BLOCK 6
REGULATORY COMMISSIONS

UNIT 12 REGULATORY COMMISSIONS

Structure

12.0 OBJECTIVES

After reading this Unit, you should be able to:

- explain the concept of regulation,
- discuss the different regulatory authorities in India,
- elaborate upon the problem areas, and
- suggest way forward.

12.1 INTRODUCTION

Today, we see public-private partnership in almost all sectors of economy. this is primainly becouse of the need for financial and skillfue mainpower resources. main can also be reapet besides tecnological chance in the public sector. The government has now provide the citizens with a choice friendly market and also incorporate reforms to effectively regulate the performance and quality of services being provided by the private sector.

This unit will now discuss about the regulatory commission India. Also it will discuss the three regulatory authorities later in the sections.

12.2 REGULATORY COMMISSIONS IN INDIA

Regulation: Concept

With the coming of liberalization, privatization, and globalization, the New Economic Policy liberalized theeconomy for private companies including the international and multi-nationals ones in public sectors. Telecom, power distribution, pension, food, construction of highways and toll roads, and such others were opened for investment of the private players. This brought in the concept of regulation.

Regulation refers to a rule or order issued by an executive authority or regulatory agency of a government and having the force of law. Regulation entails rules covering all activities both private and public in nature. Regulation, thus, is an attempt to control and monitor private behavior in a desired direction with the implications of certain rules and regulations.

These were the public private project that operated under build, own, operated model (BOO); and build, own, operate, Transfer Model (BOOT).

Regulatory mechanism ascertains economic efficiency, as the government can now ensure and monitor that the private sector companies adhere to the guidelines and standards laid down by the regulating agency, thereby prohibiting monopolistic, restrictive, and unfair trade practices; provide citizens with a choice friendly market, and finally, promote effective and efficient utilization of resources and modernization of services.

These objectives are in tune with Article 39 (c) of the Indian Constitution, which states 'that the operation of the economic system does not result in the concentration of wealth and the means of production to the common detriment.'

On the whole, regulatory commissions were set up with the underlying objectives.

1) Safeguard the consumer interest by securing quality and reliable facilities at affordable prices.
2) Arrive at a negotiation, as conflict resolution mechanism, among various stakeholders involved.
3) Foster competition, plurality, and investment.
4) Strike equilibrium in meeting the social welfare objectives based on viability of funds.

We will now delve with the nature of regulation.

12.3 NATURE OF REGULATION

Delicensing of industries, permissible private entry in to public sectors, liberalization of taxes and tax holidays to privately owned firms and corporate-marked the coexistence of public and private sectors in the Indian economy since the late eighties.

In order to ensure a level playing field and to safeguard public interest, the policy makers formalized the incorporation of three types of regulations:

1) Economic Regulation

These are regulations targeting economic or market failures; rules that proscribe and punish market distorting behavior. The Foreign Trade (Development and Regulation) Act, 1992 enables the Director General or any other officer authorized for the purpose to suspend and cancel the importer-exporter code number and the certificate/ license to import and export, if the person has contravened any of the provisions of the Act.

The firms may resort to anti-competitive practices, by charging a price more than the assigned, product hoarding, and abuse of dominant or monopoly power. Legislations have been enacted that empower authorities to prevent such practices. Thus, regulation through a set of transparent, consistent, and non-discriminatory rules can create a competitive and dynamic environment that can prevent megatime practices by market players.

2) Regulation in Public Interest

Some of the major regulations pertain to ensuring affordable pricing, transparent public distribution system, free distribution of potable water, and free power supply to agriculture, free schooling, free health system, etc.

3) Environmental Regulation

The protection of environment is an imperative for the society, as a clean and healthy environment enables economic and social development. Good health of the soil, forests, mineral resources, water resources, mountainous areas, flora, and fauna are markers of a healthy future for Mother Earth and her weather and climate.

The Environmental Protection Act, 1986 lays down standards of economic and social responsibilities of doing business in India and that are to be upheld by the business community. Furthermore, the initiatives taken up by Ministry of Environment, Central and State Pollution Control Boards, and National Green Tribunal act as a deterrent to the misuse of green environment and entails punitive actions.

12.4 REFERENCES AND FURTHER READINGS

The references relate to the entire Block.

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12(A) TELECOM REGULATORY AUTHORITY OF INDIA

With the New Economic Policy 1991 making inroads, the National Telecom Policy, 1994 was formulated, which eventually led to the setting up of a Telecom Regulatory Authority of India (TRAI), as an independent regulatory authority in 1997. This was primarily done to mark a level playing field for both the public and private telecom companies in the telecommunications industry.

