

6. Audit findings

6.1 Non utilisation of one-time financial assistance

The GOI had provided one-time financial assistance of Rs. 61.80 crore to the States for strengthening the infrastructure of the consumer courts in 4 installments at the rate of Rs. 50 lakh for 32 State Commissions and at Rs. 10 lakh for 458 District Forums during the period 1995-99. Only 14 States had utilized the funds released to them whereas in 19¹ States and UTs, Rs. 8.49 crore (22.74 per cent) of the amount released remained unutilised as on 31 March 2005. Five Union Territories (**Andaman & Nicobar Islands, Chandigarh, Daman and Diu, Dadra & Nagar Haveli and Lakshadweep**) had not drawn the third and the fourth instalments of funds earmarked for them amounting in all to Rs. 1.62 crore.

6.2 National Action Plan not activated

Audit examination revealed that it was in the 50th National Development Council (NDC) meeting held on 21 December 2002, that consumer protection evolved as a thrust area. The Planning Commission identified and included consumer awareness and redressal and the enforcement of the Consumer Protection Act, as one of the priority items on the agenda for action for 2003-04 and asked the Department of Consumer Affairs to prepare a National Action Plan. The State governments were also required to prepare their State Action Plans for furthering the consumer protection programme. The National Action Plan prepared by the Department of Consumer Affairs seeking additional allocation of Rs. 311.81 crore was sent to the Planning Commission in March 2004. The Plan envisaged the following components:-

(Rs. in crore)		
(i)	Undertaking Consumer Awareness Programme against media plan developed in consultation with D.A.V.P.	200.00
(ii)	Strengthening of infrastructure of National Commission for office building	11.00
(iii)	One time grant to States for setting up new Commissions/Benches and Forums including additional grant to recipients of earlier one time grant	51.72
(iv)	Interlinking of Consumer Courts through computer networking	27.39
(v)	Purchase of weight and standards for Central and State laboratories	21.70
	Total:	311.81

Audit noted that despite recognising the need for augmenting the consumer protection measures, the plan was yet to be approved by the Planning Commission/ Ministry of Finance.

The Ministry stated (February 2006) that though the plan was yet to be formally approved, a number of schemes which were part of National Action Plan

¹ Two Union Territories had a common State Commission

were approved and the overall allocation for consumer protection measures increased from an average of Rs. 3 crore per year upto 2003-04 to about Rs. 100 crore annually for the subsequent years.

Recommendation

The Ministry may effectively pursue with the Planning Commission for approval to the release of the funds projected in the Action Plan so that the consumer protection measures can be more effectively undertaken at all levels.

6.3 Awareness and Empowerment of Consumers

The success of the consumer movement depends upon the level of awareness among the consumers at large about their rights. For increasing the awareness and the level of empowerment of consumers, GOI has been releasing assistance from the Consumer Welfare Fund to State governments/ NGOs and VCOs during the period 2000-01 to 2004-05. Audit examination revealed that these funds were not utilized effectively as brought out in the subsequent paragraphs.

6.3.1 Jagriti Shivar Yojana

To generate consumer awareness among the poorest sections in the rural areas, the Ministry launched an integrated campaign named Jagriti Shivar Yojana (JSY) in June 2001. The programme was primarily intended to cover 120 Districts of the country by selecting 20 per cent of the Districts in each State/Union Territory to raise the awareness of the beneficiaries about the existing schemes of poverty alleviation. A sum of Rs. 0.50 lakh was to be provided in respect of each District selected to organize a public awareness programme to meet the expenses on public meetings (Rs. 0.25 lakh), printing of brochures (Rs. 0.13 lakh), transportation cost (Rs. 0.07 lakh) and miscellaneous expenses (Rs. 0.05 lakh). The funds could also be utilized for promotion of research in the field of consumer protection and welfare.

6.3.1.1 The information made available by the Ministry indicated that the outgo towards JSY from the Consumer Welfare Fund was to the extent of Rs. 30.50 lakh to 15 States, from December 2001 to October 2003. Audit examination of the utilization of funds under JSY showed that the States/Union territories of **Chhattisgarh, Madhya Pradesh, Uttar Pradesh, Daman & Diu and Delhi**, did not submit any proposal to the Ministry for implementation of the scheme. The position of utilization of funds released during the last four years (2001-02 to 2004-05) was generally not satisfactory as evident from Table 3.

Name of State/ UT	Fund released	Status of implementation
Goa	0.50	Full amount remained unutilized
Karnataka	3.00	Full amount of Rs. 1.50 lakh was not used in 3 Districts. Rs. 0.85 lakh was not used in the

		remaining 3 Districts
Maharashtra	3.50	Rs. 2.63 lakh distributed by the State government to the District Councils for organizing meetings, remained unutilized
Rajasthan	3.50	Rs. 0.93 lakh unutilized amount was returned to Government of India
Andaman & Nicobar Islands	1.00	Full amount remained unutilized

6.3.1.2 In the meeting of the Standing Committee headed by the Secretary of the Department of Consumer Affairs held in August 2005, the Department had Stated that it would henceforth focus on major issues/projects to reach out to the maximum number of consumers throughout the country which would be monitored effectively. Accordingly, the proposal to discontinue JSY was agreed to by the Committee. The scheme, implemented with the meagre outlay of Rs 30.50 lakh spread over 15 States during a span of 4 years with limited consumer coverage was thus unproductive and failed in generating consumer awareness.

6.3.2 District Consumer Information Centre

A scheme to set up District Consumer Information Centres (DCIC) in each District throughout the country (603 Districts) was launched by the Government of India in 2000-01. The DCICs were to function as Information Resource and Guidance Centres on continuous basis. The centres were to be set up by the Zilla Parishads (ZP) or Voluntary Consumer Organizations (VCOs) of repute who had income or expenditure of at least Rs. 2.5 lakh in each of the last three financial years. Financial assistance of Rs. five lakh from the Consumer Welfare Fund was to be provided to these organizations to meet recurring and non-recurring expenses. A monitoring committee consisting of four members headed by the District Magistrate/Collector was to review the functioning of the DCIC from time to time.

