

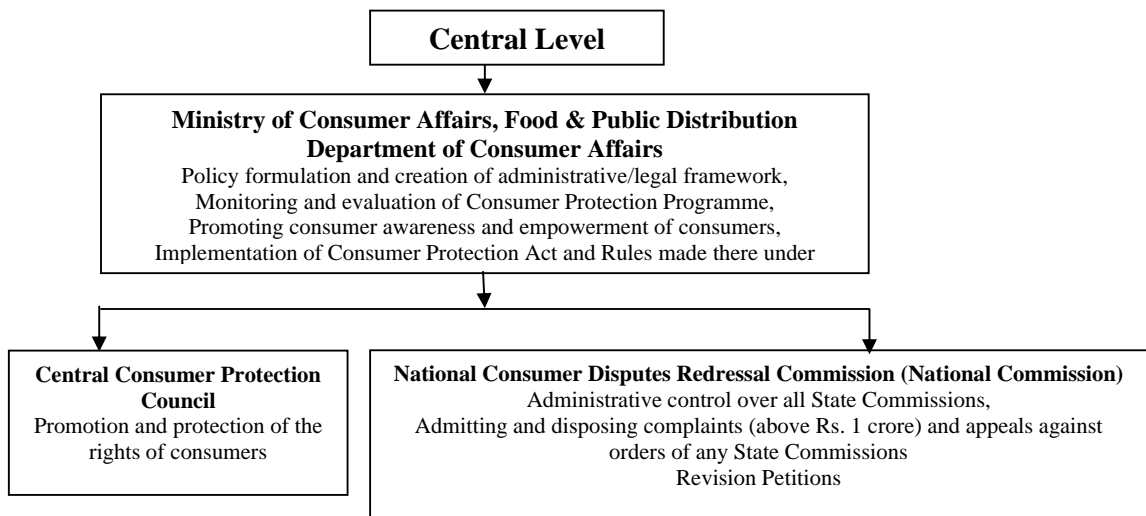
# Implementation of the Consumer Protection Act and Rules

