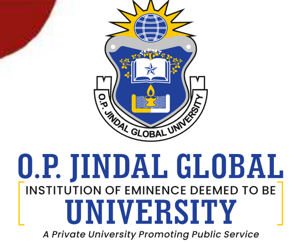
REGULATORY GOVERNANCE: THE SCOPE 2026



FOREWORD

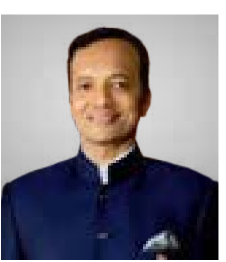
Over the last three decades, the rise of the Indian economy has been synonymous with the rise of the Indian regulatory system. Indian regulators have not only contributed to the growth of the Indian economy but have also reshaped the nature and functions of the State and its relationship with the economy, orienting new regulatory principles while bridging the gulf between technical expertise and the rule of law. Yet, the study on the design and performance of regulatory institutions of India have been scarce. Indian universities, especially law schools, have rarely engaged with the idea of developing a dedicated space for an inter-disciplinary study of Indian regulation system, Indian regulators and their regulatory capacity. The Centre for Regulatory Governance (CRG) established at the O.P. Jindal Global University (JGU) corrects this deficit, focussing on strengthening the effectiveness, accountability, and transparency of regulatory institutions in India through research, dialogue, and capacity-building.

Recent Union budgets have highlighted the need for studying regulations, enhancing regulatory performance for Ease of Doing Business (EoDB), decriminalising minor business offences, and promoting trust-based governance. The Economic Survey of India, 2025-2026, suggests that India should establish more schools of regulatory studies to advance research and capacity-building in regulation. This is especially true given that the Indian economy is at an inflection point. Initiatives such as Digital India, the rapid formalisation of India's financial markets, and India's growing integration with global regulatory and trade regimes have placed an unprecedented demand on the country's regulatory capacity. At the same time, Indian regulators need to be facilitative of the economy's growth and spur innovation while safeguarding public interest. This balancing act requires sustained intellectual engagement.

In this context, the idea of creating the CRG is both a reflection of JGU's commitment to provide an intellectual space to study regulation in an inter-disciplinary, comparative and methodically rigorous manner, and also a strategic step for a deeper public engagement, building a sustained dialogue between academia, industry and civil society to engage with ideas shaping the intellectual agenda for the next generation of Indian regulation.

The inaugural 2026 report, titled, "Regulatory Governance: The Scope" does not merely set out an aspirational vision; it provides a rigorous analysis of regulatory governance, spanning virtually all sectors. A detailed analysis has been undertaken of the developments in the regulatory space to date, initiatives and reforms aimed at improving effectiveness and aligning with global standards, enriched by deep insightful thoughts from students, experts and faculty.

We commend the authors of this report, especially Professor Subhomoy Bhattacharjee, Director of CRG, for the care and thoughtfulness evident in their work. We also hope this report will invite wider discussion and collaboration as we move from conception to implementation of a renewed regulatory vision for a Viksit Bharat by 2047.



MR. NAVEEN JINDAL
Chancellor
O.P. Jindal Global University

PROFESSOR (DR.) C. RAJ KUMAR
Founding Vice Chancellor
O.P. Jindal Global University

PREFACE

The project to develop a Centre for Regulatory Governance at the Jindal Global Law School (JGLS) took off just a couple of years ago, at a meeting room in the University. Examining in detail the syllabus for a course for the law students, I had brought in, Prof (Dr) C Raj Kumar, suggested there was a strong need to understand how the regulators worked, as a system of study. It was a most prescient observation. This was way before Budget 2025-26 announced the setting up of a high-powered committee on regulators and the Economic Survey 2025-26 discussed the need to set up institutions to study regulators.

Our project was rapidly put into action with the initial stewardship of Prof Sreejith, the former Dean of JGLS. An eager group of faculty members got drawn into an avenue that was exciting but without any landmarks to guide us. Right from the beginning, it was, however clear that the new Centre will develop an Annual Report with its core being a Regulatory Effectiveness Index. Given the rapid strides the larger OP Jindal Global University was making academically it was also clear that the Report will be a peer reviewed document, from institutions within India and abroad. It would be developed by the faculty of the University with the elements including a) a detailed analysis of India's key regulators and b) bring in cross country comparisons to thus create a space for debate on the functionality and the effectiveness of the regulators.

The project was helped right at the inception by the active support by each of the regulators, we met, past and present. We are deeply grateful to our Board of Advisers in this respect.

Beyond them, the list has expanded massively. This includes the Comptroller and the Auditor General of India, especially the Deputy CAG, Mr Anand Mohan Bajaj. He readily agreed to hold workshops with the faculty of JGU which proved most useful in crystallising our incipient ideas. We also had most useful discussions soon thereafter with senior officials of the Securities and Exchange Board of India led by Chairman, Mr Tuhin Kanta Pandey who took time off from his cluttered schedule to listen to us and offered myriad valuable suggestions. The same spirit of support came to us from Mr Sivasubramanian Ramann, Chairman, Pension Fund Regulatory and Development Authority of India and Member, Mr Randip Singh Jagpal. Discussions with CERC, AERA, CCI and Irdai were also landmarks.

My colleagues at JGLS led by Prof Dipika Jain, Executive Dean have been exceptionally supportive in this endeavour. Particularly, Prof Avirup Bose, Prof Meghmala Mukherjee and Prof Saksham Shukla have made CRG come where it has reached today. From the VC Office, Ms Neha Gupta Phull has helped us navigate the challenge of bringing out this publication. Among the students, Aaron Thomas and Sukriti Dubey have spent painstaking hours with us.

Despite the support, one must admit we have not arrived at our Annual Report yet. The volume you hold in your hand lays out the Scope of such a report. It is for you to judge whether we are on the right track for which we shall eagerly look forward to your feedback for a venture that is untried not only in India but also elsewhere in key democracies.

PROFESSOR
SUBHOMOY BHATTACHARJEE
Professor of Practice & Director Centre for Regulatory Governance
O.P. Jindal Global University

OUR SPECIAL THANKS TO

CRG Board of Advisors

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  Former chairman, Securities and Exchange Board of India (SEBI)
- **Dr. M. S. Sahoo**
  Former Chairman, Insolvency and Bankruptcy Board of India
- **Mr. Debashish Panda**
  Former Chairman, Insurance Regulatory and Development Authority of India (IRDAI)

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  Chairman, Airport Economic Regulatory Authority
- **Mr. Randip Singh Jagpal**
  Member, Pension Fund Regulatory and Development Authority
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  Senior Research Fellow and Research Lead (trade and economics), Institute of South Asian Studies (ISAS), National University of Singapore
- **Dr. Sushanto Chatterjee**
  Chief (Regulatory Affairs), Central Electricity Regulatory Commission
- **Mr. Ajay Bhushan Pandey**
  Former Chairman, National Financial Reporting Authority
- **Dr. Amir Ullah Khan**
  Development economist and Professor at the MCRHRDI of the Government of Telangana

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- **Dr. Sangeeta Verma**
  Former Member, Competition Commission of India
- **Dr. Laveesh Bhandari**
  President, Centre for Social and Economic Policy
- **Ms. Neeta Prasad**
  Director General, Press Information Bureau, Government of India
- **Mr. Sumit Bose, IAS**
  Former Finance Secretary, Government of India

For their valuable Inputs

- **Mr. G V Giri**
  President & Head of Research, IIFL Capital Services
- **Mr. Deepak Maheshwari**
  Senior Policy Advisor, Centre for Social and Economic Policy
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  CEO, Primus Partners India
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  Senior Consultant, International Trade Policy, Confederation of Indian Industry (CII)
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  Convenor, NatStrat

From O.P. Jindal Global University

- **Professor Padmanabha Ramanujam**
  Dean, Office of Academic Governance, O.P. Jindal Global University
- **Professor (Dr.) Nemika Jha**
  Professor, Jindal Global Law School
- **Mr. Leela Tarang Krishna Paladugu**
  Lecturer, Jindal Global Law School

TABLE OF CONTENTS

1 WHY THIS REPORT	**01-06**
1.1 Scoping a Report	01
1.2 Within this Context, What does this Scoping Report Plan to Achieve?	03
1.3 The Challenges	03
1.4 Evolution of Regulatory Engagements	04
2 EXECUTIVE SUMMARY	**07-09**
Why this Report	07
The Need to Re-imagine India's Regulatory Governance	07
Seminar: Rethinking Regulators	07
Regulators in India: Why do they Exist?	07
Strategic Changes in Performance Evaluations in PSUs	07
Greening AI: Reimagining AI and the Energy Sector	07
Misleading Advertisements in India: Evaluating ASCI and the Regulatory Architecture of Consumer Protection	08
Partial Credit Enhancement: Transforming India's Infrastructure Finance	08
The IPO Valuation Dilemma	08
Public Interest Litigation Beyond Constitutional Courts: Public Law Adjudication Sectoral Regulators	08
Insurance sector: Regulator as a Strategic Asset	08
Is Mens Rea Relevant for Prosecution under the Insider Trading Regulations?	08
Competition in Civil Aviation: The Regulatory Quartet- DGCA, AERA, AAI & CCI	09
Importance of Communications in the Regulatory Space	09
3 THE NEED TO RE-IMAGINE INDIA'S REGULATORY GOVERNANCE	**10-17**
3.1 Introduction	10
3.2 Issues	10
3.3 Initiatives Taken	11
3.4 Economic Survey and its Findings	11
3.5 Disputes: The Telecom Sector	12
3.6 Importance of Regulatory Impact Assessment (RIA)	13
Regulatory Agencies in India	14

COMPARATIVE ANALYSIS OF REGULATORY INNOVATION AND EFFECTIVENESS: **15**
INDIA VS. ADVANCED ECONOMIES 15
Cross Country Comparison in Major Sectors 15
References 15
A) Healthcare: Telemedicine and Digital Infrastructure 15
B) Power: Renewable Energy Expands Across Markets 15
C) Telecommunications: Security Powers and Transparency 16
D) Fintech: Digital Public Infrastructure and Instant Payments 16
E) Synthesis: Turning Speed into Working Systems 16
F) Conclusion 17
References 17
4 REGULATORY EFFECTIVENESS INDEX **18-22**
4.1 Introduction 18
4.2 What are the Challenges? 18
4.3 Expanding the Market 19
4.4 Regulating a Monopoly: 19
4.5 Quality Of Regulations 19
4.6 Are Regulators "Strategic Assets" 20
4.7 Q&A 20
Regulatory Confusion & Policy Inconsistency 21
4.8 Conclusion 22
5 REGULATORS IN INDIA: WHY DO THEY EXIST? **23-26**
5.1 Introduction 23
5.2 India and its Regulators 23
5.3 Rationale 23
5.4 Critiques 24
5.5 Conclusion 24
REGULATORY EFFECTIVENESS INDEX **25**
A) Introduction 25
B) World Bank and OECD 25
C) Major Challenges 25
D) The Effectiveness Pillars 25

E) The Indicator 26
F) Cross Country Comparisons 26
SOURCES 26
6 STRATEGIC CHANGES IN PERFORMANCE EVALUATIONS IN PSUs **27-27**
6.1 Introduction 27
6.2 The Evaluation Workflow 27
6.3 Conclusion 27
7 GREENING AI: REIMAGINING AI AND THE ENERGY SECTOR **28-33**
7.1 AI for Public Policy 28
7.2 AI: Yay or Nay 28
7.3 AI and the Energy Sector: Factoring Sustainability in Commercial Sectors 29
7.4 AI's Role in the Energy Sector – Past & Present 29
7.5 Leveraging AI in International Legal Mechanisms in the Context of the Energy Sector 31
7.6 AI & India: What is and What Could Be 31
What is the State of AI Regulations 32
7.7 Conclusion 33
8 MISLEADING ADVERTISEMENTS IN INDIA: EVALUATING ASCI AND THE REGULATORY ARCHITECTURE OF CONSUMER PROTECTION **34-39**
8.1 Abstract 34
8.2 Introduction 34
8.3 Understanding Misleading Advertisements 34
8.4 Case 1: The "100% Fruit Juice" Purity Claim 35
8.5 Analysis 35
8.6 Case of Misleading Medical Advertisement by Company Y 36
8.7 Analysis and Awareness Gap 37
8.8 Proposed Fix 37
8.9 Evaluation and Regulators 37
8.10 Inference 37
8.11 Cross-Country Comparison: How the UK and Japan Prevent Misleading Advertising 37
8.12 Structural Reform 38
8.13 Conclusion 39