This was followed by a New Telecom Policy, 1999, wherein the Policy endowed TRAI with more power to regulate the telecom issues. The concept of revenue sharing was introduced to avoid fixed license fees. National and international long distance schemes were introduced. Formation of BSNL took place with internet getting introduced in the Indian markets.

Functions

TRAI lays down the terms and conditions that are required to be a service provider and ensures the compliance of the same by the provider. It lays down standards of quality and ensures its incorporation by the service providers in order to protect the interest of the consumers. There is revocation of license for non-compliance of its terms and conditions. Further, it looks into technology, (such as, technology with efficient management of spectrum) that is being used by the service providers in order to facilitate growth in the telecom sector. It inspects and conducts trial of equipments to ensure competition and efficiency in the sector. It further fixes the terms and conditions of interconnectivity between the different service providers and also maintains record of the same to enable technical compatibility, effective interconnectivity, and transparency. It regulates the arrangement of revenue amongst the different service providers, as derived from their services.

Organizational Set up

There is a Chairperson along with two full time and two part time members. The Chairperson and other members hold office for a period not exceeding three years or attainment of sixty five years of age, whichever is earlier. The Secretariat of TRAI is headed by a Secretary and has ten divisions. These divisions look into different activities, as mentioned.

1) Fixed Network
2) Mobile Network
3) Converged Network
4) Economic Division
5) Financial Analysis
6) Administration and Personnel
7) Quality of Services
8) Legal Division
9) Broadcasting and Cable Services

10) Regulatory Enforcement

- **Quality of Service**

  Section 11(b) (v) of TRAI's Policy stipulates that certain quality standards have to be adhered to by the service providers to ensure the quality of services . For this TRA conducts periodical surveillance of the services offered to the customers by the providers to ensure that the services are in public interest. The standards are specified in the regulation and the performance report of each operator is monitored on the basis of compliance to these standards on a quarterly basis.

- **Consumer Protection**

  TRA has taken a number of initiatives towards the protection of consumers from the private players' machinations. It has drafted a Charter in consultation with NGOs and advocacy groups to facilitate provision of telecom services with transparency and efficiency. Also, in May 2007 it has set up a Grievance Redressal Forum to resolve the grievances of the customers. A three tier nodal structure of a Call Centre, Nodal Officer, and Appellate Authority is to be provided within a service provider centre. A Telecommunication Consumer's Education and Protection Fund to conduct studies and undertake market research projects has also been set up. Further, a Telecom Unsolicited Commercial Communications Regulations (2007), which envisages a mechanism of curbing unwanted telemarketing calls through national database, has been put in place.

- **Tariff Regulation**

  One of the most important functions of TRA is to mandate the tariff regulations of telecommunication services in order to provide affordable and effective services to the consumers. Also, the tariff policy is planned in such a way to enable customers reap benefits from substantially declining tariffs. TRA makes it mandatory for service providers to report their respective tariff plans in this regard.

- **Universal Service Obligation**

  For achieving one of the objectives of the New Telecom Policy (1999) pertaining to universalisation of telecom services for all, the Authority provides for raising of resources through the imposition of a universal services levy on the operators, which would be a percentage of revenue earned by them. Also, various measures such as establishment of Universal Service Obligation Fund for the growth of telecom services in rural areas and with the Indian Telegraph Amendment Act (2006) to mobilize internet across the country are noteworthy initiatives undertaken by TRA in this regard.

Now we will take up Pension Fund Regulatory & Development Authority for discussion in the ensuing unit.

12 (B) PENSION FUND REGULATORY & DEVELOPMENT AUTHORITY

The GoI, in the year 1999, initiated a project, namely OASIS i.e. Old Age Social and Income Securities making provisions for the senior citizens of the society keeping in mind their needs. The recommendations of OASIS initiated a new scheme of pension for the Central and State government employees. On its recommendations, an Interim Pension Regulatory Fund Authority of India was formed to promote, develop, and regulate the pension sector in India on August 23, 2003. National Pension Scheme (NPS) was started w.e.f. January 1, 2004. It is subscribed by employees of GoI, State Governments, and by employees of private institutions/organizations and unorganized sectors. The Authority was to regulate the NPS.

Later, a Pension Fund Regulatory & Development Authority (PFRDA) Act was passed on September 19, 2013 that took over the Interim Pension Regulatory Fund Authority and it got notified on February 1, 2014. PFRDA is a regulating body for the NPS constituted under this Act.