6.3.2.1 A review of the status of the implementation of the scheme in audit indicated that 104 DCICs (out of 603 Districts) were sanctioned for the Districts across the country up to the end of December 2004 and an amount of Rs. 1.40 crore was released by the State governments to the concerned organizations. The response from the ZPs and VCOs to the setting up of DCIC was not very encouraging as noticed from the following instances

- No DCIC had been set up so far in Haryana, Jharkhand, Maharashtra, Punjab, Rajasthan and the Andaman & Nicobar Islands.
- Only a few DCICs were found to be operative in Kerala(1), Tamil Nadu(3), and West Bengal(6).
- In Andhra Pradesh, Haryana and Uttar Pradesh, where the VCOs were also extended financial assistance by GOI for setting up DCIC, only two DCIC was set up in Andhra Pradesh out of 28 centres assisted in these States. In Uttar Pradesh, where grant of Rs 70.54 lakh was released to 33 VCOs for the establishment of DCICs in 21 Districts, during March 2003 to April 2004, progress in their

establishment was not available with the local Administration in the five test checked Districts.

In reply the Ministry stated (February 2006) that there was an uneven geographical distribution of these centres in the country and in view of the inadequate resources available for running these centres, their capacity was limited to reach the aggrieved consumers with guidance and help and it was decided to freeze the scheme and no new centres were being sanctioned. The Ministry had thus launched the programme without assessing the finances available with reference to the expected coverage of the target group.

6.3.3 Short utilization of funds released to NGOs/VCOs from the Consumer Welfare Fund

Audit examination revealed that the Department of Consumer Affairs had released Rs. 9.35 crore to the NGOs and VCOs of 26 States in ten years up to the end of March 2005 against specific proposals submitted by the organisations for protecting the welfare of consumers. A verification of the status of utilization showed that the organizations in only **Meghalaya** had utilized the grant in full whereas the utilization ranged between 53 to 78 per cent in the case of assisted organisations of **Gujarat, Haryana, Jammu & Kashmir, Kerala and Chandigarh**. A total amount of Rs. 6.56 crore was lying with NGO/VCOs of 20 States unutilized (September 2005) which included Rs.1.28 crore not spent for over five years. The Ministry had no mechanism to assess the impact of the expenditure incurred through NGOs/VCOs. **Andhra Pradesh** had no information on the activities of the VCOs after registration. It was observed in audit that in three out of six sample Districts namely, Hyderabad, Khammam and Srikakulam, none of the VCOs were invited to participate in the meetings of the District Councils held during 2004-05. Thus, the Central and the State Governments paid inadequate attention to the involvement of VCOs in promoting consumer awareness.

6.3.4 Survey findings about consumers' awareness

The report of ORG-MARG engaged by Audit to obtain the perception of the consumers at large of the effectiveness and usefulness of the mechanism put in place by the Central and State governments to promote and protect the interests of the consumers revealed that:

- Sixty-six per cent of the consumers interviewed were not aware of consumer rights and 82 per cent were even unaware of the Act.
- Nearly 49 per cent of the aware consumers had come to know about the Act only in the last 4 years though the Act had been in existence for the past 18 years.
- Overall, only 13 per cent of the consumers reported to have been aware of the existence of any redressal agency.
- A majority of the complainants came to know about the redressal agencies through electronic media (48 per cent), print media (61 per cent) and friends/relatives (68 per cent). NGOs were not a popular source of awareness as only 4.9 percentage of the complainants attributed their awareness to the work of NGOs.

- The consumers were not aware of the features of the simple and inexpensive system of lodging complaint in the absence of any focused awareness programme launched by the Ministry or the States in this regard. The beneficiary survey carried out by ORG- MARG revealed that 78 per cent of the respondents were carrying a negative opinion of the efforts made by the government or had no idea about the same and were not aware that they could directly represent themselves in the Consumer Forums. It is pertinent to note that lack of awareness in this regard had deprived the consumers of the benefit of the adjudication mechanism as out of the total expenditure of Rs.3387 incurred by the consumers on each case in the Consumer Forum on an average, as much as Rs. 2787 (82 per cent) was the expenditure on advocates.

In reply the Ministry stated that National Consumer Helpline (NCH) Project funded from the Consumer Welfare Fund, launched on 15 March 2005 was being run by the University of Delhi. In addition, a separate web-based project for setting up a consumer online resource and empowerment centre was also launched for helping consumers across the country.

Recommendation

The Ministry should in close coordination with the State governments increasingly involve NGOs/VCOs in promoting awareness of the consumer protection measures among consumers by introducing specific schemes of financial and other support. At the same time, the accountability of the NGOs/VCOs has to be ensured.

6.4 Adjudication mechanism for consumer protection and redressal of grievances

The Act, inter alia, envisaged setting up of a three tier adjudication mechanism under which the National Commission at the Centre, the State Commissions in the States and the District Forums in the Districts were to be constituted. These were to be established by separate notifications by the respective governments. The Statewise position of the constitution of the State Commissions and the District Forums is indicated in **Annexures 3 and 4** respectively. The summarized position indicating the time taken since the issue of the notification for the constitution of the forums at the national, the State and District levels and their actual functioning is given in Table 4.

Particulars	Progress in issue of Notification		Actual Functioning	
	Number of Commission/ Forums/Bench	Month & year of issue	Number of Commission/ Forums/Benches	Functioning since
National Commission	1	August 1988	1	August 1988
Circuit Benches of National Commission	11	August 2004	1	January 2005

State Commission	27	September 1987 to October 2002	27	February 1988 to May 2003
Circuit Benches of State Commission	2	June 2003 and October 2004	1	September 2003
District Forums	519	November 1987 to July 2004	519	April 1988 to June 2005

6.4.1 Delay in establishment of National Commission and its Benches

The National Commission was established by the GOI in August 1988, after one year of the implementation of the Act. As regards the Circuit Benches of the Commission, an order was issued only in August 2004 notifying 11 places (**Ahmedabad, Allahabad, Bangalore, Bhopal, Chennai, Hyderabad, Jodhpur, Kolkata, Lucknow, Nagpur, and Pune**) where the Commission was to perform its functions. Till September 2005, only one sitting of Circuit Bench at Hyderabad was held in January 2005. The modalities including periodical intervals at which the Bench had to conduct its hearing at designated places had not been notified by the National Commission (September 2005).