9 PARTIAL CREDIT ENHANCEMENT: TRANSFORMING INDIA'S INFRASTRUCTURE FINANCE **40-47**

9.1 Abstract 40

9.2 Introduction 40

9.3 Evolution of Partial Credit Enhancement in India 41

9.4 Features of PCE Under RBI's 2025 Framework 41

9.5 Transformative Changes in the PCE Framework 42

9.6 PCE Safeguards 43

9.7 Additional Conditions for Bonds Issued by NBFCs and HFCs 44

9.8 Partial Credit Enhancement (PCE) Framework: 2015 vs 2025 Changes 44

9.9 Global Perspectives: Infrastructure Financing Models in Other Countries 46

9.10 Regulatory Shortcomings in RBI's PCE Framework 46

9.11 Conclusion 47

10 THE IPO VALUATION DILEMMA **48-54**

10.1 Abstract 48

10.2 Introduction 48

10.3 Economic Consequences of 66 Overvaluation 49

10.4 SEBI's Dilemma 50

10.5 Overview of Key Regulatory Amendments 50

10.6 The Way Forward: Striking the Equilibrium 51

10.7 Conclusion 53

11 PUBLIC INTEREST LITIGATION BEYOND CONSTITUTIONAL COURTS: PUBLIC LAW ADJUDICATION BY SECTORAL REGULATORS **55-59**

11.1 Abstract 55

11.2 Introduction 55

11.3 Power Sector and Emergence of Regulators 55

11.4 Role of Central and State Electricity Regulatory Commissions 56

11.5 PILs: Object and Evolution 56

11.6 PILs Connection with ERCs 57

11.7 The Torrent Case 57

11.8 Should PILs be Allowed Before ERCs? 57

11.9 Managing Conflict of Interest 58

11.10 Conclusion 59

12 **INSURANCE SECTOR: REGULATOR AS A STRATEGIC ASSET** **60-68**

12.1 Introduction 60

12.2 Legal Challenges: 61

12.3 Ease of Regulations: 61

12.4 Impact on Business: 63

12.5 Impact on Consumers 66

12.6 Regulators as Strategic Assets 66

13 **IS MENS REA RELEVANT FOR PROSECUTION UNDER THE INSIDER TRADING REGULATIONS?** **69-71**

14 **COMPETITION IN CIVIL AVIATION: THE REGULATORY QUARTET-DGCA, AERA, AAI & CCI** **72-75**

14.1 Introduction 72

14.2 Statutory Frameworks 72

14.3 Sectoral Strategies towards Competition 73

14.4 Conclusion 74

15 **IMPORTANCE OF COMMUNICATIONS IN THE REGULATORY SPACE** **76-83**

15.1 Introduction 76

15.2 Our Databank and its Analysis 77

15.3 Case Study: The Securities Market Sector - SEBI 78

15.3.1 Means of Communication 78

15.3.2 Recent Cases of SEBI Undertaking "REFORMS" In the Sector, and its Communication Aspects 79

15.3.3 END RESULT – Impact on the Market 80

15.4 Case study: The Insurance Sector – IRDAI 80

15.4.1 Analysis of the Issues 81

15.4.2 Communications by Parties Involved 82

15.4.3 End Result for Insurance Sector 83

15.5 Conclusion 83

01 WHY THIS REPORT

Subhomoy Bhattacharjee

1.1 Scoping a Report

Regulators are the most difficult to map. This is true not only of India but in all major democracies where their presence has become ubiquitous. Which institution qualifies as a regulator? A list of regulators compiled for this volume in chapter 3 notes there are as many as 37 in India. Despite being exhaustive the list still does not include any of the state level entities. The list also does not include any of the self-regulatory organisations like the Stock Exchanges or professional bodies like the Institute of Chartered Accountants. We also rule out ab initio, a study of the role of global organisations like the IMF, WTO, FATF, ISA or any of the myriad UN led organisations which are super national regulators.

Regulators clearly are vast in number and occupy a substantial slice of governance in this country. Their numbers should itself be reason enough to examine them. There are more significant reasons though. The sub national regulators ranging from Sebi to the yet to be installed Higher Education Authority should be mandated to protect the interests of the citizens in every circumstance, thus creating the necessary set of conditions for the spread of business in any sector, transparently. But does their mandate say so?

India has come a long way since the first set of regulators opened their offices in the first decade of reforms. To what extent have the Indian regulators, past and present performed this dharma with respect to the citizens? How many have instead remained as appendages of the political executive instead. Either way the related question is how open they are to incorporate the demands from the citizens, ergo from business, to update their performance.

These are the set of questions, the search for whose answers led to the establishment of the Centre for Regulatory Governance (CRG) at the Jindal Global Law School, within the OP Jindal Global University in 2024. The trigger was the heightened interest on regulators of India which provided the right environment to think about a detailed analytical framework to study these entities, which have developed over the decades as Statutory Regulatory Authorities or SRAs. The outcome could be a Report, preferably an annual one, it was suggested.

Driving the initiative, Prof (Dr) C Raj Kumar said such a Report could benefit potentially everyone with an interest in the functioning of Indian democracy. The Report could also serve a global audience as India is already the fifth largest economy soon to be the fourth in the world, expanding fast. The core of the Report would be the Regulatory Effectiveness Index.

A ready reckoner for such an Index is the established international frameworks, of which the most famous is the UNDP's Human Development Index. There are similar sterling examples, internationally.

For the initial deliberations at CRG, the study of many of these came in useful as direction finders. These included the US government entity Millennium Challenge Corporation's Regulatory Quality Indicator. As its website notes, the indicator measures the ability of governments to formulate and implement sound policies and regulations that permit and promote private sector development. These include sound metrics including the ease of starting or closing businesses and difficult topics like property registration. There were others, like the OECD Regulatory Impact Assessment. The

globally quoted statistic is part of OECD, the club of developed countries, best practice principles. It evaluates the impact of alternative regulations to align with public policy goals.

The faculty of JGU, sat through detailed presentations on these and others like that of IMD Lausanne which emphasises very significantly metrics like political and cultural dimensions in competitiveness. While none of these benchmarks were adaptable to the Indian experience off-the-shelf, they all offered lessons. Each furnished insightful, analytical perspectives on regulatory efficacy and transparency. Critically they assured that there is clearly a space to consider developing a Regulatory Effectiveness Index for the SRAs.

There was also an agreement in those first few months after the launch of CRG that the envisioned target audience will encompass policymakers, corporate stakeholders, and the broader public, with an emphasis on those invested in India's regulatory architecture.

With the foundations laid, it was an easy walk from there to decide on some guardrails. It was clearly understood that the Report for any year would not be a fault-finding document, since this would limit the acceptability of the Index. For this purpose, it was important to consider how the contents of the Report were to be presented. In this connection it was pointed out that at the stage of developing the methodology, enough thought should be given to develop an intelligent questionnaire. Those questionnaires should be addressed to a wider constituency than just the SRAs.

The other was a brilliant suggestion to develop cross country or in any case country specific studies. This would expand the outreach of the document beyond India's borders. Each year the analysis could also pivot on a theme, to make the Report much more detailed than just comprising the Index within its pages. Regulators straddle plenty of sectors, which means their deliverables differ significantly. A possible regulator for Hospitals (alas, not yet) could merge both costs of treatment with the quality of the treatment. Whereas market regulator Sebi would consider fair price discovery in the market as its key deliverable. The wider theme was presaged to spark off debates on various generic and sector specific issues concerning the SRAs. The work profile naturally meant bringing in subject specialists from various disciplines to work on the Report, a mandate that sat extremely well, within the wide canvas of inter disciplinary nature of academic engagement of the OP Jindal Global University.

The approved aim was to produce every year succinct Reports on one or more of the questions germane to the SRAs. So, it was clear from the beginning, that the remit of CRG would not be a spartan academic exercise, but a rich investigation into the regulators. It may not be out of place to point out that Indian SRAs do not testify before Parliamentary committees or of any legislature. For some, which are quasi-regulator in their scope, say DGCA, the concerned minister speaks on their behalf in the legislature. This does not lead to the necessary distance between the technological capacity of the regulators and the political executive.

The CRG exercise would fill some of this gap, identifying the role of each or at least a substantial number of the SRAs. These Annual Reports will be expectedly debated in Parliament, used by business leaders to understand what the regulators demand from them and inform the citizens of what they can expect from these entities. These will naturally be highly informed policy documents to capture a lot that India has achieved and identify where there are spaces left unaddressed, considering the huge potential of the economy and pace of growth, the country has set for itself. The analysis would hopefully bridge the gap between the expectations of the citizens, the responsibility of the regulators and the governance paradigms of Parliament. There is no such pan Indian report at present and can be rightly considered a huge accomplishment for the University.

With the mandate set, it was now the task of the faculty at the University working through CRG, to mull on the construct and involve some of the best brains in the business to inform their conclusions.

1.2 Within this Context, what does this Scoping Report Plan to Achieve?

This Scoping report, through a question-and-answer format lays the groundwork for the development of these annual reports. It also does much more.

The report peers behind the scenes at several of the regulatory institutions to debate some basic issues, which we daresay has not been done elsewhere. These inquiries form the basis of the fifteen chapters in this report, written by our faculty members, often with student researchers and by invited experts. Each of them examines a specific regulatory challenge, seeks the opinion of the regulators on those, debates those with them and then captures the issues in their reports.

Each of the chapters form the nucleus of further studies CRG will undertake in its annual reports on the regulators.

At CRG we felt that before we undertook to write the first of our Annual Reports, it was necessary to do several things. First, we had to establish communications with the wide world of regulators including self-regulatory organisations, but most importantly the SRAs. As we have explained in the rationale for the work program at CRG, it was important to reach out to the regulators how strongly they felt about the need to build up their capacity and the need to encourage inspection within. This is quite a difference from the work that regulators do, viz order inspection in the outside world of the entities they monitor.

We also felt that the remit of each of the SRAs was often very wide, made more so by the Acts under which they were established. This made them spawn numerous divisions whose quality of work were thus often in variegated stages. So, any engagement with them must be a matter of tracking a set of specific issues, instead of a laundry list of queries. These are challenges that bedevil an assessment of an SRA. Imagine how much does this get multiplied when assessing the work in parallel of two regulators like FSSAI and CDSCO with respect to the issue of treatment of nutraceuticals. It raises in principle difficulties about regulatory overlap, contradictory mandates and the capacity of each regulator.

1.3 The Challenges

A challenge we expected and did indeed run up against was the somewhat perceived reluctance of some of the SRAs, to subject themselves to a quasi-audit of their roles. It was made clear at the outset that this was not the stated objective and indeed as an academic institution, there was neither the mandate nor the necessity to engage in. Yet there is no gainsaying that SRAs unlike a ministry at the Centre or a department at the state level need to be more forthcoming with the public. It may not be out of place to comment at this stage that some of the reluctance, was due to the nature of appointments in some of the SRAs. The absent mandate of a public scrutiny before a regulator took office is an issue that may need to be examined by the polity to ensure that there is more commitment to outcomes than the process of doing so.

After a lot of debate, it was also decided to omit the presence of RBI in the CRG work program. This was done, after a lot of consultations among the faculty members, since it was felt that RBI's multifarious responsibilities and its position made it impossible to compare with any of the post liberalisation SRAs. However, the fintech space and that of digital money is something on which we may have to visit the space again.

Finally, there was also the question of building capacity within the rich but often high-pressure environment of any young and dynamic University like OP Jindal Global University. As CRG took stock of these challenges, it became apparent that the mandate had to be broken into difficult but

tractable targets. It was what the most remarkable Indian Space Research Organisation (ISRO) has also done. Long before planning for Gaganyaan, ISRO broke up the targets into digestible but landmark goals. The success of these goals has made the ISRO's aim a most credible one among the public.

1.4 Evolution of Regulatory Engagements

One of the first steps we took to further stimulate the process and bring it in line with the needs of the larger community, was to begin a process of hosting a series of distinguished lectures and podcasts at the campus of the OP Jindal Global University. These lectures held at least once every semester, brings together eminent policy leaders with the JGU community, to address a specific issue concerning the regulators. The regularity and the excellent conversations they have spawned has made it easy for CRG to educate the larger student body about the challenging assignments that are on the anvil, as well as prepare everyone concerned about the knowledge quotient required in the quest.

As we have noted right at the beginning, regulators are not easy to map. Which institutions in any case, qualify as a regulator? This is difficult to answer since the Indian Constitution does not offer any definition of the regulator. As Prof Avirup Bose has pointed out in chapter Three—The Need to Re-imagine India's Regulatory Governance, "the regulatory architecture of the Indian economy is a product of ad-hoc evolution, without any deliberate design, developing over the years through a sequence of piecemeal decisions, often in response to economic pressures".

A perusal of the Code setting up the Insolvency and Bankruptcy Board of India (IBBI) in 2016 against say, the Securities and Exchange Board of India Act (Sebi), 1992, makes this clear. The objective of other regulators come somewhere in between. The differences are stark between the two. "In the interests of investors" written in Section 11B of the Sebi Act offers a wide-ranging power and it is not surprising this is the basis of which most Sebi decisions are taken. The IBBI Code does not offer this escape clause, being written with much more attention to details. Not surprisingly, the interests of the investors as a catch all phrase is rarely invoked in liquidation cases.

This difficulty made us adopt the structure of the Scoping Report on a two-track mode. Readers will notice that the first set of five chapters examine the overall Regulatory themes from different perspectives, Indian and Global. The next set of ten chapters examines specific themes with respect to at least one of the regulators. The approach is made clear in the Executive Summary, which pithily describes the differences.

The first set also includes a summary of a highly eclectic discussion held under the Chatham House rules by the CRG. The session brought together many serving and former regulatory heads who prized out the key theme of how to make regulators accountable. Discussing the themes threadbare with them were top government officials, business leaders and members of Delhi's leading think tanks.

As the next chapter points out, regulators, globally, emerged to serve a different agenda initially. Regulators began to get popular towards the end of the 20th century, especially among the emerging market economies. These economies were keen to offer certainty of treatment of capital for business enterprises. The advantages the regulators provided were three. They offered a long-term certainty of policies, were able to do so because they were detached from the political executive, which was, in many cases, running enterprises themselves, and finally, were supposed to be staffed by specialists who could understand the demands of the sector they regulated.

