 05th November, 1982. NABARD was set up with an initial capital of ₹100 crore.

National Bank for Agriculture and Rural Development (NABARD) is an apex development bank in India, headquartered at Mumbai with branches all over India. The Bank has been entrusted with 'matters concerning policy, planning and operations in the field of credit for agriculture and other economic activities in rural areas in India'. NABARD is active in developing financial inclusion policy and is a member of the Alliance for Financial Inclusion.

Mission

Promote sustainable and equitable agriculture and rural prosperity through effective credit support, related services, institution development and other innovative initiatives.

Organisational Structure



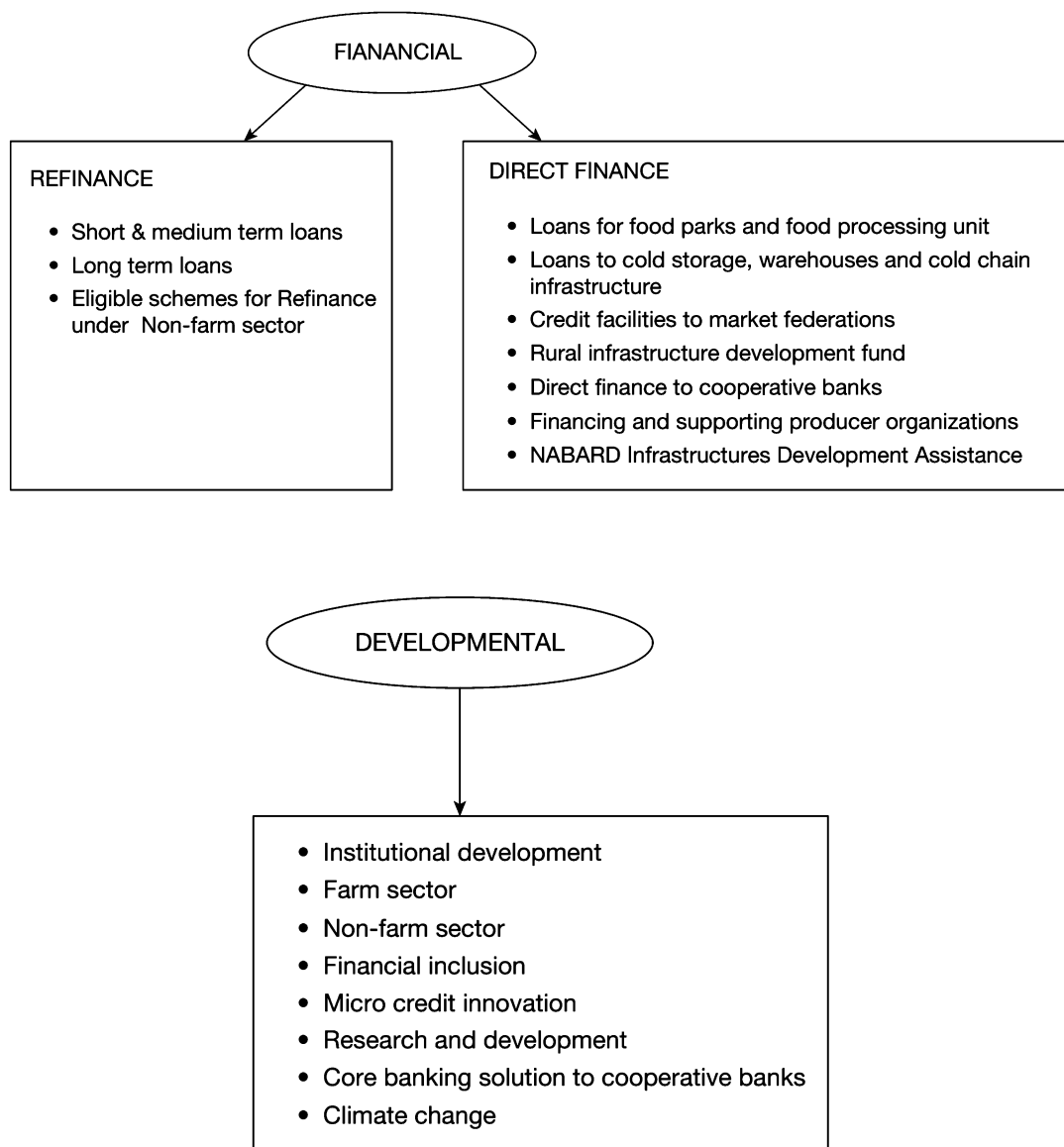
Role

NABARD has been instrumental in grounding rural, social innovations and social enterprises in the rural hinterlands. It has in the process partnered with about 4000 partner organisations in grounding many of the interventions be it SHG-Bank Linkage programme, tree-based tribal communities' livelihoods initiative, watershed approach in soil and water conservation, increasing crop productivity initiatives through lead crop initiative or dissemination of information flow to agrarian communities through Farmer clubs. Despite all this, it pays huge taxes too, to the exchequer – figuring in the top 50 tax payers consistently. NABARD virtually ploughs back all the profits for development spending, in their unending search for solutions and answers. Thus, the organisation had developed a huge amount of trust capital in its three decades of work with rural communities.

1. NABARD is the most important institution in the country which looks after the development of the cottage industry, small scale industry and village industry, and other rural industries.
2. NABARD also reaches out to allied economies and supports and promotes integrated development.
3. NABARD discharges its duty by undertaking the following roles:
 - Serves as an apex financing agency for the institutions providing investment and production credit for promoting the various developmental activities in rural areas.
 - Takes measures towards institution building for improving absorptive capacity of the credit delivery system, including monitoring, formulation of rehabilitation schemes, restructuring of credit institutions, training of personnel, etc.
 - Coordinates the rural financing activities of all institutions engaged in developmental work at the field level and maintains liaison with Government of India, state governments, Reserve Bank of India (RBI) and other national-level institutions concerned with policy formulation.
 - Undertakes monitoring and evaluation of projects refinanced by it.
 - Refinances the financial institutions which finances the rural sector.
 - Partakes in development of institutions which help the rural economy.
 - Keeps a check on its client institutes.
 - Regulates the institutions which provide financial help to the rural economy.
 - Provides training facilities to the institutions working in the field of rural upliftment.
 - Regulates the cooperative banks and the RRB's, and manages talent acquisition through IBPS CWE.

NABARD's refinance is available to state cooperative agriculture and rural development banks (SCARDBs), state cooperative banks (SCBs), regional rural banks (RRBs), commercial banks (CBs) and other financial institutions approved by the RBI. While the ultimate beneficiaries of investment credit can be individuals, partnership concerns, companies, state-owned corporations or cooperative societies, production credit is generally given to individuals

Functions



Functions of NABARD

Credit Functions

- Frame policy and guidelines for rural financial institutions.
- Provide credit facilities to issuing organisations.

- Monitor the flow of ground-level rural credit.
- Prepare credit plans annually for all districts for identification of credit potential.

Development Functions

- Help cooperative banks and regional rural banks to prepare development actions plans for themselves.
- Help regional rural banks and the sponsor banks to enter into MoUs with state governments and cooperative banks to improve the affairs of the regional rural banks.
- Monitor implementation of development action plans of banks.
- Provide financial support for the training institutes of cooperative banks, commercial banks and regional rural banks.
- Provide financial assistance to cooperative banks for building improved management information system, computerisation of operations and development of human resources.

Supervisory Functions

- Undertake inspection of regional rural banks and cooperative banks (other than urban/primary cooperative banks) under the provisions of Banking Regulation Act, 1949.
- Undertake inspection of state cooperative agriculture and rural development banks (SCARDBs) and apex non-credit cooperative societies on a voluntary basis.
- Provide recommendations to Reserve Bank of India on issues of licenses to cooperative banks, opening of new branches by state cooperative banks and regional rural banks.
- Undertakes portfolio inspections besides off-site surveillance of cooperative banks and regional rural banks.

Acts

- NABARD Act, 1981
- Banking Regulation Act
- Regional Rural Bank Act

Recent Initiatives

- NABARD has been accredited by the Green Climate Fund as an implementing entity for undertaking climate change related projects in India. NABARD has been accredited by GCF as **national implementing entity (NIE)** for undertaking climate change adaptation and mitigation projects from India. Accreditation to the NABARD, means that the national financial institution will act as a channel through which the GCF will deploy its resources in India. It also makes the bank eligible to identify communities and areas which are most vulnerable to climate change and submit proposals to the fund for financial support. The funding will support a range of activities including installation of renewable (solar, wind and bio-mass) energy, enabling farmers to grow drought-resistant crops.
- NABARD signed a Memorandum of Understanding (MoU) with **National Remote Sensing Center (NRSC)** for web-based monitoring of watershed projects. Under the MoU, Hyderabad-based NRSC, will create a separate page for NABARD on Bhuvan

web-portal develop customised software tool and mobile application for real-time monitoring, online comparison and visualisation with respect to activities implemented in the projects sanctioned by NABARD.

- NABARD started a pilot project for complete digitisation of women self-help groups (SHGs) to improve the quality of interface between members and banks for efficient and hassle free delivery of banking services with an objective to promote financial inclusion. Nabard has taken this proactive step to address issues and constraints faced by different stakeholders of the SHG bank linkage programme (SHG-BLP), such as need for improving the quality of interface between SHG members and banks, timely credit linkage of SHGs, challenges in book keeping by low literate clients and convergence with pro-poor government programmes

Digitisation will bring transparency, credibility to operations of SHGs through inbuilt grading MIS and thereby increasing the comfort of bankers in credit appraisal, disbursement and monitoring.

It will facilitate mainstreaming of SHG members with Aadhar-based financial inclusion and Pradhan Mantri Jan Dhan Yojana (PMJDY) enabling access to wide range of financial services, the process will ease transfer of social benefits and direct benefit transfer, leading to better participation of SHG members in PMJDY.

The ultimate beneficiary would be rural poor members of SHGs through easy e-book keeping of their records. The data of SHGs and their members will be fed into the input device (tablet/mobile handset) which will be uploaded in the secured and dedicated website, eshakti.nabard.org

8.4.25 National Green Tribunal

Introduction

The National Green Tribunal was established in 2010 under the act of National Green Tribunal Act, 2010.

Origin

During Rio-de-Janerio summit of United Nation Conference on Environment and Development in June 1992, India vowed to provide judicial and administrative remedies for the victims of pollutants and other environmental damage. Also India's move to Carbon Credit, so tribunal may play a vital role in ensuring the control of emission and maintain the desired levels.

India is the third country following Australia and New Zealand to have this tribunal.

Objective

It is for effective and expeditious disposal of cases related to environmental protection and conservation of forests and other natural resources including enforcement of legal right relation to environment and giving relief and compensation for damages to persons properly and for matters connected therewith or incidental hitherto.

The tribunal jurisdiction in environmental matter shall provide speedy justice and will reduce the burden of courts. It draws inspiration from the India's constitutional provision of Article 21, which assures the citizen of India the right to healthy environment.

This set is proposed to set up five sitting place of tribunal. New Delhi is the principle place of sitting of tribunal and Bhopal, Pune, Kolkata and Chennai shall be the other four sitting places of the tribunal.

Composition

Members and their Qualification

- It has a full-time chairperson. The person should have been either a judge of India's Supreme Court or Chief justice of a High Court in India.
- It has full-time judicial members at least 10 to maximum 20 members. The member should also be judge of Supreme Court, or Chief Justice or judge of High Court.
- It has a full-time expert members at least 10 to 20 in numbers. A member should have either a degree in Master of Science (in physical sciences or life sciences) with a doctorate degree or Master of Engineering or Master of Technology. and should have an experience of 15 years in the relevant field and administrative experience of 15 years in Central or a State Government or in a reputed national- or state-level institution.

Appointments

- Appointment of member is done by Central Government.
- Appointment of chairperson is done by Central Government in consultation with Chief Justice of India.
- Judicial members and expert members of the tribunal are appointed on the recommendation of such selection committee.
- Chairperson, judicial members and expert members hold office for five years.
- Maximum age of chairperson is 70 years if he has been a Supreme Court judge and 67 years if he has been a High Court judge.
- Chairperson can be removed from his office via an order made by the Central Government after an inquiry made by the Supreme Court in which the such chairperson or judicial members has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Jurisdiction

The NGT has the power to hear **all civil cases relating to environment** that are linked to the implementation of laws listed in schedule - I of the NGT act.

These includes the following:

- The Water (prevention and control of pollution) Act, 1974.
- The Water (prevention and control of pollution) Cess Act, 1977
- The Forest (conservation) Act, 1980
- The Air (prevention and control of pollution) Act, 1981
- The Environment (Protection) Act, 1986.
- The Public Liability Insurance Act, 1991
- The Biological Diversity Act, 2002

If any violation pertaining to these laws or order or decision making by the government under these laws should be challenged before the NGT and civil court cannot hear matter relating to the NGT. Importantly, NGT has not been vested with power relating to Wildlife (protection) Act, 1972, the Indian Forest Act 1927 and various laws enacted by state legislature to forest, tree preservation, etc.