6.4.2 Delay in establishment of the State Commission and its Circuit Benches

According to the Act, the State Commission was to ordinarily function in the State capital but could perform its functions at other places notified by the State government in consultation with the State Commission. There were delays by the State governments in the issue of notifications for the setting up the State Commissions. Even after allowing one month after issue of notification for their setting up, the State Commissions in 13 States were set up with delays ranging from 1 month to 54 months as detailed in **Annexure-3**. Table 5 summarizes the extent of delay in the issue of notification from the date of the enactment of the Act and the further delay in setting up the Commissions.

Table No. 5 : Delay in issue of notification/setting up of the State Commission		
	Number of State Commissions	
	Issue of notification with reference to the date of notification of the Act of 1987	Delay in setting up State Commissions after notification
Delay upto 3 months	3	Nil
Delay above 3 months upto 6 months	3	2
Delay above 6 months upto 1 year	6	3
Delay above 1 year	1	15
		5

year upto 3 years		
Delay above 3 years	5	1
Total	25*	13
*Information about date of issue of notification in respect of the States of Gujarat and West Bengal were not available		

6.4.2.1 While there were delays in establishing the State Commissions, their functioning was also not effective as the Commissions' were functioning part-time for several years in many of the States. In **Andhra Pradesh**, the Commission functioned on part time basis up to 19 January 1993. In **Assam**, appointment of a sitting judge of the Guwahati High Court as part time President of the State Commission, in addition to his normal duties was notified in November 1989 and the adhoc arrangement continued till October 2002. In **West Bengal**, the State Commission functioned on part time basis from January 1990 and was converted into a full time Commission only in June 1997 after 10 years from the date of the enactment of the Act.

6.4.3 Additional benches of the State Commission not set-up

The proposals for setting up 19 additional Benches of the State Commission suggested, in view of high pendency of cases, by the GOI or the State Commissions to the State governments of **Andhra Pradesh (4), Karnataka (3), Kerala (2), Madhya Pradesh (2), Maharashtra (1), Punjab (3) and Rajasthan (4)** were either not accepted or were still pending decision.

Some of the salient cases adversely affecting the consumers, noticed in audit, are discussed below:-

- In **Kerala**, the State Commission was conducting weekly camps every month at Ernakulam for the convenience of the consumers of the northern Districts. In view of the heavy pendency of cases, the GOI had suggested in May 2004 setting up of two additional benches in the State. The matter had been kept in abeyance by the State government (August 2005) pending issue of revised rules in line with the amendment (2002) to the Central Act.
- In **Maharashtra**, a circuit bench at Nagpur approved in October 2004 did not start functioning for want of proper infrastructure and due to non-filling of the sanctioned posts for staff.
- In **Punjab**, the State Commission requested the State government (April 1999) for three additional benches due to the increased number of pending cases. The State Government while not accepting the proposal pointed out (March 2004) that the pendency was due to the disposal of cases being less than the prescribed norms. They also pleaded their inability in the matter due to the financial crunch in the State. Meanwhile, the pendency of appeals went up from 1768 in January 1999 to 4001 in December 2004.

6.4.4 District Forums were established late or not established

Out of 519 District Forums in 27 States, only 114 Forums were set up within one month from the date of issue of notification, the details about date of issue of notification and setting up

were not available in respect of 148 Forums. Substantial delay was noticed in constitution of 257 Forums out of 519 District Forums in 27 States as indicated in Table 6.

Table No. 6 Delay in setting up District Forums²	
Particulars	Number of District Forums
Delay upto 3 months	53
Delay above 3 months upto 6 months	28
Delay above 6 months upto 1 year	35
Delay above 1 year upto 3 year	37
Delay above 3 year upto 5 years	60
Delay above 5 years	44
Total	257

The State wise position of the setting up of District Forums is indicated in Annexure-4

6.4.4.1 The functioning of the Forums was further affected due to lack of effective intervention by the State government. As per section 10 of the Act, each District Forum was to have a President and two members. Audit examination revealed that 64 District Forums continued to function for over 2 to 16 years without a full time President in **Assam (8 Forums: over 4 years), Gujarat (17 Forums : over 9 years), Rajasthan (21 Forums: over 2 years)** and **West Bengal (18 Forums : 4 to 16 years)**. Further, 55 District Forums in **Assam (15), Chhattisgarh (11), Himachal Pradesh (8) and Madhya Pradesh (21)** did not have (September 2005) independent whole time Presidents even after eighteen years from the enactment of the statute. This was indicative of the inadequate commitment of the concerned States for furthering the efficiency of the adjudication process for the consumers to exercise their rights.

6.4.4.2 Under the Act, the States were empowered to constitute additional District Forums where the pendency was high. However, the suggestions of the State Commission, the National Commission and the GOI for creation of 7 additional Forums in **Himachal Pradesh (1), Kerala (2), Maharashtra (2) and Punjab (2)** remained pending or were not accepted by the State Governments since March 2003. Financial crunch was stated to be the reason for non acceptance of the proposal by **Punjab** while the reasons in respect of other States were not ascertainable from the records produced.

6.4.4.3 The District Forums were to commence work within a reasonable time after the posting of the Presidents and Members and the provision for staff and infrastructure by the State government. It was however, noticed that 12 District forums in **Jharkhand (3), Maharashtra (4), Uttar Pradesh(4)** and **Andaman & Nicobar Islands(1)** remained non-functional for a period ranging from over one year to seven years for want of staff, nomination of Presidents and infrastructure. In **Maharashtra**, four new Districts Forums at Gondia, Washim, Hingoli and Nandurbar, though created in October 2002, were not functioning for want of

² After allowing one month from the date of notification

infrastructure and staff even after lapse of over two years. The cases filed in the original Districts (Akola, Bhandara, Dhule and Parbhani) were thus not transferred to the newly created Forums. In these four Districts, out of 513 cases filed, 217 cases (42.30 percent) were pending as of March 2005.