These regulatory principles sat well with the idea of globalization, which demanded a homogenous treatment of capital. While regulatory principles were seemingly universal, the smart use of this arm of state policy was country specific. Depending on

how well they were deployed, economies garnered an advantage against their competitors in the global market. A competitive advantage sprang up.

It is no surprise that the demand for regulators spread concomitant with the spread of globalization in the late 20th century. As companies, especially from the USA and Western Europe began to move into new geographies, they asked for policy certainty including that of repatriation of capital.

From a regulatory point of view, the most important distinction is between measures that affect capital account transactions, which are generally tolerated, and measures that restrict current account transactions, which are generally prohibited. While both measures affect capital flows, their legal regimes are invariably different across all the legal instruments regulating capital flows, noted a report.

To recognize how recent the spread of the regulatory patina is, just examine the following data. The US Fed got the dual mandate to support maximum sustainable employment as well as price stability only through the Full Employment and Balanced Growth Act of 1978, which amended the Employment Act of 1946. A large swath of the powers of the Federal Communications Commission was established through the Telecommunications Act of 1996. Similarly, at the US Securities and Exchange Commission, the first three-year term for the chairman was completed only in 1961.

The pattern was also recent in the economies of Europe including the UK, France and Germany. It is only to be expected that the developments in other economies, mostly in Asia, would be even more recent. Some of those promise still holds true. The decisions that economic regulators make influence the overall investment environment. Economic regulators always must provide a stable investment environment to encourage efficient investment while ensuring that regulated firms provide services efficiently.

But as our next chapter points out that this environment has begun to change. Business in the twenty-first century is often linked with the aims of political executives. In the prevailing climate of retreat from globalization, it is open to question whether the principles of regulatory detachment from business hold. Leading companies in each major economy have begun to move almost in lockstep with the political formations. Sometimes it is the companies that are getting into governance.

There are more. Technology, of which machine learning is the most prominent, has vastly altered the precepts of competition. One of those is also the network effect, which offers a massive advantage to the first mover in any sector. The others are climate risks and the consequent changes in the demands of the citizens. So, the rubric of Regulatory Efficiency has itself changed.

Some of those questions also animate the evaluation of state-owned units in India. Their relationship with the regulators has often been tricky. Consider the role that Small Industries Development Bank of India plays as both a lender as well as a regulator for the millions of small industries. Or consider the role of National Bank for Agriculture and Rural Development. But as the invited article by Deputy CAG, Mr Anand Mohan Bajaj points out that the principles of performance audit must be applied to evaluate them, also.

It is in this context that a debate has sprung up in policy circles in India. This debate also asks if India has created too many regulators, and if they are sometimes cutting across sectors. If so, are there reasons to examine how this has happened and the possible remedial steps to be adopted?

The related question to ask, then, both globally and in India, is whether regulators are necessary to do business in the model of economic management emerging in most economies. They were meant to provide comfort for the deployment of capital by businesses, shaving off substantial interest costs.

Are these comforts still obtainable from the regulators, or are better state instrumentalities

available and emerging to replace them? Is an economy better off operating through regulators, which are offered a degree of independence from the executive and even from the legislature? These are significant questions because the maintenance of regulators clearly imposes a substantial cost on the economy. These costs include orienting laws, creating a judicial framework, making businesses responsive to them, and guiding public policy accordingly. Yet, even if assets may run up costs, they should be considered useful if the returns on them are far more than it costs to maintain them.

Many of these issues come up in the next set of chapters. Each of them examines the specific roles of regulators in this changed context. Readers will note that while we have touched upon climate issues, those have come in the context of regulation of AI.

Readers will also note that both energy issues and transport are not dealt with in these chapters. These are major omissions reflecting that India has yet to develop full stack regulators for both these concerns. PNGRB has a restricted remit and so is that of NHAI.

In the Indian context, the issue of excess Regulators, leading to overlapping may impact cost, as maintaining them requires additional expenditures on the Economy. This requires a Cost-Benefit Analysis, to see if the Returns are more than the Costs incurred.

Still the set of questions raised in this Scoping report, are enormous. Yet there are many more, that need to be tackled. It is also not clear if hot button issues of inequity, of employment are those which a regulator should deal with or are they best left to Parliament to handle.

The answers to these questions will determine how and to what extent the regulatory regime should be promoted in the economy. If, it can be shown that regulators matter and add benefits in the age of AI, one may postulate that they have become strategic assets to deploy to counter competition from other economies and offer a better bargain for the citizens. At this stage, we shall be most chuffed to receive your comments about our efforts.

The role of the regulators has been to be aware of the changes and offer enterprises a sense of certainty or clarity in the middle of these changes. The intention was to provide a stable environment where the enterprises could locate the most important changes, identify among those the challenges they prioritized, and create a business opportunity to take advantage of those challenges.

02 EXECUTIVE SUMMARY

Why this Report *Subhomoy Bhattacharjee*

This report lays out the context of the Scoping report. The chapter explains the rationale we shall use to develop our Annual Reports on the Regulators with a unique Regulatory Effectiveness Index. It explains the justification for such an exercise and the process through which those are sought to be arrived at. It also discusses why Parliament, business leaders and citizens will be enriched through such an exercise.

The Need to Re-imagine India's Regulatory Governance *Avirup Bose*

With the context set in the previous chapter, this chapter explains the issues related to the regulators in India, as it suffers from factors like regulatory overreach, regulatory gaps, accountability gaps, lack of innovation, while mentioning that recently, lots of initiatives have been taken through reforms to rectify many of these issues. There is also a Comparative Analysis of Regulatory Innovation and Effectiveness, wherein we discuss where India stands w.r.t. Advanced Economies

Seminar: Rethinking Regulators *CRG team*

A band of experts assembled under the banner of CRG to offer suggestions on how to understand Regulators and their roles. This involved Chairman and members of Regulatory bodies, business leaders, academic experts and those from the civil society to offer their perspectives. The discourse examined the paradigm shift of regulations in India from controlled hurdle to being a catalyst for economic growth. The seminar harped on how the shift of regulations changed from just ticking boxes (compliance-based regulations) to the one that focussed on outcomes (principle-based regulations).

Regulators in India: Why do they Exist? *Kshithi M. Shetty*

This article takes forward the understanding of Regulators from a theoretical context. It also explains what should comprise a Regulatory Effectiveness Index, as evidenced from different countries. The article highlights why Regulators are central to Indian governance. It explores the historical context, highlights the objectives of setting it up in the Indian context and focusses on the success and failures and challenges faced in India. We also try to find out what regulatory effectiveness is and how we find errors in the understanding of regulatory gaps.

Strategic Changes in Performance Evaluations in PSUs *Anand Mohan Bajaj, Deputy Comptroller and Auditor General, Government of India*

The discussion concentrates on the PSUs and focusses on how changes are being affected in the evaluation of public sector undertakings and how Regulators are changing their approach of interacting with them. The way the auditors evaluate PSUs to ensure proper utilization of public money by focussing on the "3Es", is what is being discussed in the panel.

Greening AI: Reimagining AI and the Energy Sector *Anandi Katiyar*

This paper focusses on an aspect which PSUs in India have started embracing, along with the private sector – Artificial Intelligence. The paper identifies the paradox of using a carbon-heavy technology to fight carbon emissions. It mentions why in India, fixing AI into environmental governance is needed to build investor trust and meeting global climate goals.

Misleading Advertisements in India: Evaluating ASCI and the Regulatory Architecture of Consumer Protection *Snehi Chhabra*

As AI tries to improve the effectiveness and efficiency of the working of various Regulatory agencies, we shift to issues faced. This article focusses on the ineffectiveness of the various agencies in preventing misleading advertisements in India, and in effect, failure in providing customer protection. Lack of clarity of roles of the various regulators on top of ineffective communication have an adverse impact on the consumers. The importance of communication is highlighted here.

Partial Credit Enhancement: Transforming India's Infrastructure Finance *Ekanvita Baldwa and Sadhika Jindal*

Despite the hurdles faced by Regulators, there are regular efforts to improve the performance of the specific sector. This paper discusses the role played by the RBI in enhancing and regulating Credit facilities in India. It focusses on PCE (Partial Credit Enhancement) from its early concept to the comprehensive 2025 reforms, discussing the initial challenges faced, to making it work mainly for the massive infrastructure financing needed in India, while managing the risks associated with it.

The IPO Valuation Dilemma *Shaurya Singh*

SEBI has done a tremendous job in improving faith of investors in the market through various initiatives from time to time. However, issues do crop up intermittently, which it tries to solve actively. This article relates to such an issue and focusses on the period 2021-23, during which several IPOs witnessed significant post-listing corrections in stock prices, leading to loss for investors. It discusses the role of the regulator in balancing the twin acts of investor protection and ensuring growth of the market.

Public Interest Litigation Beyond Constitutional Courts: Public Law Adjudication by Sectoral Regulators *Parvesh Kumar Sharma*

The roles and limitations of power of Regulators have often been discussed as various issues crept up from time to time – some of which are even settled in Courts. This article discusses whether Public Interest Litigation (PIL) could be heard by specialized bodies like Electricity Regulatory Commissions (ERCs) in India. The article discusses the ruling of the Supreme Court in the Torrent Power case, where it ruled against that aspect. It takes a balanced view in discussing the pros and cons of issues being heard by specialized experts, with focus on speedier justice, better accountability and conflict of interests.

Insurance Sector: Regulator as a Strategic Asset *Subhomoy Bhattacharjee*

Continuing with the challenges faced by Regulators, this article focusses on one of the most critical sectors in Indian context - the Insurance sector. Using the IRDAI as a case study, this article focusses on the roles and challenges of regulators. While mentioning its importance for businesses and investors, it uses the example of the Insurance regulator and then comments on the challenges faced in the Indian context in general, and whether they are still needed given the fact that they are expensive to maintain, as they require complex legal and judicial frameworks.

Is Mens Rea Relevant for Prosecution under the Insider Trading Regulations? *Meghmala Mukherjee*

As Regulators keep facing issues, many a times generated deliberately through wrong doings, as discussed in the previous articles, there is a need for strict and clear laws to prosecute the guilty. This article examines the critical role of mens rea (guilty

mind) for prosecution in insider trading cases in Indian context. The study discusses in detail and tries to analyze the distinction between "strict liability" framework intended by the SEBI (Prevention of Insider Trading) Regulations and the "intention based" interpretations often adopted by the judiciary.

Competition in Civil Aviation: The Regulatory Quartet- DGCA, AERA, AAI & CCI *Leela Tarang Krishna Paladugu*

Where Regulators keep facing new challenges every now and then, there is need for proper coordination among various stakeholders. This report highlights the effective coordination among the 4 Aviation Regulators and how they have a multi-layered governance system, with each regulator having a specific role to ensure the safety, competitiveness and fairness of the market.

Importance of Communications in the Regulatory Space *Ajitesh Mullick*

To be effective for the other stakeholders, the most important role of a Regulator is that of its Communication. This final article in the Scoping report highlights that this aspect is often ignored. But when we consider its importance from the point of view of end-users of products/services, Regulators effectively act as a body which informs the latter of their rights, informs/warns them about the services/products they use – in effect, educates them; ensuring they are not taken for granted and get the best. It thus fosters transparency and trust among consumers, which in turn, boosts the business prospects of the sectors they operate in. The Article points out, through examples of SEBI and IRDAI, how good Communication by Regulators creates a win-win situation for every stakeholder within the regulatory ecosystem.

03

THE NEED TO RE-IMAGINE INDIA'S REGULATORY GOVERNANCE

Avirup Bose

3.1 Introduction

Post the adoption of liberalization reforms by India, almost 35 years ago, as nationalized industries were privatized, much of the power of regulating the various sectors of the Indian economy was transferred from the relevant government ministry/department to independent sectoral regulators, with the mandate to encourage competition and protect consumer interests (Singh, 2009). India's liberalization reform process, which has provided the main impetus for the country's substantial economic growth, although directed by the Government, is largely managed by the country's economic regulators. Starting with the securities market regulator – the Securities and Exchange Board of India (SEBI) - in 1992, the Government has established several independent sectoral regulators for various sectors of the economy, including electricity, natural gas, petroleum, insurance, securities markets, real estate, and microfinance. Besides sectoral regulators, the Government has established an economy-wide regulator, the Competition Commission of India (CCI), under India's competition law. Moreover, India's central bank - the Reserve Bank of India (RBI), which serves as India's banking regulator and regulates the country's monetary policy, has been in existence since 1934, and has entrenched its regulatory clout over that of the Union Finance ministry.

The relevant Acts of Parliament that established these sector-specific regulatory agencies provided each agency with specific statutory duties and powers, while also granting them freedom from the frequent direct political intervention that had been common under the pre-liberalized era. These independent regulatory regimes – created to be at an arms-length from the Government - have emerged as the new nuclei of regulating the Indian economy. These independent agencies, with considerable powers including the power to impose pecuniary fines and behavioural remedies, to create secondary legislation, and even to modify agreements, remain largely outside the traditional mechanisms of accountability. While ministers responsible for the management of a ministry/department are individually and collectively responsible to the Parliament, the independent sectoral and economic regulators of India exist essentially as independent agents.

In fact, their independence itself is the source of their technical competence. As the Organisation for Economic Co-operation and Development (OECD) summed it up - "The key benefits sought from the independent regulatory model are to shield market interventions from interference from 'captured' politicians and bureaucrats." (OECD, 2002) However, independence is not set in stone, and it is necessary to review whether the regulations enforced by India's independent regulators are yielding the right outcomes for the Indian economy and its people. Given the significant changes to the machinery of Government and the institutional structures for regulatory decision-making over the last three decades, questions arise about how regulators' performance is monitored and assessed to ensure that the public interest is properly served.