Review and Appeal

Under Rule 22 of the NGT rule, there is a provision for seeking a review of a decision or order of the NGT. If this fails, an NGT order can be challenged before the Supreme Court within 90 days.

Importance of NGT

1. India is one of only few countries to have to specialised environmental court system, that is, NGT.
2. It permits direct access to environmental justice.
3. It reduces the pressure and burden on the High Courts and Supreme Courts.
4. It aims to achieve the objective of Article 21 (Protection of Life). Article 47, (Duty of state to raise the level of nutrition and the standard of living to improve public health. Article 51A-g (to protect and improve the natural environment including forest lakes, rivers and wild life and to have compassion for living creature).
5. NGT regulation towards environment paves a way to attain sustainable development, goal of UN.
6. Today, there is a fear among industry and environment regulations that some action would be taken if a case is heard by NGT.

Recent Judgments

1. In a landmark judgment, NGT banned light and heavy diesel vehicles, which are more than 10-years old in six major cities of Kerala, including state capital Thiruvananthapuram and commercial capital Kochi and other cities like Kollam, Thrissur, Kozhikodu and Kannur.
2. NGTs notice to states and union territories on effective implementation of the Biological Diversity Act is timely.
3. NGT passed the order that 'Manja' posed a threat to the environment and imposed interim ban because manja being coated with glass, metals and other sharp material and the strings act as good conductor of electricity.
4. NGT directed a Panama-based shipping company and its two Qatar-based sister concerns to pay ₹100 crore as damages for causing an oil spill when a cargo vessel sank off at Mumbai coast in 2011.
5. NGT announced a fine of ₹5000 on those using pressure horns and for removing silencers from their vehicles and causing noise pollution.
6. The Southern Bench of the National Green Tribunal suspended the Environmental Clearance (EC) granted to the India-based Neutrino Observatory (INO) that was to come up in Theni and asked the project proponent to make a fresh application.
7. NGT has imposed an environmental compensation of ₹15 crore on a charitable hospital in Dwaraka in Delhi for beginning construction without environmental clearance.
8. NGT assessed the damage caused to the Yamuna flood plain in Delhi where the World Culture Festival was held and found that the event had extensively damaged Yamuna floodplain.

Criticism

1. NGT decision can be challenged before the Supreme Court as well as High Court under Article – 226. This weakens the tribunal and penalty imposed on convict is postponed sometimes.

2. In a recent issue of Yamuna floodplain, a large number of vegetation cover was destroyed. NGT imposed only fine instead of protecting the forest before it gets destroyed.
3. Despite the high percentage of cases being disposed of, there is also an increasing backlog of cases in NGT. It reduces the trust of tribunal among the people.
4. Usually, the expert members are experts of one particular field and not of environment as a whole. This reduces the quality of judgment.
5. NGT is based only in big cities, when the problem arises in rural or tribal areas, people cannot afford to approach and pursue the case before NGT.

8.4.26 National Housing Bank

National Housing Bank (NHB), a wholly owned subsidiary of Reserve Bank of India (RBI), was set up on 9 July 1988 under the National Housing Bank Act, 1987. NHB is an apex financial institution for housing. NHB has been established with an objective to operate as a principal agency to promote housing finance institutions both at local and regional levels and to provide financial and other support incidental to such institutions and for matters connected therewith.

NHB registers, regulates and supervises Housing Finance Company (HFCs), keeps surveillance through on-site and off-site mechanisms and coordinates with other regulators.

Genesis

- The sub-group on housing finance for the Seventh Five Year Plan (1985–1990) identified the non-availability of long-term finance to individual households on any significant scale as a major lacuna impeding progress of the housing sector and recommended the setting up of a national-level institution.
- The Committee of Secretaries considered the recommendation and set up a high-level group under the Chairmanship of Dr. C. Rangarajan, the then Deputy Governor, RBI to examine the proposal and recommended the setting up of National Housing Bank as an autonomous housing finance institution. The recommendations of the high-level group were accepted by the Government of India.
- The Hon'ble Prime Minister of India, while presenting the Union Budget for 1987–1988 on 28th February, 1987 announced the decision to establish the National Housing Bank (NHB) as an apex-level institution for housing finance. Following that, the National Housing Bank Bill (91 of 1987) providing the legislative framework for the establishment of NHB was passed by the Parliament in the winter session of 1987 and with the assent of the Hon'ble President of India on 23rd December, 1987, it became an Act of Parliament.
- The National Housing Policy, 1988 envisaged the setting up of NHB as the apex-level institution for housing.
- In pursuance of the above, NHB was set up on 9th July, 1988 under the National Housing Bank Act, 1987.
- NHB is wholly owned by Reserve Bank of India, which contributed the entire paid-up capital.
- The general superintendence, direction and management of the affairs and business of NHB vest, under the Act, in a Board of Directors.
- The Head Office of NHB is at New Delhi.

Preamble

The Preamble of the National Housing Bank Act, 1987 describes the basic functions of the NHB as

‘... to operate as a principal agency to promote housing finance institutions both at local and regional levels and to provide financial and other support to such institutions and for matters connected therewith or incidental thereto ...’

Vision

Promoting inclusive expansion with stability in housing finance market

Mission

To harness and promote the market potentials to serve the housing needs of all segments of the population with the focus on low and moderate income housing

Objectives

NHB has been established to achieve, inter alia, the following objectives:

- Promote a sound, healthy, viable and cost-effective housing finance system to cater to all segments of the population and to integrate the housing finance system with the overall financial system.
- Promote a network of dedicated housing finance institutions to adequately serve various regions and different income groups.
- Augment resources for the sector and channelise them for housing.
- Make housing credit more affordable.
- Regulate the activities of housing finance companies based on regulatory and supervisory authority derived under the act.
- Encourage augmentation of supply of buildable land and also building materials for housing and to upgrade the housing stock in the country.
- Encourage public agencies to emerge as facilitators and suppliers of serviced land for housing.

Regulation

- In terms of the National Housing Bank Act, 1987, National Housing Bank is expected, in the public interest, to regulate the housing finance system of the country to its advantage or to prevent the affairs of any housing finance institution being conducted in a manner detrimental to the interest of the depositors or in a manner prejudicial to the interest of the housing finance institutions. For this, National Housing Bank has been empowered to determine the policy and give directions to the housing finance institutions and their auditors.
- Besides the regulatory provisions of the National Housing Bank Act, 1987, National Housing Bank has issued the Housing Finance Companies (NHB) Directions, 2001 as also Guidelines for Asset Liability Management System in Housing Finance Companies. These are periodically updated through circulars and notifications. As part of the supervisory process, an entry-level regulation is sought to be achieved through a system of registration of housing finance companies.
- National Housing Bank supervises the sector through a system of on-site and off-site surveillance.

Schemes

Energy Efficient Housing Scheme (EEHS)

- NHB has formulated a scheme called Energy Efficient Housing Scheme (EEHS), 2011 for lending towards energy efficient housing units/buildings. The objective of the Scheme is to provide refinance assistance to Housing Finance Companies (HFCs) in respect of their direct lending up to ₹50 lakhs to individuals for purchase/construction of new energy efficient housing units in urban areas. While the broad policy framework, eligibility of HFCs for refinance, operational procedures are the same as for the other schemes of refinance there are certain changes in terms and conditions and eligibility of the end borrower. This self-contained brochure containing all necessary information is given as under. This scheme was launched in financial year 2011–2012. The disbursement made under the scheme (from 01st July, 2011 to 07th June, 2012) was ₹81.36 crore.
- HFCs are expected to utilise this refinance assistance and assist such persons to have an energy-efficient shelter of their own by extending need-based housing loans to them. HFCs are also encouraged to avail of refinance from NHB under its other scheme to enable 'leverage' of EEHS so that the principal objective of increasing housing stock in the urban areas is served.
- Refinance from NHB will be available to the extent of 100% of housing loans sanctioned and disbursed by the HFCs for acquisition/construction of new housing units, in accordance with the provisions of the scheme. The refinance assistance under this dispensation would remain valid up to 30th December, 2013 or till such further time as decided by NHB.

1. Pradhan Mantri Awas Yojana

National Housing Bank, the central nodal agency for the implementation of Pradhan Mantri Awas Yojana-Credit Linked Subsidy Scheme. Credit Linked Subsidy will be available for housing loans availed for new construction and addition of rooms, kitchen, toilet etc. to existing dwelling as incremental housing. The beneficiaries are individuals from Economically Weaker Section(EWS) and Low Income Group (LIG) seeking housing loans from banks, housing finance companies and other such institutions. Housing and Urban Development Corporation (HUDCO) and National Housing Bank (NHB) have been identified as Central Nodal Agencies (CNAs) to channelise this subsidy to the lending institutions and for monitoring the progress of this component.

2. Solar Capital Subsidy Scheme

The Scheme will be known as Loan-cum-Capital Subsidy Scheme for installation of solar water heating and solar lighting equipment in homes. The objective of the scheme is to channelise the capital subsidy provided by the MNRE for purchase and installation of (a) solar water heating equipment and (b) solar lighting equipment in homes. The capital subsidy routed by NHB through the implementing Primary Lending Institutions (PLIs) will be passed on by them to their borrowers together with the loan for purchase of the equipment. The subsidy will be applicable only on purchase and installation of solar water heating and/or solar lighting equipment which conform to the specifications of the MNRE as provided on MNRE's website, www.mnre.gov.in, or as specified separately.

3. Credit Risk Guarantee Fund Trust for Low Income Housing

The urban affordable housing deficit is estimated to be about 26 million. The total housing loan outstanding was about ₹3.06 lakh crore of which only about 24% is for loans up to ₹5 lakhs of which only a part is estimated as flowing to the economically weaker sections and low income groups. The establishment of such a government-supported Credit Risk Guarantee Fund would facilitate credit enablement of the urban poor and the flow of institutional finance for affordable housing. The Credit Risk Guarantee Fund (CRGF) is intended to act as a risk-mitigant, thereby enhancing the confidence of the lending institutions in lending to this segment.

The CRGF Trust will administer and operate the CRGF Scheme. The key principle of the CRGF Scheme is that the lender shall secure the housing construction/upgradation loan purely on the assets financed, without any other collateral.

8.4.27 National Pharmaceutical Pricing Authority

NPPA is an organisation of the Government of India which was established, inter alia, to fix/revise the prices of controlled bulk drugs and formulations and to enforce prices and availability of the medicines in the country, under the Drugs (Prices Control) Order, 1995. The National Pharmaceutical Pricing Authority (NPPA) was established through a Government of India Resolution on August 29, 1997. NPPA is responsible for the implementation of the National Pharmaceutical Pricing Policy, 2012 and the Drugs (Prices Control) Order (DPCO), 2013. Drug price control, which is prevalent in one form or the other throughout the world, assumes special importance, as it directly impacts the quality of public health.

Established as an independent body of experts to be called as the National Pharmaceutical Pricing Authority, consisting of a Chairperson in the status of the Secretary to the Government of India, Members having expertise in the field of pharmaceuticals, economics and cost accountancy and Member Secretary in the status of Joint Secretary/Additional Secretary to the Government of India, and the same is entrusted with the task of price fixation revision and other related matters such as updating the list of drugs under price control by inclusion and exclusion on the basis of the established criteria/guidelines. The National Pharmaceutical Pricing Authority shall be empowered to take final decisions, which shall be subject to review by the Central Government as and when considered necessary. The Authority shall also monitor the prices of decontrolled drugs and formulations and oversee the implementation of the provisions of the Drugs (Prices Control) Order

The headquarters of the authority is at New Delhi.

The organisation is also entrusted with the task of recovering amounts overcharged by manufacturers for the controlled drugs from the consumers. It also monitors the prices of decontrolled drugs in order to keep them at reasonable levels.

With a view to carrying out its functions in a holistic manner, the NPPA maintains close coordination with the concerned Ministries of the Central Government, State Governments, industry associations, consumers and other stakeholder organisations. The price fixation notifications are uploaded on website along with the calculation sheets which has ensured absolute transparency in the process. NPPA also entertains representation from industry and open to any correction if needed.

NPPA is governed by the provision of DPCO, 2013

Salient features of DPCO, 2013.

1. Drug formulations listed under the National List of Essential Medicines are under price control.
2. Ceiling price calculations are based on 'market based data' as opposed to 'cost based inputs' under DPCO, 1995.
3. It controls only drug formulation price as opposed to both bulk drugs and their formulation under DPCO, 1995.

Aim

The primary aim of the NPPA is to ensure adequate availability of essential and life-saving drugs at affordable prices and in doing so, it carefully balances the interests of both the producers and the consumers.