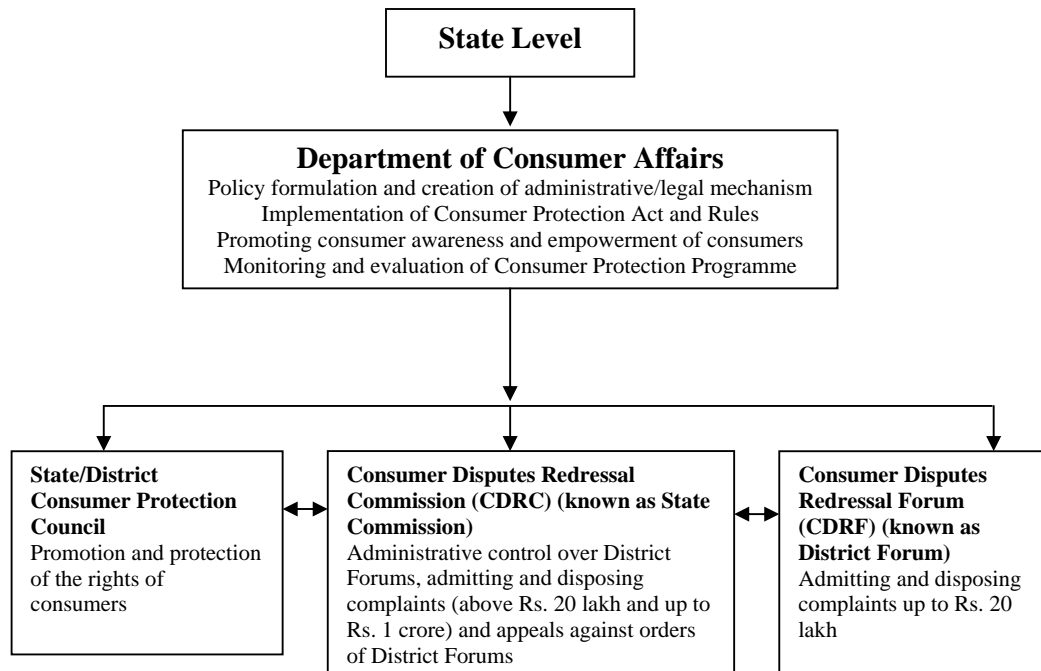
## 1. Introduction

Though the protection of consumers' interest was ultimately the responsibility of the respective State governments, the Government of India (GOI) enacted the basic legislation in the form of the Consumer Protection Act, 1986 (the Act) to protect the interests of consumers and provide speedy and inexpensive redressal of consumer grievances. The Act had come into force with effect from 1 July 1987 and was followed by the Consumer Protection Rules, 1987 (Rules). The Act provided for the establishment of a three tier quasi judicial consumer dispute redressal machinery at the National, State/Union Territory (referred to as State) and District levels which were otherwise also known as consumer courts. These courts were empowered to order relief of specific nature and award compensation to the consumers. The Act also provided for the establishment of Consumer Protection Councils at the Central, State and District levels to promote and protect the rights of consumers.

## 2. Organisational Setup

While the Act and the Rules were made in 1986 and 1987 respectively, a separate Department of Consumer Affairs was established in the GOI only in 1997 to act as the nodal agency to exclusively focus on protecting the rights of consumers and grant them the rights of choice, safety, information and redressal. Similarly at the State level, separate Directorates/Departments of Consumer Affairs were established. A flow chart indicating the functions of the Central and the State authorities is given below:





### 3. Audit Objectives

A performance audit of the effectiveness of the implementation of the Act and the Rules was conducted between June and September 2005 covering the period 2000-01 to 2004-05 by examining the records of the Department of Consumer Affairs in the GOI, the National Commission and the records of the corresponding State government departments, the State Commissions and the District Forums in the States/Union territories (UTs). The primary objectives of the performance audit were to assess

- whether the Central and the State governments had succeeded in creating awareness among the consumers of their rights and the available means of their redressal,
- whether the redressal mechanism was effective and
- whether there was an effective monitoring mechanism in place to ensure the achievement of the objectives of the Act and the Rules

### 4. Audit Methodology

**4.1** An entry conference was held with the Ministry of Consumer Affairs in the GOI in August 2005 where the audit objectives and methodology were explained. The status of the effectiveness of the consumer protection measures was examined in the course of the performance audit through a test check of the records and documents in the offices of the National and State Commissions, the Ministry/Department of Consumer Affairs in the GOI and 145 Districts in 27 States/ UTs (**Annexure-1**) covering the period 2000-01 to 2004-05. The report was issued to the Ministry in December 2005 reply to which was received in February 2006. The results of audit were discussed in an exit conference with the Ministry in the GOI on 03 February

2006. The views of the Ministry expressed in the exit conference and the reply have been incorporated in the report.

**4.2** The services of the ORG Centre for Social Research, a division of AC Nielsen ORG-MARG Private Limited, were commissioned for the purpose of carrying out a sample survey among consumers, complainants, Non-Governmental Organisations (NGO), traders and manufacturers with a view to obtaining an independent assessment of the usefulness and effectiveness of the implementation of the Act and the Rules as perceived by the different groups of stakeholders. The ORG-MARG carried out the survey (July-August 2005) in 138 Districts of the country covering 835 urban wards and 1640 villages. The sample survey covered 48732 consumers at large, 6657 complainants before consumer courts, 122 manufacturers, 127 service providers, 39 NGOs and 34 laboratories. The findings of the survey were forwarded to the Ministry in February 2006 and have been included in this report at appropriate places. An executive summary of the findings of the survey is given in the Appendix. A Summary of the findings of the survey was shared with the Ministry during the Exit Conference. The Ministry appreciated the methodology and expressed the view that the findings could be used by them as a benchmark during future evaluation of the impact of the consumer protection measures.

**4.3** The selection of the Districts for test check in audit was based on single stage selection (District level) under which 27 per cent of the Districts in the State were selected (subject to a minimum of 3 Districts in a State) from among the following strata.

(i)	Stratum I	-	Capital District
(ii)	Stratum II	-	50 per cent of the Districts from among the Districts selected by ORG Marg using Simple Random Sampling without Replacement (SRSWOR) <sup>1</sup> method
(iii)	Stratum-III	-	Remaining Districts (in the sample size) were selected using Probability Proportional to Size with Replacement (PPSWR) <sup>2</sup> method.