3.2 Issues

To what extent do India's economic regulators consider the public interest, consumer interests and interests of the stakeholders they regulate? To what extent are such regulators conducting

themselves to achieve their statutory/policy objectives? Further, the regulatory architecture of the Indian economy is a product of ad-hoc evolution, without any deliberate design, developing over the years through a sequence of piecemeal decisions, often in response to economic pressures.

This has resulted in a regulatory structure plagued by variations of phenomena like regulatory absence, regulatory overreach, or regulatory conflicts, creating a non-conducive business environment in India (Patnaik & Shah, 2014). Such problems get further exasperated due to India's non-adoption of a 'regulatory management system' which would require economic regulators to review the costs imposed by proposed regulations and assess the impact of their regulatory decisions, i.e., measuring the actual outcome of a regulatory action against its intended outcome. An attempt to introduce such a mechanism was made by the draft National Competition Policy (NCP) of 2012. The NCP attempted to establish a set of principles for state and federal governments, which, when adopted, will allow stakeholders to undertake a Competition Impact Assessment (COMPAS) of existing and proposed government policies, statutes, and regulations, with a view to removing or minimizing their competition-restricting effects. If legislative or regulatory impediments to competition are proposed, such laws/policies should be subject to review to ensure that the costs associated with reduced compliance are exceeded by public benefits (Kumar & Bose, 2014). The Indian federal Government never adopted the NCP.

Further, the regulatory functions of most economic regulators often involve an inappropriate combination of legislative, judicial, and executive functions, resulting in regulatory overreach or regulatory overlap, which remains largely uncorrected due to their lack of accountability.

3.3 Initiatives Taken

Some regulators, like the SEBI, have initiated efforts to reduce regulatory costs and simplify compliance. In February 2026, SEBI announced that its National Institute of Securities Markets (NISM) Centre for Regulatory Studies will study regulatory impact and design a framework to assess how SEBI's regulations will affect market participants, with a view to making Indian capital markets more competitive. Earlier in 2025, the RBI announced a framework of broad principles for the formulation of new regulations, requiring the regulator to conduct an impact analysis of proposed regulations, conduct periodic reviews of significant regulations, and promote transparency in its rulemaking. RBI consolidated over 9,000 circulars and guidelines into 238 function-specific Master Directions for different categories of regulated entities. As part of this initiative, 9,446 circulars are being repealed, with relevant 3,809 circulars subsumed into Master Circulars, and 5,673 have been deemed obsolete.

The Insurance Regulatory and Development Authority of India ("IRDAI") constituted a Regulation Review Committee ("RRC") in 2023 to review the entire insurance regulatory framework and recommend a principle-based regulations framework for registration and regulation of Indian insurance companies. The RRC worked with several stakeholders and submitted its report to the IRDAI, inter alia, recommending that the IRDAI consolidate its erstwhile 72 regulations into just nine.

3.4 Economic Survey and its Findings

Despite these developments, the Economic Survey, 2025-26 recommended that India's financial regulators adopt a formal regulatory framework to assess the impact of their regulations. The Survey recommended that the quality of regulations be assessed against five criteria: democratic legitimacy, accountability of the regulator, fair, accessible, and open procedures, expertise, and efficiency.

This suggests that, despite incremental steps to improve rulemaking by India's financial regulators, there is a lack of accountability that also allows independent regulatory agencies to pursue enforcement agendas that often diverge from the incumbent government's economic agenda. Further, there is a complete absence of cross-fertilization of ideas across regulators, which prevents the development of a common regulatory philosophy. There are several sectors where, despite Government initiatives, a slowdown has been compounded by regulatory overreach or turf wars. In such situations, neither the Government

nor the regulators accepts the responsibility for critical aspects of regulatory decisions. Although a right of appeal from the regulatory decisions of most Indian economic regulators exists, it is very limited to judicial review. Such review processes are often time-consuming and costly and may not be sufficient to correct regulatory policy errors.

3.5 Disputes: The Telecom Sector

Let us illustrate this conflict with one example from India's telecom sector – one which contributes 6.5% to the country's GDP and is the third-largest industry in India. On the one hand, the Government wants to incentivize global telecom companies to manufacture in India. On the other hand, under its "Atmanirbhar Bharat" scheme, it also aims to develop a homegrown manufacturing industry. This balancing act becomes even more complicated, given that access to standard-essential patents (SEPs) is crucial to manufacturing in the telecom sector.

Striking the right balance on how SEPs are licensed in India is crucial. On the one hand, if India wants to attract global semiconductor companies like Ericsson and Qualcomm, or global telecom companies like Apple and Samsung, to manufacture in India, it must provide a proper legal framework to protect SEPs owned or used by them in India. On the other hand, if the Government wants to promote the domestic production of mobile handsets, Indian telecom companies – none of whom own any major SEPs – must be able to access such SEPs on equitable terms and at a reasonable cost.

Over the last 12 years, the CCI and the Delhi High Court have tussled over defining the jurisprudence governing SEPs in India. Both bodies have passed several decisions (all against the same SEP holder, Ericsson) – adopting opposing views on the balance of interests between SEP holders and technology users in India.

The contentious issue is the methodology to calculate the SEP royalty rate. Users of Ericsson's SEPs (Micromax, Intex and iBall) argued that the royalty should be based on the phone's chipset technology, rather than a percentage of the price of the final downstream mobile phone handset. CCI, without any trial, passed interim orders showing sympathy with the arguments of the Indian mobile phone manufacturers. CCI, while ordering further investigation, made conclusory remarks that charging a different license fee per unit of a mobile phone for the use of the same technology is prima facie discriminatory and contrary to FRAND terms. Beyond violating its FRAND commitments, CCI hinted that Ericsson could even be violating India's antitrust statute's "unfair pricing" provisions.

Ericsson challenged CCI's jurisdiction to resolve disputes arising from patent abuse before the Delhi High Court. The Court took three years to resolve the dispute in favour of CCI, allowing it to continue antitrust proceedings against Ericsson. Ericsson appealed this order before a division bench of the Court, which took an astonishing seven years to conclude in July 2023 that CCI had no jurisdiction to resolve such SEPs disputes. Thus, India is perhaps the only major economy where its antitrust regulator has been ousted from inquiring into SEP owners' potentially abusive licensing practices from a competition law perspective.

In April 2024, the Delhi High Court issued its first SEP decision in favour of Ericsson and ordered Lava, an Indian smartphone company, to pay Rs. 2,440 million in damages, one of the highest awards for patent infringement in Indian history. The Court disagreed with CCI and found that Ericsson's practice of using the net sales price of the downstream mobile handset as the appropriate royalty base was appropriate. The Court's reasoning could be seen as accepting that the retail value of a multi-component product, like a mobile phone, is derived from the combinatorial interaction of its multiple parts – each generating complementarity effects.

Lava has appealed against this decision of the Delhi High Court, and CCI has also appealed before the Indian Supreme Court to reopen cases against Ericsson. However, the Supreme Court dismissed the case in September 2025, as the original parties had settled it. Therefore, even after 11 years of judicial and regulatory manoeuvring, there is no legal certainty about the core licensing practices of SEPs in India. On the other hand, the Union Government's budget for fiscal 2026 not only introduces the India Semiconductor Mission 2.0,

with a budgetary allocation of Rs. 1,000 crore to focus on producing semiconductor equipment and materials in India, designing full-stack Indian semiconductor intellectual property, and developing domestic and global supply chains but also significantly boosts India's electronics manufacturing capabilities by increasing the outlay for the Electronics Components Manufacturing Scheme (ECMS) from Rs. 22,919 crores to Rs. 40,000 crores. Much of this fiscal and manufacturing ambition for India would be unrealized without first fixing the SEP policy quagmire.

The SEP turf-war is not an isolated incident. As of writing this article, the Supreme Court of India is hearing an appeal by both CCI and Meta's WhatsApp against an order of the National Company Appellant Tribunal (NCLAT) which upheld a Rs 213.14 crore penalty imposed by CCI over Meta for abusing the privacy of its users under its 2021 privacy policy update. CCI had held earlier held that WhatsApp's take-it-or-leave-it privacy policy is an abuse of its dominant position and imposed behavioural restrictions for a period of five years on the ability of WhatsApp to share user data across other Meta-owned applications. NCLAT had decided to set such restrictions aside reasoning that this would lead to a collapse of Meta's business model. One of the arguments raised by Meta, which was recognized by NCLAT was the question of CCI's jurisdiction to deal with data markets, arguing that the newly notified Digital Personal Data Protection (DPDP) Act, 2023, addressed all concerns regarding privacy issues and the appropriate jurisdiction would be that of the Data Protection Board under the DPDP and not of the CCI.

3.6 Importance of Regulatory Impact Assessment (RIA)

Further, most primary or secondary regulatory policy decisions of the Government – either at the parliamentary stage or at the level of the regulators themselves - are made without any regulatory impact assessment (RIA) or public consultations with stakeholders or domain experts. The regulatory policymaking process itself is largely bureaucratic, often controlled by parliamentary committees. Such regulatory policies may inadvertently add costs to doing business or restrict firms' ability to compete effectively in the market.

> Currently, India lacks a mechanism to assess regulatory costs and other trade-offs in the design of its regulatory policy. Currently, Indian regulators perceive their role as law enforcement agencies, charged with either ex ante standardizing sectoral rules of conduct or ex post determining legal liability issues for sectoral/industry actors.

Innovation or entrepreneurship is not an input factor in their regulatory decision-making process. Neither regulators, voluntarily, nor by law, are required to assess the impact of their decisions/policies on an industry's capacity to innovate or grow. To create a robust innovation ecosystem, India needs to ensure that innovation remains central to both the Government's economic policymaking and the judicial processes of its regulators and courts. To develop a national vision of innovation, the regulatory agendas of regulators/courts should be in coherence with the innovation agenda of the federal or state governments.

The Union Budgets for fiscal years 2025 and 2026, although falling short of introducing a structured approach to regulatory impact assessments in India, did recognize their underlying principles. The budget focuses on the need for regulatory effectiveness to boost ease of doing business in India and on developing regulations to that effect. For example, the Jan Vishwas (Amendment to Provisions) Bill 2025 proposed amendments to 288 provisions to decriminalize and promote ease of doing business, highlighting the Government's commitment to improving regulatory efficiency. Besides these decriminalization reforms, the Government has also undertaken efforts to rationalize regulatory frameworks under the Environment (Protection) Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981, and the Indian Forest Act, 1927. Furthermore, the criminal provisions of the Water (Prevention and

Control of Pollution) Act, 1974, have been decriminalized to reduce the regulatory burden on compliance further. The federal Government also created the "Task Force on Compliance Reduction and Deregulation, which was constituted in January 2025 to simplify regulations and streamline procedures across Indian States and Union Territories in priority sectors such as labour, land use, and building and construction. The focus of the Indian Government on reducing the burden of regulatory compliance and promoting trust-based governance continues in the union budget for fiscal year 2026. For example, the budget announced a comprehensive review of the Foreign Exchange Management Act to update and rationalize India's foreign investment frameworks. Another budgetary measure was to establish a "High Level Committee on Banking for Viksit Bharat" to review banking regulations and align them to the future economic growth ambitions of India.

In his 1991 budget speech introducing India's historic Liberalisation, Privatisation and Globalisation reforms, India's former Prime Minister borrowed the immortal words of Victor Hugo – "No power on earth can stop an idea whose time has come". Perhaps, in a similar vein, it is time for India to adopt a structured approach to regulatory decision-making.

REGULATORY AGENCIES IN INDIA

RBI – Reserve Bank of India

SEBI – Securities and Exchange Board of India

IRDAI – Insurance Regulatory and Development Authority of India

PFRDA – Pension Fund Regulatory & Development Authority

ROC - Registrars of Companies

NHAI - National Highways Authority of India

OGAI - Online Gaming Authority of India

TRAI – Telecom Regulatory Authority of India

BBMB - Bhakra Beas Management Board

PNGRB - Petroleum and Natural Gas Regulatory Board

FSSAI – Food Safety and Standards Authority of India

BIS – Bureau of Indian Standards

CCI - Competition Commission of India

CERC - Central Electricity Regulatory Commission

CEA - Central Electricity Authority of India

DIC - Digital India Corporation

DGCA - The Directorate General of Civil Aviation

DBPI - Data Protection Board of India

NFRA – National Financial Reporting Authority

NBA - National Biodiversity Authority

NTCA - National Tiger Conservation Authority

RERA - Real Estate Regulatory Authority

Coal controller Organization

NGT - National Green Tribunal

CZA - Central Zoo Authority

AERA - Airports Economic Regulatory Authority of India

CDSCO – Central Drugs Standard Control Organisation

IBBI - Insolvency and Bankruptcy Board of India

AERB - Atomic Energy Regulatory Board

EPFO - Employees' Provident Fund Organisation

FSDC – Financial Stability and Development Council

NHA - National Health Authority

NMC - National Medical Commission

NPPA - National Pharmaceutical Pricing Authority

IN–SPACe - Indian National Space Promotion and Authorisation Centre

Viksit Bharat Shiksha Adhishthan (Pending)

WDRA - The Warehousing Development and Regulatory Authority

COMPARATIVE ANALYSIS OF REGULATORY INNOVATION AND EFFECTIVENESS: INDIA VS. ADVANCED ECONOMIES

Aiman Dev Saha

CROSS COUNTRY COMPARISON IN MAJOR SECTORS

A) Healthcare: Telemedicine and Digital Infrastructure

Although access improved swiftly, India assigns medical oversight to doctors through its 2020 Telemedicine Practice Guidelines[1]; eSanjeevani operates connections absent legal accountability on the system itself. Expansion occurred soon after. In contrast, American adoption typically waits for measures including HIPAA[2] alignment and FDA 510(k) approval[3] prior to broad implementation. Elsewhere, European frameworks including GDPR[4] alongside the forthcoming EHDS[5] define limits for patient information long before services launch.