Parent Department

Department of Pharmaceuticals, Ministry of Chemicals and Fertilizers

Constitution of Authority

The constitution of NPPA is as under

- Chairman (in the rank of Secretary/Addtional Secretary to Govt. of India).
- Member Secretary (in the rank of Joint Secretary to Government of India).

Ex-Officio Members

- Drugs Controller General (India), Department of Health.
- Economic Adviser, Department of Economic Affairs
- Adviser (Cost), Department of Expenditure

Functions of National Pharmaceutical Pricing Authority

- Implement and enforce the provisions of the drugs (prices control) order in accordance with the powers delegated to it.
- Deal with all legal matters arising out of the decisions of the Authority.
- Monitor the availability of drugs, identify shortages, if any, and to take remedial steps.
- Collect/Maintain data on production, exports and imports, market share of individual companies, profitability of companies etc, for bulk drugs and formulations.
- Undertake and/ or sponsor relevant studies in respect of pricing of drugs/ pharmaceuticals.
- Recruit/Appoint the officers and other staff members of the Authority, as per rules and procedures laid down by the Government.
- Render advice to the Central Government on changes/ revisions in the drug policy.
- Render assistance to the Central Government in the parliamentary matters relating to the drug pricing.

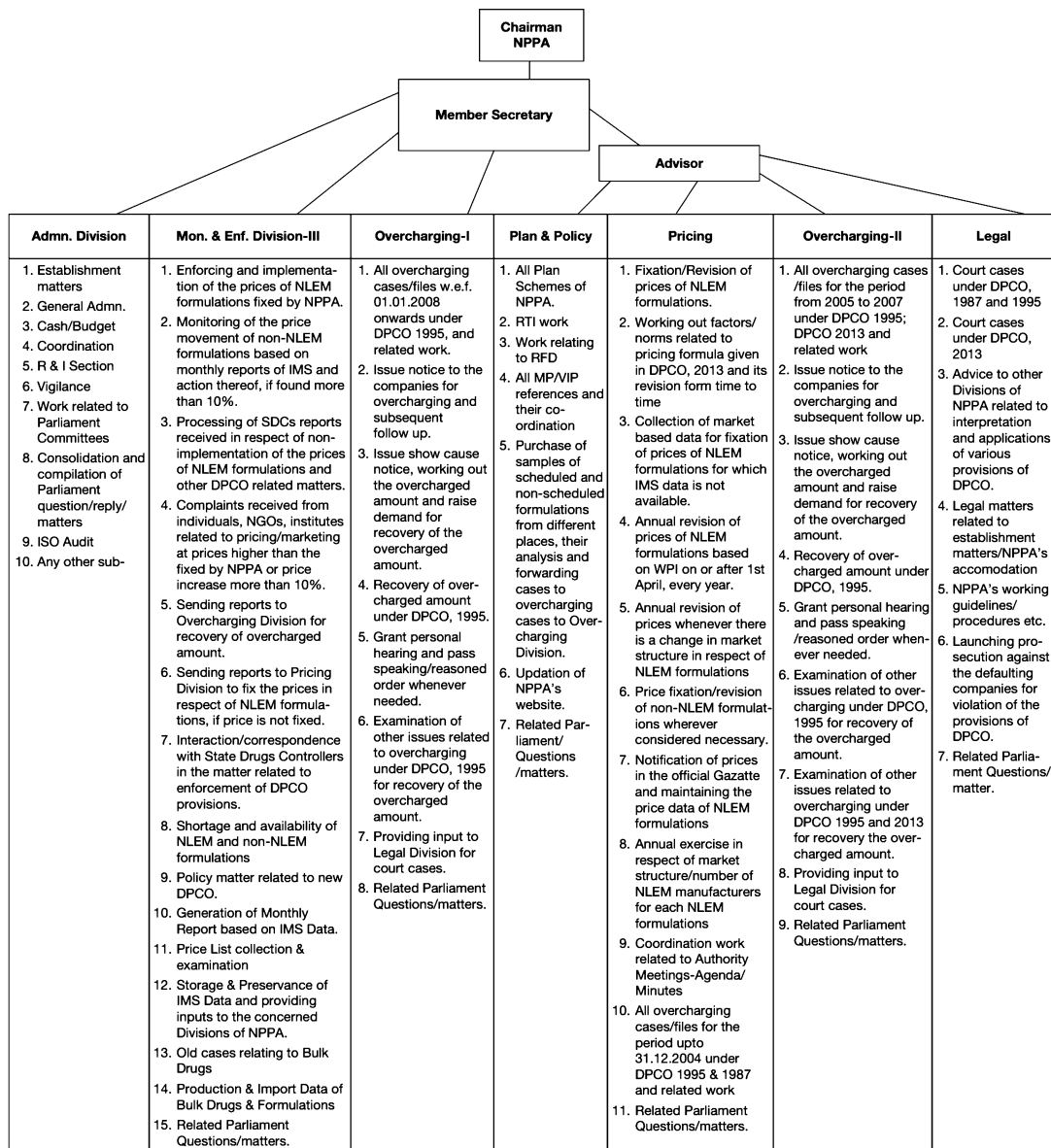
Integrated Pharmaceutical Database Management System (IPDMS)

The online platform Integrated Pharmaceutical Database Management System (IPDMS) enables online submission of mandatory forms prescribed. IPDMS when fully operational will bring in better transparency and facilitate monitoring and enforcement. In spite of several earnest appeals to all the drug manufacturers to submit the required information within the stipulated

period of time and several extensions of the deadline, the response from the industry so far has been unsatisfactory. NPPA has now been constrained to issue show cause notices to individual manufacturers for non-compliance.

Pharma Jan Samadhan (PJS)

The Pharma Jan Samadhan (PJS), a public grievance portal was launched last year, to facilitate the submission of grievances by the public. PJS has a web-enabled system as well as telephonic helpline. NPPA is committed to redress all the public grievances coming to its notice on priority. An internal guideline in order to streamline the process of recovery from the companies



indulging in overpricing the medicines and violating various provisions of DPCO, 2013 has been uploaded on the website to ensure transparency and uniformity in dealing with such cases. NPPA has further strengthened its monitoring system for ensuring price compliance and there are about 2700 cases of price violation under examination.

Drug Policies

Drug Policy 1986

National Pharmaceutical Pricing Policy 2012

Drug (Price Control) Order 2013

Methodology/Procedure for price fixation or revision of bulk drugs

As per par 3 of DPCO, 1995 prices of scheduled bulk drugs are fixed by the NPPA to make them available at a fair price from different manufacturers. These prices are fixed from time to time by notification in official gazette.

Following steps are involved in fixation/revision of bulk drug prices :

Step 1: Identification of bulk drugs

Bulk Drugs are taken up for study on the following basis:

- (i) Whose validity period is due to expire.
- (ii) Request from the concerned manufacturer/company.
- (iii) Drug produced in the country for which no price has been notified under DPCO, 1995.

Step 2: Collection of data

Data is collected by issuing questionnaire/Form I of DPCO, 1995/cost-audit report etc. and verification by plant visits, if required.

Step 3: Preparation of actual cost statement

Actual cost for the year for which data is submitted is prepared based on data submitted / collected and verified during plant visit.

Step 4: Preparation of technical parameters

Technical parameters are prepared based on data submitted, collected and verified during plant visits. Plant capacity is assessed considering 330 working days for normal operation of plant leaving 35 days for scheduled maintenance of plant. The achievable production level is considered at 90% utilisation of assessed capacity allowing 10% production loss on account of unforeseen break down and non-scheduled maintenance.

Step 5: Preparation of estimated cost

The estimated cost for the pricing period are then prepared based on actual cost and the technical parameters. While projecting the future cost, an increment is recognised at 5% per annum in respect of salaries and wages. Wage agreement, if any, which has been finalised and signed is also recognised while preparing the estimates. In respect of other overheads of fixed/semi-variable nature, increase at 2.5% per annum is made to cover the normal incremental effects. The customs duty and other taxes as per the current budget are considered.

Step 6: Calculation of fair price of bulk drug

Fair price is calculated by providing returns as specified in sub para (2), para 3 of DPCO, 1995.

While fixing the maximum sale price of the bulk drug, a post tax return of 14% on net-worth or a return of 22% of capital employed or in respect of a new plant an internal rate of return of 12% based on long-term marginal costing is considered depending upon the option

exercised by the manufacturer of the bulk drug. In case, the production is from basic stage, additional 4% return is considered on net worth/capital employed.

Step 7: Fixation of maximum sale price of the drug

When the number of manufacturers of the said drug is more than one, the maximum sale price is fixed at 2/3rd cut-off level or weighted average price, depending upon the situation.

Step 8: Notification of bulk drug price in official gazette

| Suo-motu Pricing | | Pro-rata Pricing |
|------------------|---|--|
| Who Fixes? | NPPA | Manufacturers |
| | The NPPA also fixes/revises prices of both bulk drugs and formulations on suo-motu basis, where it is felt that manufacturers are not filing their applications as per the provisions of the DPCO, 1995 after the decrease in bulk drug prices and statutory duties, etc. | NPPA has issued notification on pro -rata pricing on 27th January, 1998. According to this notification, the manufacturers of all the scheduled formulation pack sizes different from the notified pack sizes under sub- paragraphs (1) and (2) of the paragraph 9 of the DPCO, 1995, shall have to work out the price for such pack sizes, in respect of tablets and capsules of the same strength or composition packed in different strips or blisters, on pro-rata basis of the latest ceiling price fixed |
| Purpose | This is done to ensure with a view to passing on the benefits of such decreases to the consumers, suo-motu price is fixed. | <ul style="list-style-type: none"> • This is done to ensure that manufacturers are not forced to approach frequently for price approvals for different pack sizes. • the manufacturers do not change the pack sizes in a bid to remain out of price control. |

NPPA-CIFG

As part of consumer awareness for dissemination of information regarding drug pricing and availability and also to create an online facility for logging complaints with NPPA on the above issues, a scheme for setting up an Internet-based centre for information, facilitation and grievances has been started in consultation with NIC. The objective is to disseminate information on the availability and the notified price of scheduled drugs and formulations and to create consumer awareness and facilitate speedy complaint redressal on

- overcharging in [prices of] scheduled formulations.
- non-availability or shortage of any medicine.
- sale of scheduled formulations without prior price approval of NPPA.

Any individual or organisation may lodge complaint through Internet directly to NPPA. Action on any complaint received with required information has to be initiated within 30 days by NPPA.

NPPA-CIFG are being set up on pilot basis initially in five states namely, Tamil Nadu, Maharashtra, Bihar, West Bengal and Gujarat. These centres are proposed to be run by a local NGO recommended by the State Government. The NGOs are required to provide space for the NPPA-CIFG in a prominent location, easily accessible to people in the selected city. The NGOs are being given the permission to run this centre initially for a

period of 3 years. They are required furnish through the State Government to NPPA an agreement in prescribed form for running and operating the centre. The NGOs have also to execute indemnity bonds in respect of the hardware and software to be provided under the scheme to them by NPPA through the State Government. Following hardware and software are being provided

- Desktop computer
- Scanner
- Laser printer
- MS Office software
- Software on online complaint submission and redressal system
- Internet connectivity

NPPA-CIFG is being funded by NPPA for hardware, software and connectivity and the project is implemented by NIC. The NPPA-CIFG will be run and operated by NGO selected by the state government.

NPPA has already extended the facility of online complaint redressal by providing connectivity with 555 CICs in North-East States and 135 CICs in Jammu and Kashmir. This scheme has also been linked to 10 centres in various government buildings in New Delhi.

8.4.28 Press Council of India (PCI)

Press Council is a mechanism for the Press to regulate itself. The *raison d'être* of this unique institution is rooted in the concept that in a democratic society the press needs at once to be free and responsible. If the Press is to function effectively as the watchdog of public interest, it must have a secure freedom of expression, unfettered and unhindered by any authority, organised bodies or individuals. But, this claim to press freedom has legitimacy only if it is exercised with a due sense of responsibility. The Press must, therefore, scrupulously adhere to accepted norms of journalistic ethics and maintain high standards of professional conduct.

The Press Council of India was first set up in the year 1966 by the Parliament on the recommendations of the First Press Commission with the object of preserving the freedom of the press and of maintaining and improving the standards of press in India. The present council functions under the Press Council Act 1978. It is a statutory, quasi-judicial body which acts as a watchdog of the press. It adjudicates the complaints against and by the press for violation of ethics and for violation of the freedom of the press, respectively.

The basic concept of self-regulation in which the Press Councils and similar media bodies world over are founded, was articulated by Mahatma Gandhi, who was an eminent journalist in his own right, and according to him:

‘The sole aim of journalist should be service. The newspaper press is a great power, but just as unchained torrent of water submerges the whole country side and devastates crops, even so an uncontrolled pen serves but to destroy. If the control is from without, it proves more poisonous than want of control. It can be profitable only when exercised from within.

The fundamental objective of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased, sober and decent manner. To this end, the Press is expected to conduct itself in keeping with certain norms of professionalism, universally recognised.