## 5. Allocation and Utilisation of funds

**5.1** Promotion of consumer awareness is essentially the responsibility of the respective State governments. The expenditure on the National Commission is borne by the GOI while that on the State Commissions and District Forums is funded by the respective State governments. The GOI supplemented the State efforts by providing funds for the programmes aimed at strengthening of infrastructure and enhancing consumer awareness and rights. Table 1 indicates the details of budget allocation and the actual expenditure by the Central and the State governments towards the work of the Consumer Grievances Redressal Agencies between 2000-01 and 2004-05.

<sup>1</sup> SRSWOR method is sampling technique in which all the Districts have equal probability of selection

<sup>2</sup> PPSWR method is a sampling technique in which Districts with higher population have greater probability for selection.

(Rs. in lakh)

<b>Table No.1 : Position of release of funds &amp; expenditure</b>				
<b>Year</b>	<b>Allocation</b>		<b>Expenditure</b>	
	Centre	States/UTs	Centre	States/UTs
2000-01	80.83	4233.64	73.70	3601.94
2001-02	113.60	5082.71	109.40	4026.87
2002-03	121.40	5199.70	117.26	4219.46
2003-04	143.05	5443.93	140.14	4821.24
2004-05	174.30	6268.30	170.30	5114.32
<b>Total</b>	<b>633.18</b>	<b>26228.28</b>	<b>610.80</b>	<b>21783.83</b>

An amount of Rs 6.33 crore was allotted to the National Commission by the GOI of which around 96 per cent was utilized whereas 83 per cent of the funds allocated by the State governments during the period 2000-01 to 2004-05 was spent. While utilization of the funds would appear to be satisfactory, the allocation itself remained grossly inadequate both at the Centre and the State levels given the coverage envisaged in terms of promoting consumer awareness and protecting consumer rights through speedy and responsive redressal of grievances across the country, as brought out in succeeding paragraphs. **Annexure 2** contains the State wise details of release of funds and actual expenditure. In addition, an amount of Rs 61.80 crore was given from the GOI funds to the States as one-time assistance for strengthening infrastructure during the period 1995 to 1999.

**5.2** Apart from the above, the GOI had been releasing funds to the State governments and NGOs in supplementing the State government efforts in promotion and protection of welfare of consumers and strengthening of voluntary consumer movement. Such allocation was made out of the Consumer Welfare Fund (the fund) which was set up in the Public Account by the Department of Revenue in 1992 under the Central Excise and Salt Act 1944. The excise duty refundable to the manufacturers where the claimants could not be identified was credited to this fund for its eventual utilization for the welfare of the consumers. The Department of Consumer Affairs is primarily responsible for operating the fund to provide financial assistance for promotion and protection of the welfare of the consumers, create consumer awareness and strengthen consumer movement in rural areas.

**5.3** The table below indicates the position of yearly accrual to the Fund and releases therefrom for a period of five years upto March 2005:

(Rs. in crore)

<b>Table 2: Position of receipt into and utilization from the Consumer Welfare Fund</b>			
<b>Year</b>	<b>Receipt into the Fund</b>	<b>Amount released from the Fund</b>	<b>Fund available at the close of the year</b>
<b>2000-01</b>	4.89	0.74	56.40
<b>2001-02</b>	7.29	1.16	62.53
<b>2002-03</b>	7.36	3.53	66.36
<b>2003-04</b>	5.15	3.33	68.19
<b>2004-05</b>	7.35	17.56	57.99

It would be seen from the above that the utilization was far below the funds available with the Ministry. While the funds remained unutilized in the absence of any large scale programme to match with the fund inflow, the balances could have been used in the implementation of specific requirements under the National Action Plan, referred to in paragraph 6.2 below.

**5.4** The following funds were released from the Consumer Welfare Fund:

- Establishment of District Consumer Information Centre (Rs.1.40 crore) between October 2000 and December 2004.
- Jagriti Shivar Yojana (Rs.30.50 lakh) between December 2001 and October 2003.
- Empowerment of Consumers through NGOs<sup>3</sup> and VCOs<sup>4</sup> (Rs.9.35crore) during 1996 to 2005.

One of the main reasons for substantial increase in the releases from the Fund during 2004-05 was disbursement of seed money to States for establishing State Consumer Funds.

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<sup>3</sup> Non-Government Organisations

<sup>4</sup> Voluntary Consumer Organisations