Even with fast rollout in parts of India, steady assessment of software as medical devices progresses at a crawl. Where local supervision is weak, standardized data handling policies fail to form. Gaps in collaboration slow down national coherence. One area moves forward - adjacent ones pause. Advancement races in certain zones, drags elsewhere. Where agreement lacks, confidence grows in patches. Understanding dims when methods diverge. Unmanned aerial devices operate without onboard pilots. Autonomous ground transport navigates using sensors instead of human drivers

Even with lighter barriers after The Drone Rules 2021[6] cut expenses and eased permissions, progress came quickly. Behind the rapid drone gains, autonomous cars still face outdated structures - the Motor Vehicles Act 1988[7] assumes human control at all times. On the other hand, Germany introduced a Level-4 framework in 2021[8] allowing unmanned movement in set zones, so long as distant monitoring exists and responsibility terms are clear.

Even as drone rules evolve, outdated ideas about automated systems cause complications. Where technology stands ready, slow legal adaptation holds back broad deployment. Innovation moves ahead, yet uncertainty in accountability keeps applications limited. Clarity in oversight would help, but legacy thinking still shapes key decisions. Full implementation waits on frameworks that have not kept pace.

B) Power: Renewable Energy Expands Across Markets

Halfway into the ten-year period, adjustments came to India's regulations on green energy access, allowing smaller firms entry due to relaxed thresholds. Processing delays decreased, resulting in faster clearances. On the opposite shore, the UK focused on predictable pricing - its Contracts for Difference[9] set payments early. This approach offers clarity to producers while reducing uncertainty for financial backers. At the same time, regulatory changes in the United States altered arrangements for minor providers; FERC Order 2222[10] enables home-based solar

[1] Board of Governors in Supersession of MCI, Telemedicine Practice Guidelines 2020.
[2] US Department of Health & Human Services, Health Insurance Portability and Accountability Act (HIPAA).
[3] US Food and Drug Administration, 510(k) Premarket Notification.
[4] European Union, Regulation (EU) 2016/679 (General Data Protection Regulation).
[5] European Commission, European Health Data Space Proposal.
[6] Ministry of Civil Aviation (India), Drone Rules 2021.
[7] Government of India, Motor Vehicles Act 1988.
[8] Federal Ministry for Digital and Transport (Germany), Autonomous Driving Act 2021.
[9] UK Department for Energy Security & Net Zero, Contracts for Difference (CfD).

panels and neighbourhood wind systems to join broader electricity bidding processes.

Across many parts of India, beginning anew remains feasible because entry hurdles stay minimal. Still, consistency in pricing and extra charges differs by location. Trust among investors wavers where predictability fades. Despite potential, confidence falters under shifting terms.

C) Telecommunications: Security Powers and Transparency

Following years of fragmented oversight, the Telecommunications Act 2023[11] centralized authority to enable quicker decisions. Connected to it was the introduction of the Temporary Suspension Rules 2024[12], requiring public justification for enforcement steps. Experience drawn from CCI v Bharti Airtel (2019)[13] revealed that overlapping jurisdictions tend to delay outcomes. Unlike such cases, European models generally embed transparency and balance within their regulatory foundations at inception.

Where authority is present, clarity vanishes - procedures drift without fixed sequence, their timing unclear. Though structure appears firm, measurement timelines waver, left unassigned.

D) Fintech: Digital Public Infrastructure and Instant Payments

Speed defined India's fintech growth, anchored in UPI[1] managed by NPCI[14] with guidance from the RBI[15], alongside faster T+1 clearing[16]. Without top-down orders, widespread usage drove expansion. Meanwhile, adoption across American institutions determined how fast FedNow[17] spread, since entry remained voluntary for financial providers. On a different track, Singapore tied transaction efficiency to licensed access, testing frameworks first within controlled environments governed by its Payment Services Act[18].

Faster transaction growth outpaces fraud handling. Systems strain under rising load. Capacity lags activity spikes. Protection frameworks adapt too slowly. Volume increases leave safeguards behind.

E) Synthesis: Turning Speed into Working Systems

Ahead of regulation, operations unfold across India. Where guidelines lag, digital health platforms emerge through fragmented oversight. Power trading begins although cost models lack clarity. Even amid uncertain policies, telecommunication regulators take part in evolving networks. Though digital payment systems grow, progress against fraud remains slow. Instead of scale, effectiveness drives current remedies. Oversight might rest on a unified database for health technology. Responsibility could take clearer shape through partially automated liability frameworks. Energy pricing aligned by region introduces predictability. A path forward becomes easier when rules are visible. Where speed in settling fraud shapes license renewal, responsibility follows. Predictability grows under open regulatory plans. Decisions gain weight when outcomes tie to results. Licensing that reflects resolution times sets a standard. Public timelines anchor expectations firmly. Accountability emerges where performance matters.

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[10] Federal Energy Regulatory Commission, Order No 2222.
[11] Department of Telecommunications (India), Telecommunications Act 2023.
[12] Department of Telecommunications (India), Temporary Suspension of Telecom Services Rules 2024.
[13] Competition Commission of India v Bharti Airtel Ltd* (2019) 2 SCC 521.
[14] National Payments Corporation of India, About NPCI.
[15] Reserve Bank of India, Payment and Settlement Systems.
[16] Securities and Exchange Board of India, T+1 Rolling Settlement Circular.
[17] Federal Reserve, FedNow Service.
[18] Monetary Authority of Singapore, Payment Services Act 2019.

F) Conclusion

India's challenge lies less in invention, more in applying structure to sustain innovation. Telemedicine improves not through speed, but repeated evaluation of digital tools. Renewable projects grow stable where pricing rules remain unchanged across years. Progress in telecom emerges gradually, shaped by methodical policy sequences. Digital payments become reliable only when anti-fraud measures follow fixed schedules. Advanced economies often set safeguards at launch, altering development paths from the start.

From shifts emerge sturdier frameworks - when expectations around responsibility grow, behaviours follow new paths, since pricing approaches adapt while monitoring grows tighter, turning trial runs into something resembling solid ground.

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04

RETHINKING REGULATORS: STRATEGIC ASSET FOR BUSINESS GROWTH

SEMINAR VENUE: JGU International Academy at the Taj Mansingh Hotel, New Delhi

4.1 Introduction

A thorough, detailed session was held on "Rethinking Regulators: Strategic Asset for Business Growth" on 12 June 2025, which included experts from the government, the regulators and from the academia including those from the OP Jindal University.

At the intense session, experts discussed how some of the regulators have made the welcome **transition from just checking boxes to enforce compliance by individual entities to principle-based regulations.** This has allowed the regulators **to develop pricing decisions** that suit the industry and serve the customers. This has helped them move away from being held hostage to managing the capital investment made by the business as the basis of pricing of services that helps the sector grow and **keep costs low for the customers.**

The context is clear. The world has moved from being governed solely by elected politicians to being governed by specialized technical experts (regulators) because modern challenges are too complex for traditional political structures to handle alone.

4.2 What are the Challenges?

As one of the speakers puts it succinctly when there is a natural monopoly, there is always this risk of dominance and its misuse. So, the government has to have a regulator for those sectors."

On the same theme, another expert pointed out that to make the transition to the principle-based regulation it is important to make a judgement call about the quality of regulators. "This has not always proved to be a very effective example in India's case", was the opinion in this context.

Only if these conditions are met can the regulators be regarded as "strategic assets". The reverse question is if they are not strategic assets, then do they become liabilities? It was also debated that globally there is a tendency to shift away from regulators. "There's no denying this and one of the most approximate and acceptable reasons for that is the cost of funding regulators".

These raise the issue of funding for the regulator and questions on whether the consumers get to know how much of the charges she pays as well as the means to finance the regulators.

In this context, the announcement made in Union Budget FY2026 for a relook at the regulators presumably means moving towards a light touch approach. But then "what exactly is a light touch approach or the feather touch approach and how those should be balanced, will be some very interesting issues to develop".

For instance, some regulators are examining the nature of investments made by businesses in the states to figure out if the money is going into the extraction of minerals or whether they are going for the development of infrastructure. It is difficult to judge whether such an analysis would be classified as a light touch regulation or an invasive one. But

when the regulator sets off charges, those must be reasonable which means a fair number of details from the sector operators have to be extracted to arrive at a fair decision.

The closed-door session was attended by over 50 guests and a distinguished panel of experts. The session also discussed the aim of CRG, as enunciated by Dr. C Raj Kumar Founding Vice Chancellor of the Jindal Global University to build an annual report focused on assessing—rather than criticizing—regulatory bodies. The goal, assembled scholars acknowledged was to build a deep understanding of regulation that also becomes useful for policymakers, business leaders, and the public.

Some of the specific themes discussed were with respect to Insurance Regulatory and Development Authority of India and Airports Economic Regulatory Authority, among others.

4.3 Expanding the Market

From forcing every company to follow the same rigid rules ("one-size-fits-all"), regulators are moving to principle-based regulation. This focuses on the outcome rather than just "ticking boxes." Through the means of Regulatory Impact Assessment (RIA), the regulator could now assess the cost to businesses before passing any new rule. Simply put if the benefit doesn't outweigh the cost, the rule isn't made.

Also, IRDAI has moved insurance products and sales from a "city-centric" model to a "village-first" approach through state-level strategy, where underwriters partner with state governments. This ensures that money from insurance is invested back into local projects like roads and mining, helping the state grow. They are training local "village entrepreneurs" and using post offices to sell insurance.

4.4 Regulating a Monopoly:

Airports, airlines, passengers, and cargo are the four stakeholders in the Airport infrastructure sector. Earlier the state-owned Airport Authority of India (AAI) used to play the dual role of airport operator and regulator. Thus, it was both fixing aeronautical charges for airports as well as monitoring performance standards of airports. “So, there was a mismatch between the charges levied and the quality of service which was being made available by the airport. This was one of the reasons for bringing the private sector to improve efficiency and promote competition.

The perceived benefits are in terms of savings in government expenditure that can instead be spent on other priority sectors while private companies handle airport costs. Modernization ensured by Regulators makes it essential for airport management companies to secure financial leeway to upgrade facilities and facilitate growth in terms of business expansion, offer a modernized public infrastructure and expand the industry.

For instance, the Delhi Airport in 2006, when it got privatized, had capacity to handle just 12 million passengers/annum, and today it has expanded to 100 million passengers/annum.

In this context, the regulator must ensure that though an airport is a natural monopoly, passengers and airlines are not charged unfairly. It can be concluded that having a regulator has been beneficial for the industry because it has attracted Investment, encouraged Private Competition and acted as a Strategic Asset.

4.5 Quality of Regulations

Ensuring the quality of regulations is a very subjective idea. To assess that it might even be necessary to bring in another regulator to examine the regulations.

This means there is a delicate balance between regulations and regulations in a modern economy. This should cut against an overriding tendency to create regulators without matching laws. It creates a risky environment as a regulator without a clear law that could end up making rules that exceed their mandate.

This has happened globally, too. While the WTO struggles as a global regulator as the respective legal environment is not clear, whereas the Free Trade Agreements (FTAs) often have no central regulator but succeed. Parties to the Agreement follow a set of agreed-upon rules based on trust and mutual benefit. Business happens "seamlessly" because everyone respects the rules, not because a "policeman" is watching.

4.6 Are Regulators "Strategic Assets"

Regulators operate as strategic assets (tools that add value) provided they add value. However, if a regulator doesn't provide clear value, it effectively becomes a liability. Globally, people are moving away from heavy regulation because it is expensive and difficult to fund. There is an identity crisis for Regulators. It is important to remember that they are not industry associations or lobbies but government agencies.

Some smaller states like the Philippines have specific laws because of which there is no need for a regulator. If you want to change a rule, you go straight to Parliament, where law is the final word. There is no scope for a separate regulatory body to interpret things.

4.7 Q&A

1) How to ensure that for citizens using a service, costs do not multiply. The answer is that this is a delicate balancing act designed to protect three main groups while keeping the industry financially healthy. Businesses, for instance, should recover investments and earn reasonable returns (currently targeted at roughly 15%) but also provide costs low enough to keep using the facility or buy the services.

2) What are the Future Regulators when you see that the world order is kind of bickering and is almost falling into smaller compartments? It can be related to why the era of massive, global trade agreements (like WTO) is ending and what is replacing them. WTO was built on the assumption that trade should be a neutral engine for growth and poverty reduction, originally assuming countries would follow single set of global rules because everyone benefited economically. However, major powers now use trade as a tool to project political and economic power (geo-economics). Powerful nations now prefer to set their own standards.

Since global agreements are failing, trade rules are moving to smaller, more manageable groups, the EU, for example. It focuses on keeping its internal trade moving smoothly because it has a massive "vested interest" in its own neighborhood.