Composition

The Council is headed by a Chairman, who has by convention, been a retired judge of the Supreme Court of India. The council consists of 28 other members of whom 20 represent the press and are nominated by the press organisations/news agencies recognised and notified by the Council as all India bodies of categories such as editors, working journalists and owners and managers of newspaper and news agencies, five members are nominated from the two Houses of Parliament and three represent cultural, literary and legal fields as nominees of the Sahitya Academy, University Grants Commission and the Bar Council of India.

Press Council Act, 1978

Objects and Functions of the Council

1. The objects of the Council shall be to preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies in India.

The Council may, in furtherance of its objects, perform the following functions, namely:

- a. Help newspapers and news agencies to maintain their independence.
- b. Build up a code of conduct for newspapers, news agencies, journalists in accordance with high professional standards.
- c. Ensure on the part of newspapers, news agencies and journalists, the maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizenship.
- d. Encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism.
- e. Keep under review any development likely to restrict the supply and dissemination of news of public interest and importance.
- f. Keep under review cases of assistance received by any newspaper or news agency in India from any foreign source including such cases as are referred to it by the Central Government or are brought to its notice by an individual, association or persons or any other organisation. Provided that nothing in this clause shall preclude the Central Government from dealing with any case of assistance received by a newspaper or news agency in India from any foreign source in any other manner it thinks fit.
- g. Undertake studies of foreign newspapers, including those brought out by any embassy or other representative in India of a foreign State, their circulation and impact.

Functioning of the Council

The Council discharges its functions primarily through the medium of its Inquiry Committees, adjudicating on complaint cases received by it against the Press for violation of the norms of journalism or by the Press for interference with its freedom by the authorities. There is a set procedure for lodging a complaint with the Council.

A complainant is required essentially to write to the editor of the respondent newspaper, drawing his attention to what the complainant considers to be in breach of journalistic ethics or an offence against public taste. Apart from furnishing to the Council a cutting of the matter complained against, it is incumbent on the complainant to make and subscribe to a declaration that to the best of his knowledge and belief he has placed all the relevant facts before the Council and that no proceedings are pending in any court of law in respect of any matter alleged

in the complaint; and that he shall inform the Council forthwith if during the pendency of the inquiry before the Council any matter alleged in the complaint becomes the subject matter of any proceedings in a court of law. The reason for this declaration is that in view of Section 14(3) of the Act, the Council cannot deal with any matter which is sub-judice.

If the Chairman finds that there are no sufficient grounds for inquiry, he may dismiss the complaint and report it to the Council; otherwise, the Editor of the newspaper or the journalist concerned is asked to show cause why action should not be taken against him. On receipt of the written statement and other relevant material from the editor or the journalist, the Secretariat of the Council places the matter before the Inquiry Committee. The Inquiry Committee screens and examines the complaint in necessary details. If necessary, it also calls for further particulars or documents from the parties. The parties are given opportunity to adduce evidence before the Inquiry Committee by appearing personally or through their authorised representative including legal practitioners. On the basis of the facts on record and affidavits or the oral evidence adduced before it, the Committee formulates its findings and recommendations and forwards them to the Council, which may or may not accept them. When the Council is satisfied that a newspaper or news agency has offended against the standards of journalistic ethics or public taste or that an editor or working journalist has committed professional misconduct, the Council may warn, admonish or censure the newspaper, the news agency, the editor or journalist, or disapprove the conduct thereof, as the case may be. In the complaints lodged by the Press against the authorities, the Council is empowered to make such observations as it may think fit in respect of the conduct of any authority including government. The decisions of the Council are final and cannot be questioned in any court of law. It will thus be seen that the Council wields a lot of moral authority although it has no legally enforceable punitive powers.

The inquiry regulations framed by the Council empower the Chairman to take suo motu action and issue notices to any party in respect of any matter falling within the scope of Press Council Act. The procedure for holding a suo motu inquiry is substantially the same as in the case of a normal inquiry except that for any normal inquiry a complaint is required to be lodged with the Council by a complainant. For the purpose of performing its functions or holding an inquiry under the Act, the Council exercises some of the powers vested in a Civil Court trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

- Summoning and enforcing the attendance of persons and examining them on oath
- Requiring the discovery and inspection of documents
- Receiving evidence on affidavits.
- Requisitioning any public record or copies thereof from any court or office
- Issuing commissions for the examination of witnesses or documents
- Any other matter, which may be prescribed

Broad Principles Evolved

Some of the broad principles evolved by the Council in course of its adjudication on various subjects both in respect of standards of journalism and the freedom of the Press are summarised as under:

A. JOURNALISTIC STANDARDS

1. Communal Writings

Scurrilous and inflammatory attacks should not be made on communities and individuals. Any news on communal events based on rumours will be violative of the

journalistic ethics. Similarly, distorted reporting making important omissions will not be correct. While it is the legitimate function of the Press to draw attention to the genuine grievance of any community with a view to seeking redress in a peaceful and legal manner, there should be no invention or exaggeration of grievances, particularly those which tend to promote communal discord.

It will be highly conducive to the creation of a healthy and peaceful atmosphere if sensational, provocative and alarming headlines are avoided, and acts of violence or vandalism are reported in such a manner as may not undermine people's confidence in law and order machinery of the State and may at the same time have the effect of discouraging and condemning such activities.

Defaming a community is a serious matter and ascribing to it a vile, anti-national activity is reprehensible and amounts to journalistic impropriety.

There is no impropriety in publishing historical facts in order to warn the present generation against repetition of past mistakes even though these mistakes may not be palatable to a particular community.

There is no objection in making statements about religious communities if they are couched in temperate language and are not exaggerated or incorrect.

2. Journalistic Impropriety

Some of the principles evolved by the Council through its adjudications in respect of journalistic impropriety are:

- a. Any matter discussed or disclosed in confidence ought not to be published without obtaining the consent of the source. If the editor finds that the publication is in the public interest, he should clarify it in an appropriate footnote that the statement or discussion in question was being published although it had been made 'off the record'.
- b. An advertisement containing anything unlawful or illegal, or the one which is contrary to good taste or journalistic ethics or propriety should not be published.
- c. Proper care should be taken by newspapers in maintaining accuracy in respect of quotations.

When a newspaper is charged with violation of journalistic ethics, a plea that it has ceased publication will afford the editor no defence, since it is his conduct which is subject of the complaint.

3. Obscenity and Bad Taste

The meaning of taste varies according to the context. For a journalist it implies that 'which on grounds of decency or propriety he should not publish'. Where a matter has 'a tendency to stimulate sex feelings' its publication in a journal meant for the lay public, young or old, undesirable. Exploitation of sex falls short good taste. Public taste is to be judged in relation to the environment, milieu as well notions of taste prevailing in contemporary society.

The basic test of obscenity is whether the matter is so gross or vulgar that it is likely to deprave or corrupt. Another test is whether depiction of the scene and language used can be regarded as filthy, repulsive, dirty or lewd.

Whether a story is obscene or not, will depend on such factors as literary or cultural nature of the magazine, and the social theme of the story. The relevancy of a picture to the subject matter of a magazine or a paper has a bearing on the question

whether the matter published falls below the standards of public taste. One of the relevant factors for judging whether the picture falls below the standard of public taste will be the purpose or nature of the magazine – whether it relates to art, painting, medicine, research or reform of sex.

The Press Council expressed concern over the increasing instances of obscene advertisements in the print media. It was opposed to censorship but favoured preventive steps to check any obscene material at pre-publication stage. Since most of such advertisements are routed through advertising agencies, the Council felt that this task should not be difficult if these agencies were to exercise more caution and restrain in preparing and releasing the advertisements that may be considered objectionable to family viewing by an average citizen. It felt that the Association of Advertising Agencies of India as an Umbrella organisation of all these advertising agencies could play a very meaningful and positive role in the matter and sought its cooperation to contain advertisements that are likely to damage the socio-cultural ethos of the country in the longer run. The Council appealed to the newspapers also to carefully scrutinise the advertisements received by them either directly from the advertisers or through the advertising agencies and exercise a self-restraint by rejecting such advertisements as may be considered obscene and objectionable. It has also reiterated the following guidelines framed by it to counter against obscene publication.

‘Newspapers shall not display advertisements which are vulgar or which through depiction of a woman in nude or lewd posture, provoke lecherous attention of males as if she herself was commercial commodity for sale’.

Whether a picture is obscene or not, is to be judged in relation to three tests; namely

- (i) Is it vulgar and indecent?
- (ii) Is it a piece of mere pornography?
- (iii) Is its publication meant merely to make money by titillating the sex feeling of adolescents and among whom it is intended to circulate? In other words, does it constitute an unwholesome exploitation for commercial gain.

Other relevant considerations are whether the picture is relevant to the subject matter of the magazine. That is to say, whether its publication serves any preponderating social or public purpose, in relation to art, painting, medicine, research or reform of sex.

4. Right of Reply

The prime principle that emanates from the various adjudications on this subject upholds the editors discretion in publication of letters. He would, however, be expected to voluntarily rectify an incorrect statement or report on a matter of public nature; the general reader can claim a locus standi on the basis of the public right to know. Besides, any person who has been specifically referred to in a publication can claim an automatic right to reply in the columns of the paper. Though the Council does not have the power to force a newspaper to publish a rejoinder it may direct it to publish the particulars of the inquiry against it.

5. Pre-verification of News

Verification of news is necessary before publication, especially when the report has slanderous or libellous overtones or could lead to communal tension; nor can the

publication of rumours as views of a cross-section of people be justified under any circumstances. The editor shall make necessary amends when any false or distorted publication is brought to his notice.

6. **Defamation – Scurrilous writings**

Under the second exception to Section 499 of the Indian Penal Code, it is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further. The Council has accordingly held the opinion that fair comments on the public life cannot be held to be improper. But if any factual statements are made, they must be true and correct. In case a defamatory element is involved, more good faith will not be a defence in any civil action for damages.

7. **Right to privacy v. Public figures**

The Press Council of India formulated guidelines to achieve a balance between the right to privacy of the public persons and the right of the press to have access to information of public interest and importance. The issue under heated debate at both national and international level and the international conference of the World Association of Press Councils (WAPC) held in April 1998 in Delhi, stressed that there is a need for reconciliation between three competing constitutional values at play on this count, namely: (a) an individual's right to privacy, (b) freedom of the press, and (c) the people's right to know about public figures in public interest.

The Council has prepared a report on the issue and framed the guidelines as follows:

'Right to privacy is an inviolable human right. However, the degree of privacy differs from person to person and from situation to situation. The public person who functions under public gaze as an emissary/representative of the public cannot expect to be afforded the same degree of privacy as a private person. His acts and conduct are of public interest ('public interest' being distinct and separate from 'of interest to the public') even if conducted in private may be brought to public knowledge through the medium of the press. The press has, however, a corresponding duty to ensure that the information about such acts and conduct of public interest of the public person is obtained through fair means, is properly verified and then reported accurately. For obtaining the information in respect of acts done or conducted away from public gaze, the press is not expected to use surveillance devices. For obtaining information about private talks and discussions, while the press is expected not to badger the public persons, the public persons are also expected to bring more openness in their functioning and co-operate with the press in its duty of informing the public about the acts of their representatives'.

B. Freedom of the Press

1. **Threats to Press Freedom**

- An attack on a paper or those connected with it editorially or in management with a view to pressurising or intimidating them for the opinion expressed in the paper, constitutes a gross interference with the freedom of the Press (case of Malayala Manorama, PCI Review, Jan 1983 p. 62).