Recommendation

The Ministry may critically review the status of creation and operationalising the Forums at an appropriate level so that a practical method could be devised to encourage and enable the States to extend the required support for making them effective institutions to provide speedy and inexpensive redressal of consumer grievances.

6.5 Absence of documented policy

The Act made provisions for the constitution of Consumer Protection Councils at the District, State and National levels to lay down the specific objectives to be achieved in securing consumer interests. Though the objectives of the programme were prima facie indicated in the Act, no documented policy outlining the priorities of the Ministry for strengthening the infrastructure of the adjudication mechanism and securing greater involvement of the State/District administration/Non Governmental Organizations (NGOs) for promotion of awareness and empowerment of consumers was laid down.

6.5.1 Adoption of uniform procedure was delayed

Although the Ministry notified the Act in 1987 for setting up various District Forums and the State Commissions, it did not finalize a uniform procedure for the redressal of grievances of the consumers. In a meeting of the Presidents of the State Commissions, convened in October 1999 by the President of the National Commission, the need for the State Commissions to draw up a uniform procedure for processing the complaints from the date of receipt till their final decision was emphasized. It was only in March 2003 that the Act was amended empowering the National Commission to make regulations in this regard with the concurrence of the GOI. The National Commission finalized the regulation, prescribing the uniform procedure of working of the Forums/Commissions in the country along with the procedure for disposal of complaints which became effective only from May 2005. Thus a vital and elementary prerequisite of establishing a uniform procedure was not fulfilled by the Ministry till almost 18 years after the enactment of the statute.

6.5.2 Framing of rules was delayed

Section 30 of the Act required the GOI to make rules for implementing the provisions of the Act. Table 7 indicates the status of the framing of Rules comparing the requirement contained in various provisions of the Act with the actual position of framing of the Rules.

Table No.7: Delay in Formulation of Rules	
Action required to be taken As per the Act	Action taken
Under (hb) of sub section 1 of section 14, Rule was to be framed prescribing (i) the amount payable in cases where loss has been suffered by a large number of consumers and (ii) the manner of utilization of amount so received	It was only on 5 March 2004 that Rule (10 A) was inserted in the Consumer Protection Rules, 1987 prescribing the procedure for remittance of fine in cases where the aggrieved consumers are in large numbers and cannot be identified conveniently.
Under sub section 2 of section 12, Rule was to be framed prescribing the fee payable by the complainants before the case is filed in District Forum, the State Commission and National Commission	It was only on 5 March 2004 that Rule 9 A was inserted prescribing the fee payable for making complaints before District Forum, and the fee for filing case before the National Commission and State Commissions was prescribed on 10 February 2005.
Under Clause (a) of subsection (1) of section (2), Rule was to be framed for recognition of Appropriate laboratory by the Central/State government.	It was only on 30 August 1995 that the Rule for recognition of a laboratory by the State government was framed. However, the Rule for recognition of laboratories by the GOI was yet to be framed.

6.5.3 Delay in notifying rules for levying fee for admitting complaints

In terms of section 12 of the Act, a complaint filed in a District Forum or State Commission and National Commission shall be accompanied by such amount of fee and payable in such manner as may be prescribed. The Central government may, by notification, make rules prescribing the fee leviable in cases filed before the respective Forums. The Rules were, however, framed belatedly prescribing (March 2004) only the fee payable at District Forum that ranged from Rs. 100 to Rs. 500 per complaint. The concerned District Forum was required to deposit the amount of fee so received in the State government account. The fee payable for filing complaints before the State and the National Commission were prescribed for the first time in February 2005 specifying a fee ranging between Rs 2000 and Rs. 4000 in respect of the State Commission and Rs 5000 in the case of the National Commission. The concerned authorities (District Forum, State and National Commission) were required to credit the amount of fee into the Consumer Welfare Fund of the Central and the respective State Governments. No procedure was prescribed for credit of these amounts into the Consumer Welfare Fund.

6.5.4 Audit noticed that the fee of Rs. 2.40 lakh, deposited with the National Commission during the three months up to May 2005 had not yet (September 2005) been transferred to the Consumer Welfare Fund in the absence of any prescribed accounting procedure. The beneficiary survey carried out by ORG-MARG at the instance of Audit also revealed that

- about 33 per cent of the complainants had deposited the court fee though it was not actually levied until February 2004, and
- only 37 per cent of the complainants had been furnished receipts for the payment so made by them.

The position of fees realised and the procedure followed by the States in the remittance of fees collected by the State Commissions and the District Forums into

the State Consumer Welfare Fund and the procedure followed by them for accounting the receipts were not available with the National Commission.

6.6 Inordinate delay in regulating the procedure for credit of deposits realized from appeals

6.6.1 The Act, inter alia, laid down that any person aggrieved by the order of the District forum or the State Commission may prefer an appeal to the State or to the National Commission, respectively, within a period of thirty days. The provision was amended (March 2003) to provide that no appeal would be entertained from a person who was required to pay any amount or compensation in terms of an order of the District Forum/State Commission, unless the appellant had deposited fifty per cent of such amount or rupees twenty five thousand or thirty five thousand, whichever was less in the case of the State Commission and the National Commission respectively. The amount, in the case of the National Commission was to be remitted in the form of a crossed demand draft drawn on a Nationalized Bank in favour of the Registrar, National Commission payable at Delhi.

6.6.2 Lack of accounting control over the deposits made by consumers

Though the Act was amended (March 2003) prescribing the deposit of fee by the appellant while filing an appeal before the Commission, the required Rule was framed only in March 2004, requiring remittance of the deposit to the Commission by way of demand draft. The detailed accounting procedure was still not prescribed, pending which the demand drafts deposited by the complainants with the National Commission were being retained in the shape of FDRs till the matter was decided. Information made available by the National Commission revealed that demand draft deposits amounting to Rs. 1.5 crore realized from 431 appeals and Rs. 4.50 crore from revision petitions during September 2003 to August 2005 were kept in the form of such FDRs. However, detailed procedure for keeping account of the deposits in the National Commission had not been laid down.