3) While regulators often control pricing, they frequently overlook customer redress. The answer is related to the following steps taken by regulators for customer redressal:

- Dedicated Support: A specific call center, web portal, and set of regulations are devoted entirely to policyholder grievances.
- Transparency: the regulator must publish data regularly in its annual reports regarding number of complaints, resolution rates, and companies with the most issues.
- Legal Authority: Under the Insurance Act, regulators have the power to intervene if justice is not being served.
- Board Oversight: Reviewing customer complaints is a mandatory agenda item at board meetings.
- Conflict Resolution implying communication using simple language: Using media campaigns to explain policy terms and conditions in "plain English".

4) An important query was regarding the survival of independent regulations when the line between big business and government disappears. This situation has become more of a reality in many countries than it was once - a theoretical "conflict of interest". The major change in Indian markets in 1991 was moving from govt-controlled regulation to independent regulation. There were however 3 major flaws identified in current setup:

Regulatory Overlap and Vacuums: We now have roughly 30 different regulators for economic activities. This creates two problems: Overlap from having Multiple agencies and Vacuum where agencies claim it wasn't their responsibility.

Lack of Coordination: While regulators must be experts, there is no effective mechanism to make them work together. The FSDC (Financial Stability and Development Council) is meant to do this but is currently failing to bridge gaps between 30 different bodies.

Accountability Gaps: Regulators are financially independent, which is good for autonomy but bad for oversight.

Theory: Their reports are "tabled" in Parliament for review.

The Reality: In 40 years, there has been almost no actual discussion or debate in Parliament regarding these reports. They are filed away without scrutiny.

A persistent issue was acknowledged: Crony Capitalism. When big businesses are "over-friendly" with the government, it becomes difficult for regulators to remain truly independent. There is often confusion over who should speak or act-government or regulator.

5) What are the main Regulatory challenges in India? The main challenges can be attributed to:

REGULATORY CONFUSION & POLICY INCONSISTENCY

Contradictory Signals: Using the banking and insurance sector as an example, different government bodies often issue conflicting circulars

Legal "Escape Clauses": Many laws governing PSUs have built-in loopholes that allow them to bypass certain regulations, such as requirement for independent directors.

Shift Focus to "Sub-national" Level: It is suggested that instead of only looking at global or national standards, we should look at state and city-level regulations.

Funding and Independence: Self-Funding: This would make the regulator more independent.

The Licensing Debate: There is a question of whether the Regulator should also be the one to issue licenses. In some sectors (like Finance), the regulator handles licensing. In others (like Telecom), the government keeps the licensing power, and regulator only monitors behavior.

There was a concern about whether one appellate body can handle multiple regulators. It was argued that with proper structuring, it is well within the capacity of an appellate body to manage various regulatory concerns.

6) Role of SROs (Self-Regulatory Organization) in Regulations. The main issues with SROs are that while they are meant to manage industries, they often lead to "regulatory capture," where a few powerful players (incumbents) lock others out. This mainly happens because the SROs are often formed by the biggest companies in the sector. They misuse their positions and use the SRO to set up rules that act as a barrier to prevent new, smaller competitors from entering the market. Regulations should ideally serve the public interest, not the ease of doing business.

7) With the complexities associated with multiple regulators how India manages that, specifically addressing "overlap" of jurisdictions and whether regulators favour government-owned entities (PSUs). To this question, it was mentioned that with the growth of an economy, industries are increasingly finding themselves governed by multiple agencies simultaneously. This leads to:

Regulatory Arbitrage: Here Industries look for the most favorable regulator to avoid stricter rules elsewhere.

Turf Wars: This relates to conflicts amongst regulators as to which agency has the final authority on a specific issue.

Inefficiency: During drafting of regulations, the lack of a formalized mechanism to consult leads to friction at a later stage; that was completely avoidable.

Addressing the "Pro-Government" Bias:

On queries about favoritism toward PSUs, it was argued that:

Rules are applied uniformly to both public and private players – for example, the Insurance sector.

Enforcement Actions: There is a track record of Competition Commission of India (CCI) of penalizing government bodies and PSUs for violations, clearly indicating that they are not exempt from the law.

4.8 Conclusion

For a country to be successful, having more regulators is not the solution.

- **The Proof**: South Korea, despite having very few regulators is considered a great destination for business; China, on the other hand, has many regulators, but it hasn't solved all their issues.
- **The Risk**: Having too many regulators can be counterproductive as they get more concerned about their own powers than the public good

Instead of having many small, specialized agencies, governments are moving towards centralization.

- **Example**: EU – instead of creating more agencies, it now manages major digital laws directly through its main commission. The rules made are thus more consistent and powerful.

The difference between helping competition & helping specific companies can be gauged by the following:

- **Pro-Market:** A pro-market regulator is like a fair referee. The rules are the same for all and they ensure everyone follows the same rules. Thus, the best company wins.
- **Pro-Business:** This is like a biased coach. A winner is chosen by the government, which then helps it succeed directly, often ignoring the rules.

Regulators used to be the "middlemen" between government and business.

- **The Change:** Governments now act like businesses, and big businesses act like political powers.
- **The Result:** If the government and a giant business are working as partners, they don't want a "referee" (regulator) getting in the way.

05
REGULATORS IN INDIA: WHY DO THEY EXIST?

Kshithi M. Shetty

5.1 Introduction

Today, it is often assumed that independent regulatory authorities ('regulators') are a necessity for modern governance. They are described as harbingers of modern capital and prerequisites for strong businesses in a market economy. Yet despite their proliferation, questions about their credibility, the legality of having them regulate public functions, and their scope of operations still crop up. The consideration here then becomes about what society has allowed governments, and by association, regulators, to regulate. The rights of citizens are 're'-measured against the new roles of governance. It is also true that with the growth of regulators, the value of people's representation could shrink. All of which push one to reconsider and revisit the basic questions we assume as given: why do we have regulators?

5.2 India and its Regulators

The world has changed a lot since 1947 and so has governance. A new democracy itself, India chose its rules of governance and instituted them through its own Constitution. Though it consisted of the standard three parts of government, the legislative, executive and judiciary, unlike other major democracies or democratic-like nations, the Constitution also incorporated regulators explicitly as part of India's administrative design.[19] Provisions like Article 324 set up the Election Commission, an independent authority to regulate and oversee elections in the new federal democratic state.[20] This should not be shocking, however. Regulators in Indian administration predate its independence. The country's central bank, the Reserve Bank of India established in 1935, was set up by the colonial rulership of the country. This correlation is documented, too. Scholars like Rajendra Kumar Pandey posit that since India's governance model takes inspiration from its predecessor's, the British parliamentary style organisation, the introduction of regulators as a matter of fact, like a fourth part of governance in India, was only natural. He also states, however, that given its origins, unlike its contemporaries, the Americans, India's regulators were not instituted with any actual thought or rationale framing their setup.[21] Regulators have continued to play a significant role in India. Changes like the New Economic Policy and the technological revolution have only exploded the closed doors of the Indian economy and polity wide open and brought in these independent bodies, financial or otherwise, to regulate new areas in the market and public service.

5.3 Rationale

The notion of bodies that are at arm's length from the government and its political appointees, overseeing key and important functions, may have proven popular but again, the rationale could be anything. Tony Possner, in his book 'Law and the Regulators', proposes two of them, the social and economic rationales. He explains that previously, nationalised entities used to keep the questions of regulatory rationale behind closed doors. When these entities performed poorly against the

[19] Rajendra Kumar Pandey, 'Intellectual Roots of Independent Regulatory Authorities in America and India' (2018) 64(3) IIPA <http://journals.sagepub.com/home/ipa > accessed 3 April 2026.

[20] Ibid.

[21] Rajendra (n 1).

ascending privatised providers of the same things/services, the need for rationales for regulations, a common, standard and good one, was felt. He states that regulators solved this need and, in doing so, also pushed these rationale questions out in the open (as opposed to in nationalised entities, where the same would be a subject of closed-room board meetings). The economic rationale of regulators is that it achieves an optimum allocation of resources i.e. the most efficient distribution achievable, with and maybe even because of its regulations. The social rationale for them is slightly different. This flows from the understanding that certain costs are not counted in standard rational economic and cost-benefit formulas and analyses.[22] As in most democracies, each human being has rights, rights that trigger remedies which are enforceable using the review mechanism of these nations, the courts or their adjacent institutions. These rights are the basis of this social rationale for these bodies i.e. regulators help protect the rights of individuals against violations. It is this very rationale that, in my opinion, led to regulators becoming part of the Indian Constitution, unlike any other constitution at its time.[23] The economic and social rationales for regulators show that regulators are considered efficient, a requirement to maximise economic efficiency to avoid surpluses or shortages, and their dynamism and consistent nature make them trusted entities to entrust public interest functions like pollution monitoring, distributing electricity, etc.[24]

But ultimately, it is only their actual success that maintain these justifications and their acceptance. Fortunately, regulators have shown promise, long-term economic success in certain sectors has been directly correlated with their proper regulations and capabilities, prompting nations to build and attract 'more and more' capital to be invested in them.[25] Success in terms of its social rationale is harder to find. A clear example of this is the failure of the Pollution Control Boards in India. The increasing AQIs across the country's major cities and its vacancies signal that these regulators are failing, which aligns at least on the face of it with the increasing public intolerance of them.[26] These regulators are meant to democratise the successes of privatisation by improving functioning, all the while retaining the key aspects of the nation, like public approval and opinion for forming government, essentially saving its democratic character. For this, it must maintain its social and economic rationale.

5.4 Critiques

Regardless of whether the success of sectors and nations is due to regulators and their apparent self-sufficiency, there are other concerns about their proliferation and growth.

"Regulation is a means to an end, not an end in itself."[27]

Regulators are meant to serve public interest, not take over it; they are not and should not be given the social mandate to make law. Major democratic governance systems have started raising concerns about governments offloading their law-making function to regulators, increasing the power and scope of the administrative appointees who work in them. The concern here is that regulations created by these regulators may creep into the legislature's domain, possibly even with public approval, given the growing frustrations around the world with bureaucracy and corruption essentially subverting the initial idea of law-making being in the hands of the people's representatives.

5.5 Conclusion

Regulators, as they exist now, are not perfect, but they exist, and it does not seem like they are going anywhere. They remain at present the default model of governance for countries when independent, trusted, and capable functioning are

[22] Tony Possner, Law And The Regulators (OUP 1997).
[23] Ibid.
[24] Tony (n 4).
[25] Haidar, Jamal Ibrahim, 'The Impact of Business Regulatory Reforms on Economic Growth' (2012). JJIE 26 (3) <https://ssrn.com/abstract=2066558> accessed on 3 April 2026.
[26] The Wire Staff, 'Nearly Half of Scientific and Technical Posts in Pollution Control Boards, Committees Across India Are Vacant' The Wire (16 December 2025)<https://thewire.in/environment/nearly-half-of-scientific-and-technical-posts-in-pollution-control-boards-committees-across-india-are-vacant> accessed on 4 Aprill 2026.
[27] HC 68-III 2004.

crucial, which makes it all the more necessary for their functioning, scope of authority and organisation to be studied, discussed and improved to improve its positive externalities, if they exist, and reduce or even prevent the risks their existence generates, as much and as soon as possible.

REGULATORY EFFECTIVENESS INDEX

Mishti Kapoor

A) Introduction

In a globalised society where industrialisation is given the utmost importance, while indicating whether a nation is prosperous or not depends heavily on the nation's ability to regulate the industries it has. For any business to set up, one needs investors, and any investor, international body, or policymaker would first look at the Regulatory Effectiveness Index ("REI"), aka the World Bank's Regulatory Quality indicator, which grades countries to bring to attention as to who is doing well however, the "how" i.e., how those countries are doing well are never answered. To get an answer to this question, we need to investigate how the operation takes place. The International Atomic Energy Agency ("IAEA") has worked with senior members of regulatory bodies of 22 countries to highlight how Regulatory effectiveness ("RE") is not just a score but a mix of multiple components of competence, independence, etc.

B) World Bank and OECD

RE on a global level is figured out by how a government forms and then implements the policies it makes. The standard regarding this is set by the World Bank's Worldwide Governance ("WGI") under the Regulatory Quality sect. This standard come out of an aggregate of perceptions regarding the capability of the government to uplift the development of the private sector. The OECD highlighted how effectiveness is linked to how easily business can be done, and to the level of transparency that exists.

C) Major Challenges

One of the major challenges that is faced by regulators is regarding the definition of RE There is no one-size-fits-all definition; however, the 22 member states had a discussion from where they reached a consensus and held that effectiveness comes not only from implementing rules but it is also required to do the following-

a) Relevant measures should be taken to avoid the degradation of safety

b) Operators should maintain the correct levels of safety.

c) Aim for constant improvement

d) Functions should be catered to in a cost-effective and timely way that satisfies the confidence of the people, the industry and the government.

D) The Effectiveness Pillars

International regulators have said that effectiveness is based on two elements-

a) The role of the government plays a crucial role in ensuring the success of a regulator, the government has to provide the regulator with institutional independence and a proper legal framework. What this means is that the industry and the regulator of that industry must be independent of each other and also independent of energy policy considerations. Additionally, the government must provide satisfactory funding so that the regulator is not subject to the annual political battles concerning budgets.

b) The role of the regulator is one filled with responsibility. Regulators that are effective have to form policies that are clear and that aim towards high-risk situations over trivial matters. This requires there to be a staff that is competent, ample in number, and motivated. This, in fact, is a major issue of a regulator that is struggling, i.e., the number of people that leave the organization, which ultimately affects the competence.