- Tendencies to coerce newspapers to desist from publishing facts or toe a particular line are matters of concern. (Case of Malayala Manorama, PCI Annual Report 1968, p. 38)
- The local administration is expected to help the journalist to perform his duties without being under duress or pressure (case of Blitz, PCI Review April 1984, p. 30)
- Implication of an editor of a newspaper in a fabricated case by the police authorities with a view to harassing him for his treatment of the news or critical writings amounts to interference in the freedom of the Press. (Case of Mahajati, PCI Review October 1983, p. 55)
- Groups raids on newspaper offices by unruly mobs interferes with the freedom of the press. Suitable precautionary protective measures ought to be taken by the police. The same applies to the blockade of newspapers offices. (Suo motu action by the Press Council against the Government of Karnataka, PCI Review April 1982, p. 36)
- Harassment and victimisation of journalists by police is a direct attack on the freedom of the Press. (Case of Madhya Pradesh Small Newspapers' Association, PCI Annual Report 1972, p. 66)
- Seizure of camera and removal of film by police from a press photographer while covering the news would amount to preventing the journalist from performing his duties and is a matter to be viewed seriously. (Case of Searchlight, PCI Annual Report 1972, p. 65)
- Filing of motivated frivolous cases against a journalist would amount to interfering with his functions. (Case of Malayala Manorama, PCI Annual Report, 1968, p. 38 and PCI Annual Report 1967, p. 52-58)
- Any attempt by a minister to browbeat a reporter into toeing his line in the matter of reporting would be inconsistent with maintaining the proper standards of ministerial conduct towards the Press. (Case of Dainik Janambhumi, PCI Annual Report 1980, p. 56)
- Disaccreditation and withdrawal of housing facilities from a newspaper correspondent because of articles/news items written by him would amount to an attempt to pressurise the correspondent and, therefore, the press. (Case of Chandigarh Union of Journalists, PCI Annual Report, 1974, p. 68)
- The Press and Registration of Books Act, 1867, does not empower the District Magistrate to obtain 'Assurance Letters' from prospective editors before granting or refusing a declaration. (Case of U.P. Small and Medium Newspapers Editors' Council, PCI Review, Jan. 1983, p. 58)
- Declaration of newspapers under the Press and Registration of Books Act, 1867, cannot be cancelled on the ground that the newspapers concerned were indulging in yellow journalism. Any complaint in regard to yellow journalism should be filed with the Press Council (Suo Motu action by the Press Council, PCI Annual Report 1983, p. 37)
- Closeness of the date of appearance of a critical article and the date of disaccreditation would be material factors determining whether the disaccreditation was on account of that article. (Case of Sarita, Mukta etc., PCI Annual Report 1981 p. 60)

2. Advertisement and Press Freedom

- The giving or withholding of advertisements, whether by individuals or by the government as a lever to influence the editorial policy constitutes a threat to and

jeopardises the liberty of the Press or the freedom of the editor. This is especially so in the case of the government since it is the trustee of public funds and, therefore, bound to utilise them without discrimination. (Case of Tribune, PCI Annual Report 1970, p. 45)

- Advertisements, from any party including the government cannot be claimed as a matter of right by a newspaper. Government can frame its policy of placing advertisements based on objective criteria. But this should be based upon publicly stated principles without taking into consideration the editorial policy of the paper. (Cases of Saptahik Mujahid, PCI Review July 1983, p. 44, and Tribune, PCI Annual Report 1970, p. 45)
- If an editor is guilty of an action or an impropriety de hors his paper, he can be proceeded against personally but this would not justify denial of advertisements to the paper of which he happens to be the editor. This applies to an employee or even the proprietor of a newspaper. (Case of Searchlight and Pradeep, PCI Annual Report 1974, p. 11)
- The outside activities of the editor or other journalists might throw light on what he wrote for the paper, and in the event of such writings being improper, action against the paper is justified. However, this is for improper publication and for the employees' activities de hors the paper. (Ibid)

3. Impropriety and Press Freedom

- It is improper to offer an inducement to a journalist to adopt a particular line of comment, and for the journalist to accept such an inducement. In the event of improper inducement being offered by the government the situation would be worse, since, then the media would become an arm of law enforcement. (Ibid)
- It is improper for a journalist to accept an assignment which would be incompatible with the integrity and dignity of his profession or exploitation of his status as journalist. (Ibid)
- The editor of a newspaper cannot be asked to divulge the source of information of a letter published in his paper. (Case of Arjun Baan, PCI Review, July 1983, p. 53)
- Asking a journalist to divulge his personal and confidential source of information amounts to violation of his obligation to report on events of public interest and constitutes a threat to Press freedom. (Case of Press Correspondent, Hind Samachar, PCI Annual Report 1973, p. 27)
- The editor of a newspaper cannot be directed by the police to alert his correspondent against the publication of a news item relating to the acts of the police, as it would be against the fundamental right of the Press. (Case of Vishwa Manav, PCI Review, October 1983, p. 52)
- The motivated stoppage of subscription of teleprinter service of a news agency due to the feeling that reportage of a certain situation was exaggerated and to pressurise the agency would amount a threat to the freedom of the press. (Case of ex-Member of Parliament, PCI Annual Report 1972, p. 7)
- Singling out news despatches to a newspaper and arrest of editors for activities in discharge of their professional duties and issue of warning letter from the government to newspapers to desist from publishing anything relating to certain activities of some groups, could legitimately give rise to an apprehension of threat to the

freedom of the Press. (Suo motu action by the Press Council, PCI Review April 1983, p. 52)

Recent Initiatives:

1. Paid News

The Press Council of India (PCI) defines paid news as any news or analysis appearing in print or electronic media for consideration in cash or kind. The PCI had sought amendment in the Press Council Act, 1978, to make its directions binding on government authorities and bring the electronic media under its purview.

The recommendations of PCI were as follows:

Representation of the People Act, 1951 should be amended to make incidence of paid news a punishable electoral malpractice.

The Press Council of India must be fully empowered to adjudicate the complaints of 'paid news' and give final judgment in the matter.

Press Council Act be amended to make its recommendations binding and electronic media be brought under its purview, and Press Council of India should be reconstituted to include representatives from electronic and other media.

2. Press Council of India has sought a status report from the Kerala High Court regarding the restrictions imposed on media in reporting court proceedings and denial of entry to media personnel to various courts in the state, including the high court. The Council's secretary issued a letter to the registrar general of the High Court and the chief secretary of the state that stated, 'Since the matter prima facie concern free functioning of the press and the statute amandates the Press Council to preserve the freedom of the Press, I have been directed by Hon'ble Chairman to seek information in this regard.
3. Press Council of India to ink alliance with South Asian media councils. The alliance would be in a bid to promote peace and fair and fearless journalism. The alliance will be headquartered in New Delhi and will soon be extended to South East Asia and other regions of the sub-continent. 'This alliance will aim to promote best and ethical journalism practice, will have shared programmes between journalists of various countries among other things. It is still at a nascent stage and we will decide on the final constitution after our meetings'.

8.4.29 Pension Fund Regulatory and Development Authority

The Pension Fund Regulatory & Development Authority (PFRDA) Act was passed on 19th September, 2013 and the same was notified on 1st February, 2014. PFRDA is regulating NPS, subscribed by employees of Govt. of India, state governments and by employees of private institutions/organisations and unorganised sectors. The PFRDA is ensuring the orderly growth and development of pension market.

The Government of India had, in the year 1999, commissioned a national project titled 'OASIS' (an acronym for old age social and income security) to examine policy related to old age income security in India. Based on the recommendations of the OASIS report, Government of India introduced a new Defined Contribution Pension System for the new entrants to Central/State Government service, except Armed Forces, replacing the existing system of Defined Benefit Pension System. On 23rd August, 2003, PFRDA was established through a resolution

by the Government of India to promote, develop and regulate pension sector in India. The contributory pension system was notified by the Government of India on 22nd December, 2003, now named the National Pension System (NPS) with effect from the 1st January, 2004. The NPS was subsequently extended to all citizens of the country from 1st May, 2009 including self-employed professionals and others in the unorganised sector on a voluntary basis.

Vision Statement

To be a model Regulator for promotion and development of an organised pension system to serve the old-age income needs of people on a sustainable basis.

Act

PFRDA Act 2013

Authority

The authority consists of the following Members:

- a. a Chairperson
- b. three whole-time members
- c. three part-time members

All these members are to be appointed by the Central Government from amongst persons of ability, integrity and standing and having knowledge and experience in economics or finance or law with at least one person from each discipline.

Powers and Functions

The powers and functions of the Authority include

- Regulating the National Pension System and the pension schemes to which this Act applies.
- Approving the schemes, the terms and conditions thereof and laying down norms for the management of the corpus of the pension funds, including investment guidelines under such schemes
- registering and regulating intermediaries
- issuing to an intermediary, on application, a certificate of registration and renewing, modifying, withdrawing, suspending or cancelling such registration
- protecting the interests of subscribers by
 - a. ensuring safety of the contribution of subscribers to various schemes of pension funds to which this act applies
 - b. ensuring that the intermediation and other operational costs under the National Pension System are economical and reasonable
- establishing mechanism for redressal of grievances of subscribers to be determined by regulations
- promoting professional organisations connected with the pension system
- adjudication of disputes between intermediaries and between intermediaries and subscribers
- collecting data and requiring the intermediaries to collect such data and undertaking and commissioning studies, research and projects
- the powers and functions of the authority shall include

- undertaking steps for educating subscribers and the general public on issues
- relating to pension, retirement savings and related issues and training of intermediaries
- standardising dissemination of information about performance of pension funds and performance benchmarks
- regulating the regulated assets
- levying fees or other charges for carrying out the purposes of this act
- specifying by regulations the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by intermediaries.
- calling for information from undertaking inspection of, conducting inquiries and investigations including audit of, intermediaries and other entities or organisations connected with pension funds

National Pension Scheme

National Pension System (NPS) which is administered and regulated by Pension Fund Regulatory and Development Authority (PFRDA) was created by an Act of Parliament.

National Pension System (NPS) is a voluntary, defined contribution retirement savings scheme designed to enable the subscribers to make optimum decisions regarding their future through systematic savings during their working life. NPS seeks to inculcate the habit of saving for retirement amongst the citizens. It is an attempt towards finding a sustainable solution to the problem of providing adequate retirement income to every citizen of India.

Under the NPS, individual savings are pooled in to a pension fund which are invested by PFRDA regulated professional fund managers as per the approved investment guidelines in to the diversified portfolios comprising of government bonds, bills, corporate debentures and shares. These contributions would grow and accumulate over the years, depending on the returns earned on the investment made.

At the time of normal exit from NPS, the subscribers may use the accumulated pension wealth under the scheme to purchase a life annuity from a PFRDA empanelled life insurance company apart from withdrawing a part of the accumulated pension wealth as lump-sum, if they choose so.

The scheme is structured into two tiers:

Tier-I account: This is the non-withdrawable permanent retirement account into which the accumulations are deposited and invested as per the option of the subscriber.

Tier-II account: This is a voluntary withdrawable account which is allowed only when there is an active Tier I account in the name of the subscriber. The withdrawals are permitted from this account as per the needs of the subscriber as and when claimed.

Atal Pension Yojana

Atal Pension Yojana (APY) is open to all bank account holders. The Central Government would also co-contribute 50% of the total contribution or ₹1000 per annum, whichever is lower, to each eligible subscriber, for a period of 5 years, that is, from financial Year 2015–2016 to 2019–2020, who join the APY before 31st December, 2015, and who are not members of any statutory social security scheme and who are not income tax payers. Therefore, APY will be focussed on all citizens in the unorganised sector.

Eligibility for joining APY: APY is open to all citizens of India who have a savings bank account. The minimum age of joining APY is 18 years and maximum age is 40 years.

Recent initiatives by PFRDA

1. PFRDA bars third party payments in Tier II accounts of NPS

To check misuse of NPS, regulator PFRDA has said contribution to savings account (also called Tier-II account), which is attached to pension funds, can only be made by the subscriber and not by any third party.

National Pension System (NPS) is structured into Tier-I (main pension account) and Tier-II (voluntary savings account).

‘Keeping in view the nature of the Tier-II account and facility of any time withdrawal, it has been decided to disallow any third party contribution in Tier-II account henceforth,’ Pension Fund Regulatory and Development Authority (PFRDA) said in a circular.

It has asked the nodal offices and Points of Presence (POPs) to ensure that NPS contribution by the subscriber to the NPS Tier-II account ‘is being made from his/her own bank account’ and through own legitimate source of funds.

Further, Central Record Keeping Agency and nodal officers/POPs have been asked to take a declaration from subscriber .

2. PFRDA smoothen the process of registration of retirement advisers; Process of submitting application transformed from physical mode to online mode.

In order to smoothen the process of registration of retirement advisers, Pension Fund Regulatory and Development Authority (PFRDA) has transformed the process of submitting application from physical mode to online mode.

The applicants can now submit their application online and upload scanned images of all the required documents. This will reduce the application processing time. PFRDA is registering retirement advisers for widening the coverage of NPS by facilitating on boarding of the subscribers and also providing advisory services to them for allocating assets under NPS and choosing pension fund managers.

‘Retirement Adviser’ can be any individual, registered partnership firm, body corporate, or any registered trust or society, which desires to engage in the activity of providing advice on National Pension System or other pension schemes regulated by PFRDA to prospects/existing subscribers or other persons or group of persons and is registered as such under the PFRDA (Retirement Advisers) Regulations.

NISM and FPSB India are providing necessary certification in order to become eligible for registration as Retirement Adviser. However, Investment Advisers registered with SEBI are exempted from the requirement of such certifications and they can directly submit their application to PFRDA for registration.

8.4.30 Petroleum and Natural Gas Regulatory Board

The Petroleum and Natural Gas Regulatory Board (PNGRB) was constituted under The Petroleum and Natural Gas Regulatory Board Act, 2006 (NO. 19 OF 2006) notified via Gazette Notification dated 31st March, 2006.

The Act provide for the establishment of Petroleum and Natural Gas Regulatory Board to protect the interests of consumers and entities engaged in specified activities relating to petroleum, petroleum products and natural gas and to promote competitive markets and for matters connected therewith or incidental thereto.