Recommendation

The Ministry should lay down the accounting procedure for the collections made by the Consumer Forums to ensure that the amounts realized as fee and deposits from the consumers and delinquent service providers are promptly deposited in the authorised destination accounts. This would prevent any risk of defalcation or abuse of the process of consumer grievance redressal.

6.7 Inordinate delay in prescribing the time limit for the disposal of complaints/appeals

6.7.1 The District Forums and the State and the National Commissions were required to hear complaints about the quality of goods/service filed before them as expeditiously as possible. The time limit for disposal of complaints/appeals was not laid down, in the Act initially. In terms of sub section 3A inserted in section 13 of the

Act with effect from 15 March 2003, the District Forums were required to decide the complaints within a period of three months from the date of receipt of the notice by the opposite party where the complaint did not require analysis or testing of commodities and within five months if it required analysis or testing of commodities. Appeals filed before the State Commission or the National Commission were also to be heard and finally disposed of within a period of ninety days from the date of admission. Adjournment in a hearing of a case was not ordinarily permissible unless sufficient cause was shown and the reasons for grant of adjournment were recorded in writing by the Commission. Table 8 contains the status of cases filed and disposed by the District Forums and the State and the National Commissions during the period 2000-01 to 2004-05.

Table No. 8 Position of cases (including opening balance) filed and disposed during the period 2000-2005				
Consumer Forum	Filed	Disposed	Percentage of Disposal	Pending
National Commission	37718	29417	77.99	8301
State Commission	265775	150681	56.69	115094
District Forums	1209096	937908	77.57	271188
Total	1512589	1118006	73.91	394583

6.7.2 Details of the Statewise position in respect of the disposal of grievances by the State Commission and the Districts Forums are indicated in **Annexures 5 and 6** respectively. A scrutiny of these details would indicate that the percentage of disposal of cases in the State Commission had, on an average, ranged from 27.59 per cent in Uttar Pradesh to 96.18 per cent in Chandigarh. While Dadra and Nagar Haveli had shown no disposal in the District Forums, the rate of disposal had ranged from 31.5 per cent in Haryana to 93.60 per cent in the District Forums of Rajasthan. Test check of the records further revealed that

- Out of 7,90,269 decided cases, 5,44,327 cases scheduled for hearing were adjourned beyond the stipulated period of 90/150 days and only 2,45,942 cases (31.12 per cent) were disposed by the respective redressal agencies within the stipulated period during 2000-01 to 2004-05 (**Annexure 7 and 8.**)
- the outstanding cases included those exceeding three years particularly, in respect of the State Commissions of **Kerala** (754), **Orissa** (3214), **Rajasthan** (5555), **Uttar Pradesh** (11487) and **West Bengal** (537)
- The beneficiary survey of the complainants conducted by ORG MARG at the instance of Audit revealed that, on an average, the decree took 12 months to be passed and on an average, 6 hearings were involved in a case.

6.7.3 The Ministry while agreeing to the delay in settlement of complaints filed by consumers in the Consumer Forums had referred to failure of the State Governments to fill up vacancies of the President and Members of District Forums and State Commissions in time and to lack of adequate facilities provided to these Forums to function optimally.

Recommendation

The Ministry in association with the National Commission may fix a threshold level of performance in terms of disposal of complaints and thereafter review the performance of State Commissions and the District Forums.

6.8 Inadequate infrastructure in the National Commission

The National Commission established in 1988 in New Delhi as the apex Consumer Court was housed in a grossly inadequate office accommodation located in a market place totally unsuitable for a National level body. The accommodation of 9,110 sq ft provided to it by the Directorate of Estates at split locations on the fifth and the seventh floors of Janpath Bhawan was inadequate as the Commission had projected a requirement of 30,000 sq ft. A plot of land measuring 4,936.80 sq metres in the INA complex in New Delhi was, however, allotted by the Ministry of Urban Development and the approval of the Planning Commission for the construction of the office building as an integrated project was awaited as of March 2005.

6.8.1 Infrastructure facilities were poor in the States and District Forums

Office equipment like photocopiers, fax machines, typewriters, furniture and power supply were essential for providing smooth, efficient and speedy service to the consumers who approached the various Forums with their grievances. Besides, well equipped libraries, record room for reference and waiting rooms with furniture and drinking water were also essential for the Forums to function well. Table 9 contains the results of the test check conducted in the District Forums in 24 States.

Facilities	Number of States	Number of District Forums checked	Number of Districts where facilities were deficient
1. Furniture	11	87	33
2. Power Availability	4	40	17
3. Drinking Water	10	70	28
4. Photocopier	8	60	26
5. Fax Machine	6	51	26
6. Record Room	10	69	44
7. Library	9	66	37
8. Computer Hardware	8	52	20

6.8.2 Deficiencies noticed during the test check in audit in some States are discussed below.

- In **Orissa**, basic amenities such as a waiting lounge with furniture (for seating), drinking water and electricity were not available in any of the test checked District

Forums except Sonapur. The approved building plans of five District Forum buildings which were under construction did not contain any provision for a waiting room for consumers. Proper supporting infrastructure such as library facility, computer hardware/software, photo copier, fax machine and space for record room were not available in any of the test checked District Forums except xerox machine in three Districts and record room in two.

- In **Maharashtra**, 25 (out of the 34) District Forums lacked the facilities of waiting room and eight did not have sufficient drinking water facility. In 28 District Forums, there was no library, while 14 District Forums reported non-availability of judicial and other journals due to paucity of funds.
- In **Kerala**, the computers were not in working condition due to improper maintenance in five District Forums. Further, the computers wherever provided, were not being used for data processing as trained staff were not available and no suitable software for monitoring the working of the District Forum had been developed.
- In Bihar, there was lack of office infrastructure both in the State Commission and the District Forums as furniture and fixtures, and stationery including essential forms, papers, judgment papers etc. were insufficient or not available. Three District Forums did not have a photostat machine. The State government had not provided funds to the State Commission and the District Forums for the purchase of books/journals.

6.9 Inadequate Administrative Framework and Support

In terms of section 24 B of the Act, the administrative control over all State Commissions had been vested with the National Commission in the matters namely

- calling for periodical returns on pendency of cases,
- issuing instructions on the procedure for hearing of matters and issue of notices, and
- generally overseeing the functioning of the State Commission and the District Forums.