E) The Indicator

To measure if a regulator is doing his work well, countries started using "surrogate" indicators which included-

a) Time of Reaction- This covers the time between the discovery of a practice that is unsafe and the enforcement action.

b) Another aspect is forethought and planning i.e., the frequency of how much the regulator requires change in the rules, if the frequency is a lot, then that would point towards a lack of planning.

c) Performance of the Operator is another aspect; if the regulator finds things that the operator potentially missed, then that would showcase how the regulator is adding to value, but if the operator is seen never to be missing anything, then there comes a question of whether the regulator is incompetent or not.

F) Cross Country Comparisons

These topics on RE come from findings in the IAEA report that was formed with the help of senior regulators from different countries like Brazil, China, Canada, Germany, Finland, India, Russia, Korea, UK, USA and Iran.

These countries came to a consensus that to be effective regulator certain criteria need to be upheld-

a) There was a unified agreement that regulators need to see themselves as "learning organisations," i.e. they should be able to criticise their own performance.

b) Peer Review through programs like the International Regulatory Review team opens them to external eyes and it was agreed by the countries that this will be a great tool for enhancement.

c) There is finally an agreement between the countries that a regulator should have open communication with the public and the stakeholders and not work in a black box; this would increase trust.

As of late India stood at 47% in the Regulatory quality index which showcases how good government policies and their right execution can lead to better results as seen in the case of Singapore. Meanwhile US, UK Canada showed how they have performed so well due to no interference in funding, institutions having independence and much more.

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3) Milian W by J, 'How Do Regulators Measure Their Performance around the World?' (Ascend Magazine Website, 31 October 2023) <https://ascend.thentia.com/technology/regulatory-performance-frameworks/> accessed 18 December 2025

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06

STRATEGIC CHANGES IN PERFORMANCE EVALUATIONS IN PSUS

Anand Mohan Bajaj

6.1 Introduction

- Any aspects of performance related to Public sector Companies harps on the 3Es – Efficiency, Economy and Effectiveness, aiming to enhance the utilization of resources and improve service delivery. The ultimate objective of improving performance is to provide assurance to Parliament and promote good governance, thereby fostering trust in public sector management and operations.
- There is more focus on outcome- shifting the narrative from "what was spent" to "what was achieved."
- There is a stress on Leadership remaining answerable to people.
- There is an analysis on the hurdles preventing programs from reaching their full potential.

For regulators, for imparting effective consultancy to the PSUs, the mindset has to evolve from “policing” to “Value-for-money”. It is here that the 3Es are analysed:

Economy: Acquisition of materials at the lowest cost, without compromising on quality.

Efficiency: This is the ratio of output to input.

Effectiveness: This measures whether the desired outcome was achieved.

The job of Regulators is to identify gaps and setting benchmarks for success – focus on the overall outcomes, rather than flag administrative errors. There are however inhibitions in sharing data, which may be sensitive or confidential. There could be barriers due to ego, where trust can be established through pre-evaluation meetings to agree on success criteria and benchmarks beforehand.

There are technological innovations where the objective is to replace physical paperwork by digital evidence, like use of CDMA (Center for Data Management Analytics), scientific proof tools like AI, Drones, and Geospatial Data and use of Big Data, comparing performance across different states drives nationwide improvement.

6.2 The Evaluation Workflow

1) Planning and Selection: From the Regulators point of view, before any sort of evaluation is done, topics are chosen based on risk, significance, and potential impact. A deep dive into the subject's goals is needed and a Pilot Study to ensure the review is feasible.

2) Implementation: Entry meeting with Leadership to sync on goals. Scientific sampling to ensure data represents the whole picture clearly. Combination of different surveys like digital methods (GIS/Remote Sensing) with beneficiary surveys and expert opinions for better results.

3) Reporting and Feedback: After a rigorous quality check, a draft is prepared. The reviewed organization is given a chance to respond at every stage. The final document provides constructive, actionable advice for the legislature.

6.3 Conclusion

Thus, in evaluating the performance – especially in the public sector, the role of Regulators has changed from Compliance and Box-ticking to Impact and value for money; from adversarial tone to a collaborative and advisory one; from using Ledgers and vouchers as data source, to use of AI and Drones; from looking at the past records to being forward looking and being actionable; and finally, instead of finding faults, the analysis of the root cause is evaluated.

07

GREENING AI: REIMAGINING AI AND THE ENERGY SECTOR

Anandi Katiyar

7.1 AI for Public Policy

The Artificial Intelligence Action Summit held earlier in 2025 was amongst the first for a call for collective international action towards AI. The Paris Summit will prove to be pivotable in the framework of AI governance due to its deliberation on public interest and AI, the future of work in an increasingly digital world, concerns of innovation, culture and integrity, and global governance.[28] In a world driven by innovation, technological advancements have become the foundational stones nations use to advance in this race to match rapid developments around the globe. This attempt to match and one-up technological innovation has opened up possibilities for the usage of AI beyond our rudimentary understanding, allowing technologies to engage with and attempt to timely address unprecedented challenges and provide possible solutions. This call for AI action cannot be viewed in isolation as a quest for innovation, it has to consider the larger concerns of public policy and governance while fostering developments and potential applications of AI.

The forthcoming advancements in the arena of AI and data science are actively altering the realm of public policy with the increased reliance on and integration of programs and AI tools into governance systems, as illustrated by the recent disclosure of AI use in SEBI investigations.[29] The role of technology in policymaking is undeniable. Still, the fundamental question remains – can it be used to address policy issues?

The dilemma surrounding AI and allied technologies comes down to its operations, where on the one hand AI programs and machine learning models can be used to monitor carbon emissions it also inadvertently contributes to global carbon emissions significantly through its operations.

7.2 AI: Yay or Nay

Whilst concerns about artificial intelligence persist, it is important to acknowledge its contributions to public policy, especially the concern for climate change and sustainability. One of the most common uses of AI tools for sustainability is for the prevention of carbon emissions by utilising efficient methods and minimal resources. Similarly, these tools are used to monitor and predict such emissions and further help develop emissions calculators for effective risk assessment. The use of these AI technologies has seen a drastic increase with systems such as Autoflow that monitor water consumption while recommending strategies to reduce individuals' and companies' carbon footprints using Artificial Neural Networks. Beyond monitoring carbon emissions, these tools also actively aid in the mitigation of such emissions and affluence and address concerns about greenhouse gas (GHG) emissions as well.

AI proves itself to be critical to addressing climate issues, but the fundamental paradox is in the usage of an "innately" carbon-heavy technology to address this very carbon footprint and emission-

[28] Spehar D, 'Paris AI Summit 2025: 5 Critical Themes Shaping Global AI Policy' (Forbes) <https://www.forbes.com/sites/dianaspehar/2025/02/10/paris-ai-summit-2025-5-critical-themes-shaping-global-ai-policy/> accessed 6 May 2025.

[29] PTI, 'SEBI Using Artificial Intelligence for Investigations, Says Official' The Hindu (24 February 2024) <https://www.thehindu.com/business/markets/sebi-using-artificial-intelligence-for-investigations-says-official/article67881587.ece> accessed 6 May 2025.

related issues faced across the globe. Before one can evaluate and deliberate on the potential for AI in new areas, it is crucial to acknowledge and create frameworks to deal with the issue of artificial intelligence's climate impact. The first concern of AI is its computational power; growing algorithms and data require systems that match their capacity resulting in an increased demand. The advent of Generative AI and the recent reports on the surge of Ghibli portraits resulting in the melting of Chat GPT's servers demonstrate the sheer consumption of energy by data centres and cloud-based networks, which in turn needs millions of litres of water to cool down overworked systems resulting in significant carbon footprints.[30] The second issue is owing to the advancements in the models of networking being utilised, with more advanced devices requiring a higher energy input due to the increased density of connections utilised. The majority of the energy utilised by devices on which such AI or allied tools are used is powered by non-renewable resources that further this AI-sustainability paradox. The increasing reliance on gadgets and tech also means an equally growing reliance on the internet, the emissions of which rival that of the airline industry, comprising 3.7% of global emissions.[31]

Roy et al. in their study on artificial intelligence categorised the technology into two broad categories based on the machine learning model's performance – Green and Red AI. More often than not, the costs of algorithms are overlooked and sidelined for better accuracy, resulting in negative consequences on the environment. Based on this prioritisation, Green AI refers to systems that assess models based on cost and Red AI as those using the parameters of accuracy, thereby providing a much-needed categorization of AI and ML models for a well-rounded assessment of such technologies. Green AI owing to its efficiency and carbon footprint assessment can potentially seek to address the long-standing dilemma of AI and MLs for sustainability and environmental concerns and protection and further help achieve net-zero goals.

7.3 AI and the Energy Sector: Factoring Sustainability in Commercial Sectors

Advancements in Green AI have opened up pathways for the usage of AI in various sectors to increase efficiency and automate processes, its usage would perhaps be pivotal for the energy sector whose governance owing to its various offshore activities acquires an international character when deliberating its far-reaching impacts on the environment as a whole. Projections estimate that by 2050, a major chunk of the population is going to be affected by water shortages and droughts, the implementation of Green AI to reduce climate impact will significantly aid sustainability goals as well.[32]

One of the largest contributors to the problem of carbon emissions and greenhouse gases is the energy sector, specifically fossil fuels, consequently, it is also the sector which could perhaps benefit the most from the implementation of Green AI mechanisms in its daily functioning and processes.

7.4 AI's Role in the Energy Sector – Past & Present

At present, and in the recent past, Artificial Intelligence applications in the field of energy have been largely restricted to predictive tools that specifically help reduce grid disruptions due to harsh weather conditions, and natural calamities and ensure a seamless supply of power. Additionally, a step further it also undertakes the prediction of system loads and usage estimation while working to optimise energy grids and plants[33]. AI has weaved itself into the framework of energy innovation by introducing new energy technologies and

[30] Glanz J, 'Power, Pollution and the Internet' The New York Times (New York, 22 September 2012) https://www.nytimes.com/2012/09/23/technology/data-centers-waste-vast-amounts-of-energy-belying-industry-image.html accessed 6 May 2025.

[31] Griffiths S, 'Why your internet habits are not as clean as you think' Smart Guide to Climate Change (2020) https://www.bbc.com/future/article/20200305-why-your-internet-habits-are-not-as-clean-as-you-think accessed 6 May 2025.

[32] Sengupta S, '75% Global Population to Be Affected by Drought in 25 Years: UNCCD's "Drought Atlas" Provides Adaptation Guidelines' (Down To Earth, 4 December 2024) <https://www.downtoearth.org.in/water/75-global-population-to-be-affected-by-drought-in-25-years-unccds-drought-atlas-provides-adaptation-guidelines> accessed 6 May 2025.

harnessing renewable energy sources for clean energy, however, it has not yet been effectively applied to address evolving climate consequences posed by the investments made in these sectors.

When addressing climate and environmental concerns in the energy sector, the focus is primarily on the consequences or the 'post' stage of such activities and not the 'pre' stage. Thereby, the climate change consequences of investments in the energy sector made by corporations and governments also need evaluation and addressing.

While Artificial Intelligence has increasingly been used in the energy sector for predictive tools it has not yet been effectively applied to address the evolving climate consequences of investments in major energy sectors. Coal mining and coal power remain dominant, with coal currently providing more than 36% of global electricity.[34] Despite meeting a substantial portion of worldwide energy demand, coal significantly impacts climate change, especially through carbon dioxide emissions. A key challenge for the coal power industry is the development of effective technologies to reduce these emissions.

The Arctic Ocean holds some of the world's largest untapped oil and natural gas reserves beneath its seabed making it a highly lucrative option for various Arctic nations. Its geographical location makes activities in the region crucial for consideration owing to intersecting international boundaries and the high seas, raising concerns over common pool resources and conservation of marine resources and biodiversity. According to the US Geological Survey, about 30% of the world's undiscovered natural gas and 13% of undiscovered oil lie north of the Arctic Circle, alongside a few onshore resources, heavily contributing to climate change via greenhouse gas emissions. Substantial activity is underway in countries like Canada, the USA, Norway, and especially Russia, which holds the largest reserves in the region, with 43 major oil and gas fields identified.[35] A critical component of the global energy supply is offshore oil and gas extraction which currently accounts for 30% of global oil production and 27% of global gas production.[36] But by changing CO_2 levels, ocean acidity, air and water temperatures, precipitation patterns, runoff, mean sea levels, storm strength, and wave regimes, it has a substantial effect on environmental systems.

Finally, the fracked oil and gas industry has increased overall production by providing access to previously unreachable resources through drilling under the earth's surface to extract oil and gas from shale and other rock formations. However, fracking releases air pollutants, mostly methane, and has negative impacts on soil health, adjacent flora, human health, groundwater quality and supply, forest lands, agricultural lands, grasslands, and habitats close to fracking sites. The use of AI is still focused on managing the energy infrastructure that is currently in place rather than assessing or reducing the climatic implications of such investments before they happen, despite the serious and diverse environmental effects across various sectors.

AI and ML models must be employed in the pre-stage to ensure a two-fold greening of the energy sector – the first by implementing Green AI for its processes, and the second by using such Green AI to develop risk assessment mechanisms akin to Environmental Impact Assessments mandated for projects to steadily inform investors of the sector of the environmental consequences of such an investment in the form of projected figures and data sets.

[33] 'Artificial Intelligence for Energy' (Energy.gov, 29 April 2024) <https://www.energy.gov/topics/artificial-intelligence-energy> accessed 6 May 2025.