Further as enshrined in the act, the board has also been mandated to regulate the refining, processing, storage, transportation, distribution, marketing and sale of petroleum, petroleum products and natural gas excluding production of crude oil and natural gas so as and to ensure uninterrupted and adequate supply of petroleum, petroleum products and natural gas in all parts of the country.

Vision of PNGRB

‘To create a vibrant energy market with rapid and orderly growth through facilitation of flow of investments into the basic infrastructure for efficient transportation and distribution of petroleum, petroleum products and natural gas at minimum cost and high level of protection of consumer interests through fair trade practices and competition amongst the entities so as to ensure the enhanced competitiveness of Indian economy and customer satisfaction’.

Functions of Board

The Board shall

1. protect the interest of consumers by fostering fair trade and competition amongst the entities
2. register entities to
 - market notified petroleum and petroleum products and, subject to the contractual obligations of the Central Government, natural gas
 - establish and operate liquefied natural gas terminals
 - establish storage facilities for petroleum, petroleum products or natural gas exceeding such capacity as may be specified by regulations
3. Authorise entities to
 - lay, build, operate or expand a common carrier or contract carrier
 - lay, build, operate or expand city or local natural gas distribution network
4. declare pipelines as common carrier or contract carrier
5. regulate, by regulations,
 - access to common carrier or contract carrier so as to ensure fair trade and competition amongst entities and for that purpose specify pipeline access code
 - transportation rates for common carrier or contract carrier
 - access to city or local natural gas distribution network so as to ensure fair trade and competition amongst entities as per pipeline access code
6. in respect of notified petroleum, petroleum products and natural gas-
 - ensure adequate availability
 - ensure display of information about the maximum retail prices fixed by the entity for consumers at retail outlets
 - monitor prices and take corrective measures to prevent restrictive trade practice by the entities
 - secure equitable distribution for petroleum and petroleum products
 - provide, by regulations, and enforce, retail service obligations for retail outlets and marketing service obligations for entities
 - monitor transportation rates and take corrective action to prevent restrictive trade practice by the entities
7. levy fees and other charges as determined by regulations
8. maintain a data bank of information on activities relating to petroleum, petroleum products and natural gas

9. lay down, by regulations, the technical standards and specifications including safety standards in activities relating to petroleum, petroleum products and natural gas, including the construction and operation of pipeline and infrastructure projects related to downstream petroleum and natural gas sector
10. perform such other functions as may be entrusted to it by the Central Government to carry out the provisions of this Act.
11. determination of marketing margin letter

Powers regarding complaints and resolutions of disputes by the Board

- a. The Board shall have jurisdiction to
 1. adjudicate upon and decide any dispute or matter arising amongst entities or between an entity and any other person on issues relating to refining, processing, storage, transportation, distribution, marketing and sale of petroleum, petroleum products and natural gas according to the provisions of Chapter V, unless the parties have agreed for arbitration
 2. receive any complaint from any person and conduct any inquiry and investigation connected with the activities relating to petroleum, petroleum products and natural gas on contravention of-
 - retail service obligations
 - marketing service obligations
 - display of retail price at retail outlets
 - terms and conditions subject to which a pipeline has been declared as common carrier or contract carrier or access for other entities was allowed to a city or local natural gas distribution network, or authorisation has been granted to an entity for laying, building, expanding or operating a pipeline as common carrier or contract carrier or authorisation has been granted to an entity for laying, building, expanding or operating a city or local natural gas distribution network
 - any other provision of this Act or the rules or the regulations or orders made there under
- b. While deciding a complaint under sub-section (1), the Board may pass such orders and issue such directions as it deems fit or refer the matter for investigation according to the provisions of Chapter V.

Issues

1. Ministry to revamp oil and gas regulatory board to minimise conflict

The government may issue directives to the Petroleum and Natural Gas Regulatory Board for minimising conflicts and also 'streamline the working' of the regulator.

A senior official said that the functioning of the PNGRB will continue to be as per the existing PNGRB Act and that the government will restructure the regulator's working and clearly define powers.

Another official added that the government will be 'looking at working more closely with the PNGRB to streamline its role in consonance with the government's vision'.

PNGRB ran into trouble with the Ministry and Indraprastha Gas Ltd after the regulator had attempted to fix retail price of compressed natural gas and piped natural gas. A July 2015 Supreme Court verdict put this controversy to rest and noted that the power to fix tariff was not vested with the board.

A PNGRB official said that the government will soon come up with a notification vesting the regulator with penal powers in consonance with the Supreme Court's verdict.

Changing Stance

The regulator's change in stance is evident as it has now withdrawn its objections to the Jagdishpur-Haldia/Bokaro-Dhamra gas pipeline. In November last year, the regulator had locked horns with the government when it red-flagged a portion of GAIL (India) Ltd's pipeline.

PNGRB had opposed the Centre's order to grant GAIL the rights to develop the eastern gas grid by avoiding the competitive bidding route. PNGRB had said that such authorisation would need an amendment of Section 42 of the PNGRB Act, as it contradicted the objectives of regulation and infringed upon the regulator's autonomy.

The regulator has now accepted that the Bokaro/Dhamra section is an extension of the Jagdishpur-Haldia pipeline and would not be requiring its approval as the project was conceived before the regulator was instituted.

According to the PNGRB Act, pipeline networks conceived and approved before the regulator was instituted in 2006 are exempted from the framed rules.

There is only one board member left within the PNGRB Board, resulting in a lack of quorum hampering the working of the institution. In the absence of a Member (Legal), the Board has been unable to suitably reply to judicial queries, according to a PNGRB official.

8.4.31 Reserve Bank of India

History

The Reserve Bank of India is the central bank of the country. Central banks are a relatively recent innovation and most central banks, as we know them today, were established around the early twentieth century.

The Reserve Bank of India was set up on the basis of the recommendations of the Hilton Young Commission. The Reserve Bank of India Act, 1934 (II of 1934) provides the statutory basis of the functioning of the Bank, which commenced operations on 1st April, 1935.

The Bank was constituted to

- * regulate the issue of banknotes
- * maintain reserves with a view to securing monetary stability
- * operate the credit and currency system of the country to its advantage

The Bank began its operations by taking over from the Government the functions so far being performed by the Controller of Currency and from the Imperial Bank of India, the management of Government accounts and public debt. The existing currency offices at Calcutta, Bombay, Madras, Rangoon, Karachi, Lahore and Cawnpore (Kanpur) became branches of the Issue Department. Offices of the Banking Department were established in Calcutta, Bombay, Madras, Delhi and Rangoon.

Burma (Myanmar) seceded from the Indian Union in 1937 but the Reserve Bank continued to act as the Central Bank for Burma till Japanese occupation of Burma and later up to April, 1947. After the partition of India, the Reserve Bank served as the central bank of Pakistan up to June 1948 when the State Bank of Pakistan commenced operations. The Bank, which was originally set up as a shareholder's bank, was nationalised in 1949.

An interesting feature of the Reserve Bank of India was that at its very inception, the Bank was seen as playing a special role in the context of development, especially agriculture. When

India commenced its plan endeavours, the development role of the Bank came into focus, especially in the 60s when the Reserve Bank, in many ways, pioneered the concept and practise of using finance to catalyse development. The Bank was also instrumental in institutional development and helped set up institutions like the Deposit Insurance and Credit Guarantee Corporation of India, the Unit Trust of India, the Industrial Development Bank of India, the National Bank of Agriculture and Rural Development, the Discount and Finance House of India etc. to build the financial infrastructure of the country.

With liberalisation, the Bank's focus shifted back to core central banking functions like Monetary Policy, Bank Supervision and Regulation, and Overseeing the Payments System and onto developing the financial markets.

Establishment

The Reserve Bank of India was established on April 1, 1935 in accordance with the provisions of the Reserve Bank of India Act, 1934.

The Central Office of the Reserve Bank was initially established in Calcutta but was permanently moved to Mumbai in 1937. The Central Office is where the Governor sits and where policies are formulated.

Though originally privately owned, since nationalisation in 1949, the Reserve Bank is fully owned by the Government of India.

Preamble

The Preamble of the Reserve Bank of India describes the basic functions of the Reserve Bank as:

‘...to regulate the issue of Bank Notes and keeping of reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country to its advantage’.

Central Board

The Reserve Bank's affairs are governed by a central board of directors. The board is appointed by the Government of India in keeping with the Reserve Bank of India Act, appointed/nominated for a period of four years

Constitution

Official Directors

Full-time : Governor and not more than four Deputy Governors

Non-Official Directors

Nominated by Government: ten Directors from various fields and two government Official

Others: four Directors: one each from four local boards

Legal Framework

1. Acts administered by Reserve Bank of India

Reserve Bank of India Act, 1934

Public Debt Act, 1944/Government Securities Act, 2006

Government Securities Regulations, 2007

Banking Regulation Act, 1949

Foreign Exchange Management Act, 1999

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Chapter II)
 Credit Information Companies(Regulation) Act, 2005
 Payment and Settlement Systems Act, 2007
 Payment and Settlement Systems Regulations, 2008 and Amended up to 2011 and BPSS Regulations, 2008
 The Payment and Settlement Systems (Amendment) Act, 2015 - No. 18 of 2015
 Factoring Regulation Act, 2011

2. Other relevant Acts are

Negotiable Instruments Act, 1881
 Bankers' Books Evidence Act, 1891
 State Bank of India Act, 1955
 Companies Act, 1956/ Companies Act, 2013
 Securities Contract (Regulation) Act, 1956
 State Bank of India Subsidiary Banks) Act, 1959
 Deposit Insurance and Credit Guarantee Corporation Act, 1961
 Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970
 Regional Rural Banks Act, 1976
 Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980
 National Bank for Agriculture and Rural Development Act, 1981
 National Housing Bank Act, 1987
 Recovery of Debts Due to Banks and Financial Institutions Act, 1993
 Competition Act, 2002
 Indian Coinage Act, 2011: Governs currency and coins
 Banking Secrecy Act
 The Industrial Development Bank (Transfer of Undertaking and Repeal) Act, 2003
 The Industrial Finance Corporation (Transfer of Undertaking and Repeal) Act, 1993

Main Functions

1. **Monetary authority**

Formulates, implements and monitors the monetary policy.

Objective: maintaining price stability and ensuring adequate flow of credit to productive sectors.

2. **Regulator and supervisor of the financial system**

Prescribes broad parameters of banking operations within which the country's banking and financial system functions.

Objective: maintain public confidence in the system, protect depositors' interest and provide cost-effective banking services to the public.

3. **Manager of foreign exchange**

Manages the Foreign Exchange Management Act, 1999.

Objective: to facilitate external trade and payment and promote orderly development and maintenance of foreign exchange market in India.

4. **Issuer of currency**

Issues and exchanges or destroys currency and coins not fit for circulation.

Objective: to give the public adequate quantity of supplies of currency notes and coins and in good quality.

5. Developmental role

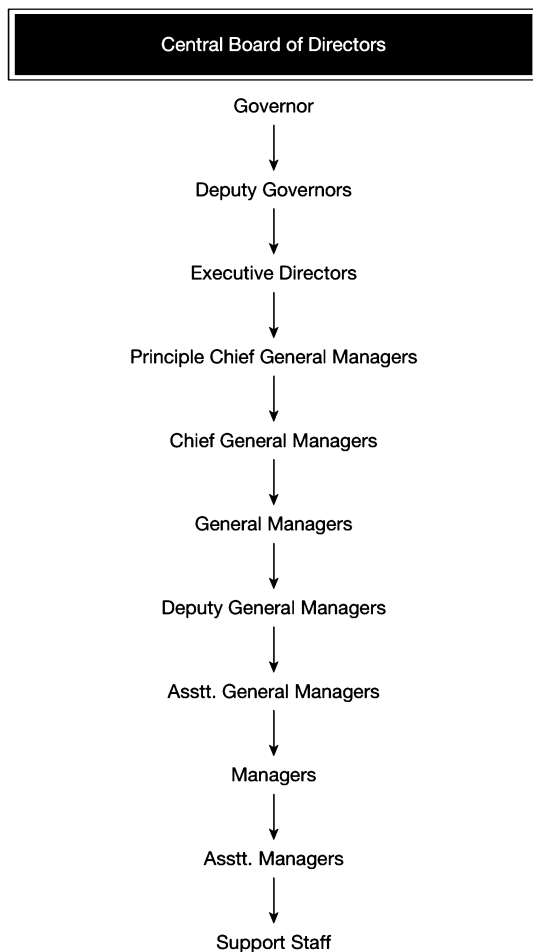
Performs a wide range of promotional functions to support national objectives.

6. Related Functions

Banker to the Government: performs merchant banking function for the central and the state governments; also acts as their banker.

Banker to banks: maintains banking accounts of all scheduled banks.