The State Commissions had administrative control in the above matters over the District Forums. Though the administrative control over the State Commissions was vested with the National Commission, the effectiveness of the latter's control over the State Commission was limited in that it had no powers of disciplinary action or of transfer of the Presidents and Members of the State Commissions. These powers were vested in the State Governments.

6.9.1 An examination of the records in audit showed that the functioning of the National Commission/State Commission/District Forums was impeded due to inadequate administrative support, shortage of manpower and insufficient infrastructure.

6.9.1.1 Inadequacy of staff

Adequacy of staff was an essential prerequisite for the smooth functioning of consumer forums. Rule 9 of the Consumer Protection Rules 1987 empowered the GOI

to appoint necessary staff to assist the National Commission in its day to day work. The responsibility for employing the staff in the District Forums and the State Commissions lay with the State governments concerned. In exercise of his powers under the Act, the President of the National Commission had held a meeting with the Presidents of the State Commissions and the Secretaries of the Departments of Consumer Affairs in the States/Union territories in October 1999. Based on a decision taken in this meeting, a Committee headed by Sh. S.P.Bagla, Member National Commission was formed to assess the minimum staff requirement of the National Commission, State Commissions and District Forums so that they could function efficiently. The Committee had submitted its recommendation to the Department of Consumer Affairs in the Government of India in January 2000 according to which 30 posts in different cadres were to be sanctioned for each State Commission and 16 posts for each District Forum. The recommendation of the Committee for sanction of staff in respect of the National Commission was not accepted by the Government of India as the Ministry of Finance had banned creation of new plan posts during 1999-2000. However, the relevant recommendations were forwarded to the States for their consideration as the responsibility of providing the staff and infrastructure to the consumer courts in the States was that of the States.

6.9.1.2 In view of the Bagla Committee recommendations and the increased workload, the State Commissions had proposed sanction of 2839 additional posts. However, the State governments had accorded sanction as on March 2005 to the creation of only 150 additional posts as shown in Table 10.

Table No. 10 Position of additional posts proposed and sanctioned				
Name of establishment	Posts sanctioned prior to Bagla Committee recommendation	Posts filled up as of March 2005	Additional posts demanded based on Bagla Committee Report	Additional posts sanctioned by State governments
State Commission	639	561	556	NIL
District Forums	1876	1611	2283	150
Total	2515	2172	2839	150

6.9.1.3 In **Maharashtra**, the State Commission sought (March 2003) the appointment of qualified and competent staff conversant with the work of consumer forums or similar bodies as the staff from the Legal Metrology Department with inadequate training were posted in the State Commission/District Forums. The State government indicated that the posts admissible for the State Commission and the District Forums would not be on judicial pattern and held that additional posts were not admissible.

6.9.1.4 In **Bihar**, the vital post of the office superintendent was vacant in all the Districts. The posts of Registrar and Librarian were also not sanctioned by the State government whereas the overall shortage in various cadres was 44 per cent in the District Forums. The State Commission stated that not even a single recommendation of the Bagla Committee had been implemented by the State government both with regard to providing manpower and infrastructure.

6.9.1.5 In **Karnataka**, the posts of Assistant Registrar-cum-Assistant Administrative Officer (AR-cum-AAO), Librarian and Private Secretary cum Judgment Writer and Court Officer in the District Forum and State Commission were not at the level recommended by the Bagla Committee. The State Commission and the District Forums of test checked Districts cited the failure of the State government in sanctioning the required posts and filling up of the posts as the major reason for the large pendency of the complaints.

6.9.1.6 In **Uttar Pradesh**, 124 posts of Lower Division Clerk (LDC), 124 posts of Assistant and 38 other staff were required in the State Commission and 335 posts of LDC, 335 posts of Assistant and 11 other staff were required in the District Forums in terms of the Bagla Committee Report. The State Commission in October 2004 forwarded its requirement of additional staff to the State government which was pending (September 2005).

6.9.1.7 In **Madhya Pradesh**, 24 posts of Presidents were sanctioned to run 45 District Forums. The norms for visiting the Districts other than where they were originally

appointed by the Presidents were not prescribed by the State government or the State Commission. In the test checked Districts, six District forums were found to be functioning only for one to six days in a month

In reply the Ministry stated (February 2006) that the infrastructure would be closely monitored with the networking of the field offices and forums and the progress will be effectively pursued. A scheme for the purpose was stated to be under the final stages of sanction.

Recommendation

The Ministry may critically review the status of the infrastructure and staff strength in the State Commissions and the District Forums with a view to improving their position through the State governments.

6.10 Effectiveness of Consumer Protection Councils

The Consumer Protection Act seeks, inter alia, to promote and protect the rights of the consumers by establishing Consumer Councils at the Centre and the State levels. The Consumer Protection Council at the centre was to be established by a notification which was to be valid for three years. The State governments/Union territory administrations were required to establish the Consumer Protection Councils at the State and the District levels to strengthen the consumer movement at the grass root level. The enabling provision for constitution of District Council was made effective from 15 March 2003. These Councils were required to deliberate on the issues concerning consumer protection by meeting at least twice every year and to make recommendations to the respective governments for enacting measures for their enforcement.

6.10.1 Central Consumer Protection Council (CCPC) not effective

The GOI first established the Central Consumer Protection Council (CCPC) on 1 June 1987. It was reconstituted from time to time, the last reconstitution being in May 2003. The Council had 150 members representing various sections of the society and was to hold at least one meeting in a year.

6.10.1.1 Audit observed that during 18 years of its existence, it held 23 meetings, the last meeting having been held on 16 July 2003. The Ministry stated in February 2005 that CCPC had 150 members which made it difficult to organize its meetings and take action on its recommendations and also that a proposal to downsize it to 30-35 members to make it more effective and purposeful was under consideration.