The Authority has a Chairperson and not more than five members, of whom three are full time members and they are all appointed by the Central government.

Functions

The PFRDA while exercising its powers under the Clause (o) of Sub-section (2) of the Act, is vested with the powers of a Civil Court under the Civil Procedure Code.

The following functions are being performed by the PFRDA:

1) It has to regulate, promote, and ensure orderly growth of the National Pension Scheme and protect the interests of the subscribers.
2) To establish a mechanism of grievance redressal for the subscribers.
3) To promote growth of professional organizations connected with pension schemes.
4) To adjudicate disputes between intermediaries and subscribers.
5) To instruct the intermediaries to do undertake documentation that may help conduct of future research studies and projects.
6) To undertake steps to educate the subscribers and the general public on issues relating to pension, retirement savings, and related issues.
7) To set standards and performance benchmarks.
8) To levy fees or charges, as per the provisions of the Act.
9) To review the audit reports relating to inquiries and investigations of intermediaries and other organizations relating to pension funds.

Now we will take up Food Safety and Standards Authority of India for discussion in the ensuing unit.

12 (C) FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA

Establishing certain standards and guidelines to monitor the circulation of food commodities in the society is an absolute necessity. Keeping this in mind, the government had laid down certain legislations, namely, Prevention of Food Adulteration Act, 1954; Fruit Products Order, 1955; Meat Food Products, 1973, Vegetable Oil Products Control Order, 1974, and Milk and Milk Products Order, 1992. However, the legislative have been repealed and Food Safety and Standards Act, 2006 have been promulgated. The Act establishes a single authority for all matters relating to food safety and standards, thus, creating an autonomous institution of Food Safety and Standards Authority of India (FSSAI) 2006, which enforces the provisions of the Act.

Organization

The composition of the Authority is constituted by the Ministry of Health and Family Welfare, GOI, which is the Ministry responsible for the implementation of the Act.

The FSSAI has a Chairperson, who is of the rank of a Secretary to the GoI. Along with the Chairperson there is a team of twenty-two members of which one-third are women members. Besides These, these are seven members, who are ex-officio members from departments of agriculture, commerce, health, consumer affairs, food processing, legislative affairs, and small scale industries. There are two representatives from food industry, two from consumer organizations, three scientists belonging to respective areas, five members appointed on a rotational basis, two members from the farmers' organization, and one person, as the representative of a retailer organization.

The Chairperson and members, other than the ex-officio members, shall hold the office for a term of three years or till the age of sixty-five, whichever falls earlier.

Functions

The FSSAI is an authority mandated to handle matters pertaining to food safety and security. It lays downs certain scientifically based standards to regulate the manufacture, storage, distribution, sale, and import of food items to ensure availability of safe and wholesome food for human consumption. The following functions are hitherto undertaken.

1) Laying down the standards and guidelines in relation to food items and promote general awareness about food safety and standardization.

2) Laying down mechanisms and guidelines for the accreditation of bodies, who are engaged in certification of food safety and management of food businesses.

3) Laying down the procedure for the accreditation of laboratories.

4) Providing scientific advice and technical support to Central and State

governments in framing of rules and policies in areas, which have direct or indirect bearing on matters of food safety and production.

5) Collecting and collating data with reference to food consumption, incidences of communicable risk, prevalence of biological risk, contaminants in cooked food, etc. and thereby calling for a rapid alert system.

6) Creating an information network across the country, so as to enable the local level institutions like panchayats and public to receive rapid, reliable, and objective information pertaining to food.

7) Providing capacity building programs for the people, who are working in the food sector and also the new entrants in the food businesses.

12.4 PROBLEM AREAS

The regulatory commissions have brought in a shift in the Indian Economy by enabling a level playing field for both the public and private sector enterprises. However, these commissions seem to face certain problems that pose a bottleneck in their effective performance. These are:

1) Lack of clear demarcation in the roles of government, regulatory authority, and the judiciary.

2) Quality of service is impacted due to absence of well-established service benchmarks, performance standards, and trained technical manpower.

3) Consumer participation in planning and decision-making process is not there.

4) A generalist approach prevails in the absence of a specialist approach in personnel matters.

5) There exists a constant political interference in the functioning of regulatory bodies, especially in matters of open, competitive, and free market practices.

Activity

You can take an area of public-private partnership and know about the level playing field, as laid down by the relevant regulatory authority e.g, tall road, national highways, healthy sector, education and such others..