Organisation Structure



Recent RBI related updates:

Demonitisation:

The legal tender character of the bank notes in denominations of ₹ 500 and ₹ 1000 issued by the Reserve Bank of India till November 8, 2016 (hereinafter referred to as Specified Bank

Notes) stands withdrawn. In consequence thereof these Bank Notes cannot be used for transacting business and/or store of value for future usage. The Specified Bank Notes (SBNs) were allowed to be exchanged for value at RBI Offices till December 30, 2016 and till November 25, 2016 at bank branches/Post Offices and deposited at any of the bank branches of commercial banks/Regional Rural Banks/Co-operative banks (only Urban Co-operative Banks and State Co-operative Banks) or at any Head Post Office or Sub-Post Office during the period from November 10, 2016 to December 30, 2016.

Impact of demonitisation observed by RBI

The impact of demonetisation on the various segments of the financial market has varied. Overnight call money market rate remained within the policy corridor, but with a softening bias due to surplus liquidity at banks. After initial softening, G-sec yields increased significantly on two occasions, that is, after the announcement of application of incremental cash reserve ratio (ICRR) and the status quo in monetary policy in December 2016. Thereafter, yields have moved in either direction on account of both domestic and external factors, including the change in monetary policy stance in February 2017, which was largely not expected by market participants. Reflecting the expected slowdown in sales and earnings, share prices of cash intensive sectors such as automobiles, FMCG, consumer durables and real estate declined sharply in November–December 2016. Most of these sectors have more than recovered the lost ground subsequently. In fact, the consumer durable sector outperformed the overall increase in the stock market post-demonetisation. The impact on the forex market was transitory.

Demonetisation has impacted some segments of the export sector such as readymade garments, gems and jewellery. The impact, however, was transitory. Imports of gold increased sharply in November, but moderated in December. There has been a significant improvement in the use of digital modes of payments post demonetisation, although their base is still small. Overall, demonetisation has had some negative macroeconomic impact, which, however, has been transient as remonetisation has moved at an accelerated pace in last twelve weeks. More importantly, demonetisation is expected to have a positive impact over the medium to long-term. In particular, there is expected to be greater formalisation of the economy with increased use of digital payments. The reduced use of cash will also lead to greater intermediation by the formal financial sector of the economy, which should, inter alia, help improve monetary transmission.

Specified Bank Notes (Cessation of Liabilities) Act 2017

On February 27, 2017 Government of India notified the Specified Banknotes (Cessation of liabilities) Act 2017. The Act repealed the Specified Banknotes (Cessation of liabilities) Ordinance 2016 providing for cessation of liabilities for the Specified Banknotes (SBNs) and for matters connected therewith and incidental thereto, with effect from 31st December, 2016. The SBNs cease to be the liabilities of the Reserve Bank under Section 34 of the RBI Act and cease to have the guarantee of the Central Government.

A grace period has been provided during which the Specified Bank Notes can be deposited at five RBI Offices (Mumbai, New Delhi, Chennai, Kolkata, and Nagpur) by Indian citizens who make a declaration that they were outside India between November 9 and December 30, 2016, subject to conditions or any class of persons for reasons that may be specified by notification by the Central Government. The Reserve Bank, if satisfied after making the necessary verifications, that the reasons for failure to deposit the notes till 30th December, 2016 are genuine, will credit the value of notes in the KYC (Know Your Customer) compliant bank account of the tenderer.

The grace period for resident Indians expired on 31st March, 2017. For non- resident Indians (Indian passport holders), the grace period is till 30th June, 2017.

Any person aggrieved by the refusal of the Reserve Bank to credit the value of notes as mentioned above may make a representation to the Central Board of the Reserve Bank within 14 days of the communication of such refusal to him/her.

In terms of Section 6 of the Act, whoever knowingly or wilfully makes any false declaration shall be punishable with a fine which may extend to ₹50,000 or five times the amount of the face value of the SBNs tendered whichever is higher.

In terms of Section 5 of the Act, with effect from 31st December, 2016 no person shall knowingly or voluntarily hold, transfer or receive any specified banknotes. **After the expiry of grace period, holding of not more than 10 notes in total, irrespective of denomination or not more than 25 notes for the purpose of study/ research/ numismatics is permitted.** Also, nothing contained in this section shall prohibit the holding of specified banknotes by any person on the direction of a court in relation to any case pending in the court.

In terms of Section 7, contravention of Section 5 shall be punishable with fine which may extend upto ₹10,000 or five times the face value of the SBNs involved in the contravention, whichever is higher.

In case the contravention/default in terms of Sections 6 and 7 is by a company, every person who was in charge of and responsible to the company at the time of contravention/default shall deemed to be guilty and will be liable to be proceeded against and punished. If the offence is proved to be attributable to the conduct by any director/manager/secretary/officer/employee of the company, such person shall also be deemed to be guilty of the offence and will be liable to be proceeded against and punished accordingly.

8.4.32 Security and Exchange Board of India (SEBI)

SEBI was established in 1988 to regulate the functions of securities market, initially SEBI was not able to exercise complete control over stock market transactions. Therefore, SEBI was granted a legal status under SEBI Act, 1992.

‘An act to provide for the establishment of a board to protect the interest of investors in securities and to promote the development and to regulate the securities markets and for matters connected therewith’.

It shall extend to the whole country.

Composition:

- Chairman
- Two members from amongst the officials of Union Ministry of Finance
- One member from amongst the officials of Reserve Bank
- Five other members of whom at least three shall be whole time members to be appointed by the Central Government.

Functions:

- Quasi-legislative
- Quasi-judicial
- Quasi-executive

SEBI drafts regulation in its legislature capacity. It conducts investigation and enforcement action in its executive and orders in its judicial capacity.

1. Regulating stock exchanges and other securities market.
2. Registering and regulating the working of stock brokers, sub-brokers, share transfer agents and any other intermediaries who are associated with securities markets in any manner.
3. Registering and regulating the working of depositories.
4. Registering and regulating the working of venture capital funds and collective investment schemes including mutual funds.
5. Promoting and regulating self-regulatory organisations and prohibiting fraudulent and unfair trade practices relating to securities markets.
6. Prohibiting insider trading in securities (insider is any person connected with the company such as directors, promoters, etc.)

Securities Appellate Tribunal

It is a statutory body estate under the provision of section 15k to hear and dispose of appeals against the orders passed by SEBI or by an adjudicated officer. A securities appellate tribunal shall consist of presiding officer and two other members to be appointed by the Central Government.

Mergers of FMC with SEBI

In 2015, Forward Market Commission was merged with SEBI. The merger was aimed to streamline the regulations and curb wild speculations in the commodities market which facilitating further growth. The merger will increase economies of scope and economies of scale for government, exchanges, financial and stakeholders.

8.4.33 The Telecom Disputes Settlement and Appellate Tribunal (TDSAT)

The Telecom Disputes Settlement and Appellate Tribunal (TDSAT) was established to adjudicate disputes and dispose of appeals with a view to protect the interests of service providers and consumers of the telecom sector and to promote and ensure orderly growth of the telecom sector.

- Telecom Disputes Settlement Appellate Tribunal (TDSAT) was established in 2000 through an amendment of the TRAI 1997 act.
- The primary objective of TDSAT's establishment was to release TRAI from adjudicatory and dispute settlement functions in order to strengthen the regulatory framework.
- Any dispute involving parties like licensor, licensee, service provider and consumers are resolved by TDSAT. Moreover, any direction, order or decision of TRAI can be challenged by appealing in TDSAT.

Composition of the Tribunal

Since its inception, the TDSAT has only had former judges of the Supreme Court of India as the Chairperson. The Members of the Tribunal are also selected from amongst senior officers who have in-depth technical, legal and regulatory expertise and have prior high-level experience in their respective fields. The composition of the Tribunal with members possessing judicial as

well as technical and administrative expertise has led to a harmony of approach and a comprehensive understanding and a balanced perspective in respect to issues dealt with by the TDSAT. This has also lent greater credibility to the Tribunal and its stature within the Indian judicial/legal system.

An integral feature which marks TDSAT in comparison to similar bodies across various international jurisdictions is that in cases where Appeals against orders of the TRAI are heard, such orders are not automatically suspended upon being appealed. Appeals against TRAI's orders are evaluated on a case-to-case basis by the TDSAT taking into account factors such as balance of probabilities, irreparable loss/ injury to parties and a *prima facie* case. The Petitioner has to establish immediate loss etc. to seek stay / suspension of TRAI's orders. This feature harmonises the role of the regulator and the appellate authority and sets a fine balance between their powers and responsibilities.

Functioning of the Tribunal

The various functions of TDSAT (Telecom Disputes Settlement & Appellate Tribunal) are that it can adjudicate any disputes that arise between a group of consumers and service providers, a licensee and a licensor, and also between two or more than the service providers. The Government of India opened the telecom sector to the private enterprise in the 1990s and this has given a major boost to this sector. A great variety of telecom services such as voice mail, audio text services, mobile services, electronic mail, and data services are now available to the consumers. As many service providers entered the telecommunication sector in the country an appellate tribunal such as TDSAT was required to settle the disputes that arise all too often due to the intense competition in the sector.

In the TDSAT, any person, local authority, state government, or central government for the adjudication of a dispute can file cases. The power and function of Telecom Disputes Settlement & Appellate Tribunal includes that it can hear the appeal and also dispose appeals that are against any order, direction, or decision of the TRAI. The person or government authority has to file an appeal with the time period of 30 days, which is counted from the date on which they have received a copy of the order that has been made by TRAI. TDSAT (Telecom Disputes Settlement & Appellate Tribunal) may hear an appeal after the lapse of the 30-day time period if it is satisfied that there are sufficient reasons for not filing an appeal within the time period.

In TDSAT (Telecom Disputes Settlement & Appellate Tribunal), an appeal can be filed by filling up the standard application form, which is available on line in the website of the Appellate Tribunal. The Miscellaneous Application or Petition or Appeal has to be duly supported by a sworn affidavit. Once the case has been filed in the TDSAT (Telecom Disputes Settlement & Appellate Tribunal), the chairperson and the members hear it. The case can be disposed off at the very 1st hearing itself or the opposition party can be ordered to file a reply within the time period that has been fixed. When the pleadings have been completed, the case is finally heard by the TDSAT and then disposed off.

TDSAT (Telecom Disputes Settlement & Appellate Tribunal) thus, has been set up so that it can settle all kinds of disputes that arise in the telecommunications sector in India. This will help the telecommunications sector in India to grow and prosper.

RECENT NEWS

- The TDSAT direction came while hearing a petition filed by Bharti Airtel, which has moved the tribunal against TRAI's decision allowing Reliance Jio to continue with its

free promotional offer beyond the stipulated 90 days, alleging that the regulator acted as 'a mute spectator' to violations.

- The telecom tribunal has struck down a ₹3500-crore spectrum contiguity levy imposed by the Department of Telecom on Sistema Shyam Teleservices Ltd, said the same rules need to be followed for all telecom operators.
- Telecom tribunal TDSAT has rejected a petition filed by Loop Telecom seeking a refund of ₹2231 crore in licence fee and interest from the government for permits which it lost in 2G spectrum case in 2012.
- The Telecom Disputes Settlement and Appellate Tribunal (TDSAT) has asked the Telecom Regulatory Authority of India (Trai) to examine if agreements drawn between broadcasters and distributors of television signals are in consonance with regulations.

8.4.34 Telecom Regulatory Authority of India (TRAI)

TRAI is a statutory body and is wholly funded by grant received from the Consolidated Fund of India. The Telecom Regulatory Authority of India (TRAI) was established with effect from 20th February, 1997 by an Act of Parliament, called the Telecom Regulatory Authority of India Act, 1997, to regulate telecom services, including fixation/revision of tariffs for telecom services which were earlier vested in the Central Government. This Act, along with the notification of the Government dated 9th January, 2004, empowers TRAI to recommend conditions for entry of new telecom service providers as well as terms and conditions of license and ensure compliance of the terms and conditions of the license.

The Act also empowers TRAI to lay down the standards of quality of service and ensure compliance, specify the tariff policy and make recommendations regarding terms and conditions on which addressable systems of TV shall be provided to the customers. TRAI's scope of work also includes issues relating to ease of access for the public to different telecom services, resolution of conflicts that may arise due to market developments and diverse network structures for various telecom services. TRAI also facilitates development of forums for interaction amongst service providers and interaction of the Authority with consumer organisations to further the consumer interest.

The entry of private service providers brought with it the inevitable need for independent regulation. TRAI's mission is to create and nurture conditions for growth of telecommunications in the country in a manner and at a pace which will enable India to play a leading role in emerging global information society.

One of the main objectives of TRAI is to provide a fair and transparent policy environment which promotes a level playing field and facilitates fair competition.

In pursuance of above objective TRAI has issued from time to time a large number of regulations, orders and directives to deal with issues coming before it and provided the required direction to the evolution of Indian telecom market from a Government owned monopoly to a multi operator multi service open competitive market.