6.10.1.2 The Working Group, required to be constituted under the chairmanship of the Member secretary of the Council to monitor the implementation of the decisions of the Council, was not constituted by the GOI. The Ministry stated that the Working Group was not considered necessary. Audit examination revealed that there was no data in the Ministry indicating the status of implementation of the recommendations of the CCPC, especially in the absence of a Working Group to monitor the

implementation of the Council's decisions. Audit also noticed that the methodology followed by the Council was to generally debate on some issues without any conclusion or recommendations or watching the progress of implementation. Thus, it was apparently not functioning as an effective mechanism to promote and protect the rights of consumers.

6.10.2 Working of State Consumer Protection Councils was deficient

The objectives of the State Councils to promote and protect the rights of consumers as laid down in sections (a) to (f) of section 6 of the Act, were not fulfilled in several States as detailed below.

6.10.2.1 The Councils were not created so far in **Chhattisgarh** and **Uttaranchal** though four years had elapsed since the creation of the States. Similarly, in **Orissa**, the Council required to be reconstituted after the expiry of the term of three years, had remained non-functional as the state government had not reconstituted it (March 2005).

6.10.2.2 Audit noticed instances of delay in setting up the Councils in **Karnataka** (14 years), **Madhya Pradesh** (11 years) and **Uttar Pradesh** (11 years) which reflected the low priority the State governments had assigned to the promotion of consumer protection measures.

6.10.2.3 The Act prescribed that the Councils must meet twice annually. While some of the States had increased the requirement to four meetings per year, even the minimum prescribed meetings of the Council were hardly held as would be seen from Table 11.

Sl.No.	Name of State	Period after the setting up of the councils	Number of meetings	
			Due	Held
i.	Assam	5 years	20	6
ii.	Bihar	4 years	8	2
iii.	Madhya Pradesh	5 years	10	1
iv.	Maharashtra	3 years	6	2
v.	Rajasthan	5 years	10	2
vi.	Andaman & Nicobar Islands	5 years	10	1
vii.	Dadra & Nagar Haveli	2 years	6	1

6.10.3 Working of the District Consumer Protection Councils

Though the Act was amended in March 2003 to provide for the establishment of the District Consumer Councils in each District to ensure the involvement of the local administration in the promotion and protection of consumer interests, the objective could hardly be achieved as evident from the following instances noticed in audit.

6.10.3.1 The District Consumer Protection Councils were formed in some States but **Bihar, Chhattisgarh, Kerala, Karnataka, Maharashtra, Orissa** and **Uttaranchal** were yet to constitute them while in **Gujarat**, the notification for their constitution was issued only in January 2004.

6.10.3.2 In States where the District Councils were set up, these were not functioning effectively as even the prescribed minimum two meetings in a year were not held. No meeting was held in **Madhya Pradesh** in 10 District Councils.

6.10.3.3 In **Assam** and **Rajasthan**, the procedure for transaction of business by the State and District Consumer Councils was not prescribed by the State governments. The District Councils held 26 to 58 per cent of the meetings due during 2000-01 to 2004-05 in the two States.

6.10.4 The beneficiary survey conducted by ORG-MARG at the instance of Audit revealed that only 12 per cent of the consumers were aware that the service sector was also covered under the Act and 37 per cent of the consumers did not avail of the remedies under the Act as they had little time and wanted to avoid the hassles of the legal process. It is thus evident that the intention of protecting the interests of consumers by particularly strengthening the consumer movement at the grass root level through the functioning of the State and the District Consumer Protection Councils remained largely unrealized due to the apparent inaction or inadequate action by the Central and the State governments. The measures adopted by the government at the Central and the State levels so far had not yet been able to empower the consumers to assert their rights adequately.

Recommendation

- *The Ministry should examine the necessity for reorganization of the Central Council by reducing its size in order to enhance its effectiveness and carefully monitor the outcomes of its meetings by instituting a mechanism so that its recommendations are acted upon in a time bound manner.*
- *The Ministry may, in close co-ordination with the State governments, encourage the State and the District Councils to regularly conduct the meetings and institute a mechanism for regular monitoring of implementation of their significant recommendations.*

6.11 Inadequate enforcement of the decisions of the Commissions and the Forums.

6.11.1 As amended in 2002, Section 25 of the Act empowered the District Forum, the State Commission and the National Commission to attach the property of any person not complying with the order. After expiry of three months, the property concerned could be sold off to pay the damages to the complainant. At the same time, there was the provision for the person entitled to the amount to make an application to the respective redressal agency which would issue a certificate for the said amount to the District Collector for recovery of the amount in the same manner as arrears of land

revenue. The redressal agencies had the powers of the judicial magistrate and could order imprisonment and fine where a trader or a person against whom a complaint was made, failed to comply with their orders.

6.11.2 Audit examination revealed that the Act did not contain any mechanism to watch the compliance of the judgments delivered by the Consumer Forums. They became aware of the non-compliance of their orders only if the complainant approached the Commission or the Forum by filing an execution petition. No time limit was prescribed for filing the execution petition till the National Commission had issued regulations in May 2005.

6.11.3 Test check in audit of the records of the Consumer Forums in the States indicated instances of delay in the implementation of the orders which only highlighted the inadequacies in enforcement of the judgments delivered.

6.11.3.1 The Consumer Forums in **Kerala** were experiencing difficulty in the execution of warrants on account of inadequate cooperation of the State police authorities. Though after the amendment of the Consumer Protection Act in 2002, steps could be taken to realize the amount through revenue recovery proceedings, audit examination revealed that 1350 (39 per cent) out of 3442 cases of recovery filed during 2000-01 to 2003-04 in four District Forums were pending disposal (July 2005).

6.11.3.2 In **Uttar Pradesh**, 110 cases were filed for non execution of the decisions of the State Commission during the period 2000 to 2005. Audit scrutiny revealed that in 13 District Forums, 2033 cases were not executed during the period 2000-05 out of which in only 170 cases, recovery orders under the Act were issued by the concerned Forums. However, recovery against these was reported to the Forums only in 42 cases (25 per cent) and in 62 cases, the District Collectors returned the certificates stating that recovery could not be effected as the addressee was not traceable (59). The State Commission had stayed the orders in three cases.

6.11.3.3 In **Karnataka**, in the case of five test-checked Districts, 588 cases involving Rs.1.99 crore were referred to the Deputy Commissioners, of which, Rs.0.35 crore (18 per cent) only were recovered. The poor recovery was attributed (August 2005) by the District Forums to laxity of the revenue authorities in taking certificate action.