The directions, orders and regulations issued cover a wide range of subjects including tariff, interconnection and quality of service as well as governance of the Authority.

The TRAI Act was amended by an ordinance, effective from 24th January, 2000, establishing a Telecommunications Dispute Settlement and Appellate Tribunal (TDSAT) to take over the adjudicatory and disputes functions from TRAI. TDSAT was set up to adjudicate any dispute between a licensor and a licensee, between two or more service providers, between a service provider and a group of consumers, and to hear and dispose of appeals against any direction, decision or order of TRAI.

Structure

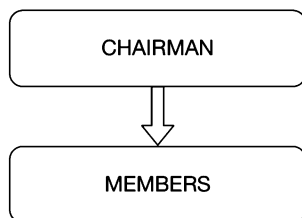
As per the Telecom Regulatory Authority of India Act, 1997 [as amended by TRAI (Amendment) Act, 2000], the Authority shall consist of a Chairperson and not more than two whole-time Members and not more than two part-time Members. The Chairperson and other members of the Authority shall hold office for a term not exceeding three years.

The authority functions with a Secretariat headed by a Secretary and assisted by various divisional heads.

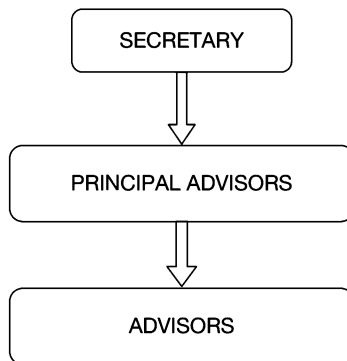
The functional divisions of TRAI are as follows:

1. Administration & Personnel Division
2. Broadcasting & Cable Services Division
3. Converged Network Division
4. Economic Division
5. Financial Analysis and Internal Finance & Accounts Division
6. Fixed Network Division
7. Legal Division
8. Mobile Network Division
9. Quality of Service Division
10. Regulatory Enforcement Division

Authority



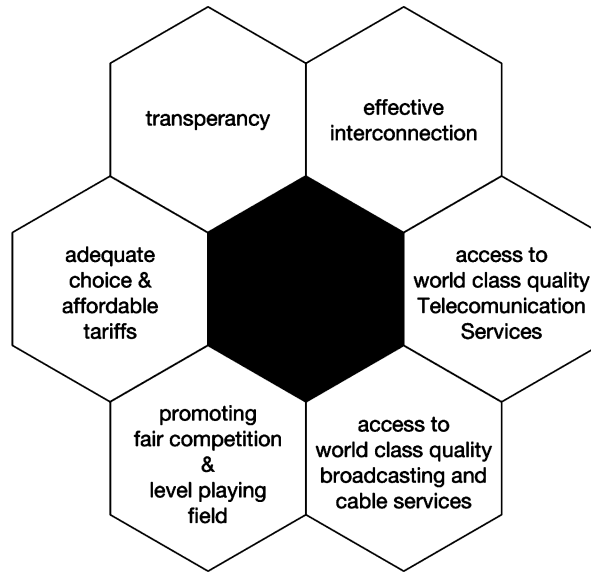
Organisational Setup



Goals and Objectives

- 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 and effective interconnection between service providers



Functions

The functions of the Telecom Regulatory Authority of India are **two-fold**, one **recommendatory** and the other **mandatory** in nature. As per the provisions of the TRAI Act, 1997 the functions of the Authority shall be ----

1. a. Discharge its functions which are **recommendatory** in nature either suo motu or on request from the Government on the following matters, namely:
 - (i) need and timing for introduction of new service provider.
 - (ii) terms and conditions of licence to a service provider.
 - (iii) revocation of license for non-compliance of terms and conditions of license.
 - (iv) measures to facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services.
 - (v) technological improvement in the services provided by service providers.
 - (vi) type of equipment to be used by the service provider after inspection of equipment used in the network.
 - (vii) measures for the development of telecommunication technology and any other matter relatable to telecommunication industry in general.
 - (viii) efficient management of available spectrum.
- b. Discharge the **mandatory** functions which include the following:
 - (i) ensure compliance of terms and conditions of license.
 - (ii) fix the terms and conditions of inter-connectivity between the service providers.

- (iii) ensure technical compatibility and effective inter-connection between different service providers.
 - (iv) regulate arrangement amongst service providers for sharing of revenue from providing telecommunication services.
 - (v) lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunication service.
 - (vi) lay-down and ensure the time period for providing local and long distance circuits of telecommunications between different service providers.
 - (vii) maintain register of inter-connect agreements and of all such other matters as may be provided in the Regulations. Keep the register open for inspection to any member of public on payment of such fee and compliance of such other requirement as may be provided in the regulations.
 - (viii) ensure effective compliance of universal service obligation(USO).
 - (ix) notify the rates at which the telecommunication services, within India and outside India shall be provided including rates at which message shall be transmitted to any country outside India.
- c. Levy fees and other charges at such rates and in respect of such services as may be determined by regulations.
- d. Perform such other functions including such administrative and financial functions as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of TRAI Act. (2) From time to time, by order, notify in the Official Gazette the rates at which the telecommunication services within India and outside India shall be provided including the rates at which messages shall be transmitted to any country outside India.

Consumer Protection

Quality of Service

Affordable Tariff

Interconnections

Regulations, Directions, Orders

Recommendations

Acts & Policies

TRAI Acts & Policies

1. TRAI Act, 1997
2. The Telecom Regulatory Authority of India (Amendment) Act, 2000
3. The Telecom Regulatory Authority of India (Amendment) Act, 2014

Other Acts & Policies

Acts

1. Indian Telegraph Act, 1885
2. The Indian Wireless Telegraphy Act, 1933
3. Cable Television Network Act 1995
4. Cable Television Network (Regulation) Amendment Act
5. Cable Television Network Rules 1994
6. The Cable Television Networks (Regulation) Amendment Act, 2011
7. Cable Television Networks (First Amendment) Rules, 2012
8. Cable Television Networks (Second Amendment) Rules, 2012

Policies

1. National Telecom Policy 1994
2. New Telecom Policy 1999
3. Broadband Policy 2004
4. National Telecom Policy 2012

TRAI PORTALS

TRAI Analytics Portal

It facilitates users and service providers to explore and resolve various issues in different telecom services. It has three portals for different Quality of Service parameters:

- **TRAI MySpeed Portal:** It facilitates users to explore the mobile data experience of customers across India. Users can submit data by downloading the app and testing their data speeds.
- **TRAI Drive Test Portal:** It is a portal to explore the results of independent drive tests done by TRAI.
- **TRAI QoS Analysis Portal:** It facilitates users to explore the call drop rate of various TSPs. Through this portal the Quality of Service performance of service providers can be identified for any specific location in India. Users can also navigate and view performance metrics from service area to district to city and finally to the BTS level.

TCCMS Portal

This portal has been developed to help the customer in processing their complaints. It facilitates customers by providing details of the complaint centre for lodging a complaint with their telecom service provider, details of the appellate authority to escalate the issue in case their complaint has not been addressed satisfactorily by the telecom service provider, view the status of a complaint already lodged, and check the status of the appeal lodged with the appellate authority.

NCCP Portal

The primary objective of the National Do Not Call Registry (NDNC Registry) is to curb Unsolicited Commercial Communication (UCC). The NDNC Registry will be a database having the list of all telephone numbers of the subscribers who do not want to receive UCC. The Telemarketer will have to verify their calling telephone numbers list with the NDNC registry before making a call.

MIS Portal

It is a web portal used to upload telco (2G, 3G, CDMA, GPRS, etc.) data by TSPs for MIS reports. Data is being uploaded by TSPs on this portal and after the verification of uploaded data by concerned division of TRAI, data is pushed to the database to generate MIS reports.

TRAI APPS

DND Services (TRAI)

DND (Do Not Disturb) Services app helps smart phone users to register their mobile number under DND to avoid Unsolicited Commercial Communication (UCC)/Telemarketing Calls/SMS. After registration if telecom subscriber still receives any UCC via SMS or call, then this app will facilitate users to register complaint with their respective Telecom Service Provider (TSP).

MySpeed (TRAI)

This application allows you to measure your data speed experience and sends the results to TRAI. The application captures and sends coverage, data speed and other network information along with device and location of the tests. The app does not send any personal user information. All results are reported anonymously.

ISSUES

Net Neutrality

Network neutrality is a complex and controversial topic and is an important part of a free and open Internet. Enabling access, choice, and transparency of Internet offerings empowers users to benefit from full access to services, applications, and content available on the Internet. Net neutrality is the principle that individuals should be free to access all content and applications equally, regardless of the source, without Internet service providers discriminating against specific online services or websites. In other words, it is the principle that the company that connects you to the internet does not get to control what you do on the internet.

Without net neutrality rules in place, Internet service providers (ISPs) can prevent users from visiting some websites, provide slower speeds for services or even redirect users from one website to a competing website. Net neutrality rules prevent this by requiring ISPs to connect users to all lawful content on the internet equally, without giving preferential treatment to certain sites or services.

In the absence of net neutrality, companies can buy priority access to ISP customers. Larger, wealthier companies like Google or Facebook can pay ISPs to provide faster, more reliable access to their websites than to potential competitors. This could deter innovative start-up services that are unable to purchase priority access from the ISPs. Also, if ISPs can charge online services to connect to consumers, consumers would ultimately bear these additional costs.

On 8th February, 2016, TRAI took a revolutionary decision, prohibiting telecom service providers from levying discriminatory rates for data, thus ruling in favour of net neutrality in India.

- No service provider can offer or charge discriminatory tariffs for data services on the basis of content.
- No service provider shall enter into any arrangement, agreement or contract, by whatever name called, with any person, natural or legal, that the effect of discriminatory tariffs for data services being offered or charged by the service provider for the purpose of evading the prohibition in this regulation.
- Reduced tariff for accessing or providing emergency services, or at times of public emergency has been permitted.
- Financial disincentives for contravention of the regulation have also been specified
- TRAI may review these regulations after a period of two years.

Call Drop

In telecommunication, the dropped-call rate (DCR) is the fraction of the telephone calls which, due to technical reasons, were cut off before the speaking parties had finished their conversational tone and before one of them had hung up (dropped calls). This fraction is usually measured as a percentage of all calls.

The main reasons for dropped calls in mobile networks are:

- Lack of radio coverage (either in the downlink or the uplink)
- Radio interference between different subscribers
- Imperfections in the functioning of the network

Telecom Regulatory Authority of India (TRAI) has sought from the government the power to levy financial penalty on operators. The TRAI wants the power to levy penalties, something which it does not have currently, as it feels it will give more teeth in terms of dealing with mobile operators.

It is not that in the past, TRAI did not collect fines from the operators for not meeting the quality of service parameters, but it was never termed as a penalty. It was called financial disincentive.

Telecom regulator launched a new portal that allows mobile users to check the level of call drops, network coverage and call quality of telecom operators across India. It is a transparency portal where consumers will get information on all parameters of quality of service (QoS) including call drops, coverage or call quality. Consumers, in a particular location, can see the number of towers around the area, see the call drop rate, and what is the performance of individual service providers on different parameters in that area.

Denying Adequate Interconnections

India's telecom regulator slapped a combined penalty of ₹3050 crore on Bharti Airtel, Vodafone India and Idea Cellular for violating licence norms by denying adequate interconnection points to Reliance Jio Infocomm and said their actions appeared to be aimed at stifling competition and were anti-consumer and against public interest. Telecom Regulatory Authority of India recommended that DoT take action against each of the three carriers, saying that violation of licence norms warranted revocation of their permits.

- TRAI recommends for 'reasonable' free mobile internet for rural areas

The telecom regulator has recommended an aggregator model and 100 MB of free data for mobile phone subscribers in rural or remote areas to help bridge the 'affordability' gap and give a thrust to the government's cashless economy agenda. The Telecom Regulatory Authority of India (TRAI) suggested that the Universal Services Obligation Fund (USOF) be used to foot the bill for providing government-incentivised free data schemes to rural subscribers.

Aadhaar-Based E-KYC Service

Communication dated 6th January, 2016 regarding adoption of Aadhaar-based e-KYC service, in order to make subscriber verification system more secure and robust, it is important that the entire process should be completely (end-to-end) technology driven, digital and paperless. Aadhaar-linked e-KYC service, provided by the Unique Identification Authority of India (UIDAI) is a fool-proof mechanism to verify the identity of the person electronically, instantaneously from the source itself. E-KYC verification will not only reduce the risk of identity fraud and document forgery but it will also make the entire process of subscriber verification paperless. Keeping in view of above, through letter dated 6th January, 2016 the Authority recommended to the DoT for acceptance and adoption of Aadhaar-based e-KYC service along with Aadhaar based e-sign as a valid alternative process to the existing process for digitally signed, biometric based verification of the new mobile subscribers.