6.11.3.4 In **Andhra Pradesh**, eight warrants issued by the State Commission and 1686 warrants by the District Forums were pending execution as of 31 March 2005. Of these, four in the State Commission and 1389 warrants in the District Forums were pending execution for 12 months or more. The State Commission requested (June 2004) the Police Department to depute necessary police force to the State Commission as well as to the District Forums for execution of the warrants issued by the consumer courts. This was, however, not implemented.

6.11.3.5 In **Punjab**, during the test check of the District Forum, Patiala, it was seen that 44 certificates were issued to the District Collector during 2003-05. As per the latest position of 35 cases (out of 44) intimated (June 2005) by the Collector to Audit,

recovery only in two cases was made up to June 2005. The Collector returned 27 cases stating that the recovery could not be effected due to locked premises (4); incomplete addresses (3); appointment of liquidator by the Hon'ble High Court (13); death of the opposite party (1); amount not mentioned in the certificates (3). No reason was given for three cases.

6.11.3.6 The consumer survey conducted by ORG-MARG revealed that an average delay of 16.5 months was involved in obtaining compensation from the date of filing of complaints, which was an indication of the efficiency or effectiveness of the enforcement machinery and the procedures.

6.11.3.7 In reply, the Ministry stated (February 2006) that six working groups had been set up to study the areas of concern to the consumers including the Consumer Protection Act, other Acts as also the question of new legislation to cover areas of consumer interest not presently covered and necessary action would be taken.

6.12 Monitoring Mechanism

6.12.1 The Consumer Protection Programme launched by the Ministry required effective monitoring to ensure disposal of complaints/appeals within the stipulated period. The National Commission which was to monitor the pendency in Consumer Forums did not monitor the progress of the time taken at various stages from the filing of complaints till disposal. The details of cases that had fallen due for decision in 90 and 150 days and actual progress there against were also not monitored.

6.12.1.1 In **Kerala**, there was no system of monitoring the complaints /appeals filed and disposed either at the government level or at the District Forums. While the District Forums sent periodical progress reports to the State Commission and the latter forwarded a compiled report to the National Commission, no corrective measures such as sanctioning and deployment of adequate staff, betterment of infrastructure facilities were introduced and monitored with a view to ensuring timely disposal of disputes.

6.12.1.2 In **Uttar Pradesh**, the records of the cases did not indicate dates of issue of notices, hearing, adjournments and so on, without which it was not possible to monitor or ensure if a decision on the complaints were taken within the prescribed period of 90/150 days. The State government took note of the position of disposal and pendency only once a year while finalizing their annual report.

6.12.1.3 In **Daman & Diu**, the basic register for monitoring the status of complaint cases was not maintained at the State Commission. Even though the register was maintained at the District Forum, Daman, it did not indicate the progress of the cases from time to time.

6.12.1.4 In **Jharkhand**, no attempts by the Government to ensure that the cases were disposed of within the stipulated period were on evidence.

6.12.1.5 Thus, monitoring of the performance of the dispute redressal mechanism at the State and District levels was essentially limited to compiling information without assessment of the reasons for pendency of the disposals or taking any effective corrective measures to improve the situation. The Ministry as well as the State governments did not undertake evaluation studies of the extent of the success of the measures for improving consumer awareness and redressal mechanism, depriving them of a valuable tool for a useful assessment of efforts undertaken at various levels and for taking prompt remedial measures to strengthen the efforts towards improving the awareness of the consumers of their rights.

Recommendation

The Ministry may persuade the State Governments to ensure that the decisions of the Commissions and District Forums are implemented promptly by discussing the requirements in appropriate high level meetings to impart a sense of urgency and importance to this vital requirement. Rationalization of the procedures and adequate empowerment of the consumer forums to ensure enforcement of their orders may be considered on priority.

7. Conclusion

Though the Consumer Protection Act and Rules came into force in 1986 and 1987 respectively, it was only in the National Development Council meeting of December 2002 that an attempt was made to treat the subject as a thrust area and the enforcement of the Act and Rules was taken up as a priority item on the agenda for action in 2003-04. The Action plan prepared by the Ministry in 2004 was yet to be approved by the Planning Commission (September 2005). The subject was therefore accorded low priority both at the Central and State governments. There were delays in the establishment of the State Commissions and District Forums which did not help the consumers to get their grievances redressed. Uniform procedure for the working of the State Commissions and the District Forums was introduced only in 2005 till which time the redressal agencies were following different procedures making it difficult for the consumers to tap the mechanism and seek speedy and inexpensive resolution of their grievances. The consumers at large did not appear to be aware of the existence of the statutory protection and the adjudication mechanism available to them for the redressal of their grievances. The grievance redressal mechanism was not effective as the State Commissions and the District Forums were not adequately staffed, did not have the required infrastructural support and did not ensure that the compensation awarded was always and promptly realized by the complainants. The adjudication mechanism, though in place, had not served the purpose of providing speedy and inexpensive redressal of consumer grievances, as the advocate's fees constituted 82 percent of average cost incurred by a complainant, noticed in a special survey carried out along with the audit. The governments at both the Central and State levels needed to bestow greater urgency and provide support for the requirements of infrastructure, staffing and thus help speed up the redressal of the grievance of the consumers besides ensuring that the compensation awarded was promptly realized by

the complainants. The services of the Non Governmental Organizations would need to be exploited by the governments through special programmes by making them partners in spreading the awareness of and enhancing the effectiveness of the consumer protection measures. The Ministry commenced the work of protection of consumers' rights by enacting the statute which was to be largely and actually implemented by the States who were short of adequate financial and other resources. In the absence of required funding and because due priority was not accorded to strengthening of consumer rights and protection measures, the efforts to further the enforcement of consumer rights did not achieve the expected results.

New Delhi
Dated:

(SHUBHA KUMAR)
Principal Director of Audit
Economic & Service Ministries

Countersigned

New Delhi
Dated:

(VIJAYENDRA N. KAUL)
Comptroller and Auditor General of India