[34] https://www.iea.org/reports/coal-2023/demand

[35] Harsem D, Eide A and Heen K, 'Factors influencing future oil and gas prospects in the Arctic' (2011) 39(12) Energy Policy 8037 https://doi.org/10.1016/j.enpol.2011.09.058 accessed 6 May 2025.

[36] 'Offshore Production Nearly 30% of Global Crude Oil Output in 2015 - U.S. Energy Information Administration (EIA)' <https://www.eia.gov/todayinenergy/detail.php?id=28492> accessed 6 May 2025.

7.5 Leveraging AI in International Legal Mechanisms in the Context of the Energy Sector

The Biodiversity Beyond National Jurisdiction Treaty represents a significant step forward in establishing legal frameworks to regulate human activities in Areas Beyond National Jurisdiction (ABNJ), a need made more urgent by technological advances that are expanding access to the high seas and deep seabed. As offshore drilling, high-seas shipping, deep-sea mining, and marine bioprospecting and sectors that have intersecting connections with the energy sector gain momentum, they bring with them a range of environmental threats, from habitat destruction to marine pollution.

In an attempt to address the risks posed by the activities of these sectors and factor in the principle of sustainable development, the BBNJ Treaty introduces conservation tools such as Environmental Impact Assessments (EIAs), Area-Based Management Tools (ABMTs), Marine Protected Areas (MPAs), and frameworks for the equitable sharing of Marine Genetic Resources (MGRs) and research pertaining to them. The introduction of strengthened mechanisms and evolving jurisprudence paints AI as having the potential to help increase efficiency in terms of compliance and implementation, especially by enhancing the efficiency of EIAs by providing accurate scoping, screening and monitoring for offshore energy projects and potentially hazardous commercial projects through impact projections, predictive modelling and real-time data. AI's role via predictive modelling is particularly useful in realising the UNCLOS' transboundary principle, the actualisation of which has been historically largely unsuccessful due to traditional methods.

In addition to the functional aspects of the BBNJ treaty, AI can also seek to aid governance and procedural aspects such as the Treat's Clearing House Mechanism and the Scientific and Technical Body for their advisory roles by automating the organisation and analysis of complex marine environmental data and digital information linked to MGRs.

Beyond regulatory compliance, artificial intelligence holds significant promise for enhancing the dynamic identification and assessment of MPAs, facilitating more rigorous monitoring of states' obligations, and broadening access to marine scientific knowledge. For developing countries in particular, AI-driven technologies can address capacity limitations by translating extensive and technically complex datasets into more accessible formats, thereby supporting both technology transfer and sustained capacity-building initiatives

The BBNJ Treaty highlights the pressing importance of marine biodiversity conservation, the reinforcement of climate resilience, and the equitable distribution of benefits. Incorporating artificial intelligence into these processes can enhance governance by promoting greater transparency, scientific rigour, and responsiveness, particularly in relation to energy-related activities in areas beyond national jurisdiction. This integration not only reinforces the Treaty's objectives but also aligns with the broader environmental and developmental goals set forth by the United Nations Convention on the Law of the Sea.

7.6 AI & India: What Is and What Could Ce

The Investment – Corporate Social Responsibility and ESG

Environmental, Social, and Governance risk assessment is a critical process that involves identifying, evaluating, and managing risks related to sustainability, ethical governance, and social responsibility, including assessing environmental issues like carbon emissions and waste management, social concerns such as labour

practices and community impact, and governance aspects like transparency, board diversity, and ethical conduct.

In an effort to standardise ESG disclosures, the Securities and Exchange Board of India (SEBI) has taken the initiative. ESG performance and practices are detailed in Business Responsibility and Sustainability Reports (BRSRs), which have been mandatory for the top 1,000 listed businesses since FY 2022–2023.[37] In July 2023, SEBI expanded on this by launching the BRSR Core framework, which offers a set of basic ESG metrics relevant to listed businesses. Furthermore, upstream and downstream value chain partners that contribute at least 2% of purchases or sales are required by SEBI's new standards to make ESG disclosures; corporations are expected to report on at least 75% of their whole value chain. To ease compliance requirements, SEBI has taken a flexible approach to ESG assurance, enabling businesses to either analyse or certify their ESG data.

In order to effectively align ESG risk assessments with SEBI's evolving regulatory framework in the energy sector, Indian companies must embed AI and machine learning models early in their strategy. These tools should serve a dual purpose: first, by promoting sustainability through the adoption of Green AI in internal processes, and second, by deploying Green AI to design dynamic ESG risk assessment mechanisms similar to Environmental Impact Assessments. These AI-driven models can generate real-time, data-backed insights to inform investors about the environmental implications of sector-specific projects. Ultimately, continuous refinement of ESG strategies aided by AI model insights will empower investors and companies to meet evolving regulatory expectations, minimize environmental risks, and enhance stakeholder trust.

The Projects – Contemporary Implications of the BBNJ on Future Investments and Potential Projects

The need to leverage AI for the purposes of compliance becomes increasingly important in India's commercial landscape, especially when deliberating upcoming and proposed transnational projects. When addressing the question of AI for the energy sector, it is crucial to map the national and international stakes involved in such projects and undertakings. The recent Press release on the multi-product pipeline between India and Sri Lanka that is proposed to be implemented with the help of UAE for "affordable and reliable energy" and "the joint development of offshore wind power potential in the Palk Strait" will be most affected by this intersection of AI, environmental protection and sustainable development.[38] Similarly, investments in major gas and off-shore projects such as the Middle East-India Deepwater Project involving "ultra-deepwater" gas pipelines could benefit from the use of Machine Learning Models and AI in its predictive modelling for ESG and impact assessments alike.[39] With South Asia Gas Enterprise Undertaking this construction, investor confidence and future investments would highly benefit from the use of AI tools for risk, impact and sustainability assessment for the same.

What is the State of AI Regulations

a) India supports a "pre-innovation" approach to AI regulation. It wants to unlock the full potential of AI while taking into account the anticipated risks.

Source: G20 Ministerial Declaration September 2023

b) However, Ministry of Electronics and Informalion Technology ("MeltY") Issued an Advisory directing all intermediaries and

[37] https://www.sebi.gov.in/sebi_data/meetingfiles/apr-2023/1681703013916_1.pdf

[38] 'India - Sri Lanka Joint Statement: Fostering Partnerships for a Shared Future' <https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=2084793> accessed 6 May 2025.

[39] 'Oil Pipeline Profile: Middle East–India Deepwater Gas Pipeline, the UAE' (Offshore Technology, 25 August 2023) <https://www.offshore-technology.com/marketdata/middle-east-india-deepwater-gas-pipeline-the-uae/> accessed 6 May 2025.

platforms to label any under-trial/unreliable artificial intelligence ("AI") models, and to secure explicit prior approval from the government before deploying such models In India--March 2024.

(Minister Ashwin Vaishnaw has later clarified that the Advisory is not binding and only encourages voluntary compliance to prevent legal action by consumers)

c) To implement a "Whole-of-government strategy· by MeitY, In collaboration with the Principal Scientific Advisor. The mechanism should be in the form of an Inter-Ministerial AI Coordination Committee or Governance Group - February 2025.

7.7 Conclusion

The integration of AI into public policy is a turning point that calls for swift and comprehensive global action, with Green AI, predictive analytics, and intelligent risk assessment proving to be key potential tools to improve energy systems and advance climate goals. However, this potential must be balanced against the environmental costs associated with the usage of AI.

A shift from reactive implementation to proactive strategy is crucial to fully realize AI's transformative potential in policymaking, climate resilience, and international governance. This requires the integration of AI in early-stage infrastructure and energy planning, as well as the reinforcement of international legal frameworks through AI-enabled compliance and monitoring tools. Countries such as India have a strategic opportunity to lead by embedding AI-driven ESG frameworks that strengthen regulatory alignment, enhance environmental responsibility, and build investor confidence.

Therefore the use of AI in public policy in a manner that is sustainable and future-conscious needs to be based on inclusive governance, global collaboration, and intentional design. With such an approach, AI can be established not only as a tool for innovation but also as a foundational element of responsible and effective global policy.

08

MISLEADING ADVERTISEMENTS IN INDIA: EVALUATING ASCI AND THE REGULATORY ARCHITECTURE OF CONSUMER PROTECTION

Snehi Chhabra

(Disclaimer: The comparative charts and visual elements included in this paper have been prepared with the assistance of artificial intelligence tools to enhance clarity and presentation. All interpretations and analysis, however, are solely the author's own.)

8.1 Abstract

Misleading advertisements continue to undermine consumer protection in India despite the presence of multiple regulatory bodies. This paper examines the regulatory gap within India's advertising governance framework, focusing primarily on the role of the Advertising Standards Council of India (ASCI) and its interaction with statutory regulators. The paper highlights patterns of delayed enforcement, fragmented oversight, and limited public communication. The analysis demonstrates that while ethical violations are often identified, corrective action is largely reactive and lacks effective enforcement. The paper argues that regulatory effectiveness requires timely intervention, inter-regulatory coordination, and greater transparency toward consumers to prevent misleading representations from shaping public perception.

Keywords: Misleading advertisements, ASCI, regulatory gap, consumer protection, advertising regulation.

8.2 Introduction

Ads in today's time don't merely sell goods, they sell, trust, they dictate what we eat, where believe and what we think is real, but the issue lies when the trust is established on falsehood. As per a 2023–24 review by the Advertising Standards Council of India[40] (ASCI), of more than 8,200 ads, close to 81% were misleading. many consumers weren't even aware they were being misled. It is not just a statistic but It's an indication of how entrenched misinformation is in a market dialect and how normalize the practice of misleading has become.

This article examines the crisis by the subject misleading advertisement in India: ASCI and the consumer protection regulatory architecture. It majorly analyses two case studies. One on false purity, declaration in fruit juices and another on misleading medical advertising, it also discusses the scope of regulatory loopholes, providing impetus for such practices.

8.3 Understanding Misleading Advertisements

Misleading advertisement under the consumer protection act 2019[41] and the CCPA guidelines on prevention of misleading advertisement, 2022 is

[40] Advertising Standards Council of India, Annual Complaints Report 2023–24 (ASCI 2024) https://ascionline.in

[41] Consumer Protection Act 2019, s 2(28).

the one that creates an incorrect impression or omit crucial information likely to mislead a consumer. It is not just misrepresentation. It is pure manipulation of trust.

In India, the Advertising Standards Council of India (ASCI)[42] is the primary regulatory body that deals with truth and ethics in advertising. Founded in 1985, ASCI is a self-regulatory body that oversees advertisements in all media to make sure they are honest, truthful, and not offensive or misleading. But its limitation is that it has no statutory power it cannot penalize or ban an advertisement. It must depend on voluntary compliance. To fill this lacuna, ASCI entered an MoU with the Central Consumer Protection Authority (CCPA) in 2024, whereby it was permitted to refer cases of non-compliance to it for further legal action[43].

The CCPA, established under the Consumer Protection Act, 2019, is the legislative body authorized to act against misleading or false advertisements. The CCPA can withdraw such advertisements, issue monetary penalties, and ban endorsers from future endorsements.

Besides, in sector-specific instances, specialized regulators have a crucial role. As an example, the Food Safety and Standards Authority of India (FSSAI), as set up under the Food Safety and Standards Act, 2006, deals with misleading advertisements on food, drinks, and health claims[44].

All these three entities constitute India's multi-layered framework where ASCI detects, CCPA enforces, and specialized regulators such as FSSAI step in when necessary.

8.4 Case 1: The "100% Fruit Juice" Purity Claim

For over a decade, several popular beverage brands promoted their packaged juices as "100% Fruit Juice." The ads and labels showed orchards, splashes of fruit, and farm-fresh imagery, giving consumers the impression that the product was completely natural and free from additives. In reality, these drinks were made largely from reconstituted concentrate thick fruit syrup diluted with water, flavoring agents, and preservatives.

Despite this gap between image and truth, the claim stayed on shelves and screens for more than ten years. It was only in June 2024 that the Food Safety and Standards Authority of India (FSSAI) finally issued a directive prohibiting companies from using the term "100% fruit juice" for beverages prepared from concentrate[45]. A follow-up circular in August 2024 gave firms time to change labels and advertisements.

Key Legal Rules Violated:		
Regulator	Rule Violated	Nature of Breach
ASCI	Code 1.4 - Misleading by exaggeration	Use of "100%" without substantiation
FSSAI	FSSR 2011, Reg. 2.2.2(2) - Labelling standards for fruit juice	False representation of composition
CCPA	CPA 2019, s.2(28); s.21(2)	Failure to disclose material facts

8.5 Analysis

This episode is a great example of how long consumers were exposed to the misinformation before any correction was made by the regulators. For years people purchased the same juices that they believed were pure and healthy. The regulatory response came only after the damage was done,

[42] Advertising Standards Council of India, Code for Self-Regulation in Advertising (2021).
[43] Memorandum of Understanding between the Advertising Standards Council of India and the Central Consumer Protection Authority (March 2024).
[44] Food Safety and Standards Act 2006, s 16.
[45] Food Safety and Standards Authority of India, Clarification regarding Selling/Marketing of Reconstituted Fruit Juices as "100% Fruit Juice" (File No RCD-02004/1/2023-Regulatory-FSSAI-Part(5) E-11550, 3 June 2024).

which clearly shows that regulators are reactive rather than preventive. ASCI, though responsible for monitoring and misleading claims, took no visible action or public notice during those years. FSSAI's intervention in 2024 was necessary but delayed. The case of the 100% fruit juice label captures a deeper truth. The regulatory silence can legitimize deception. But once a consumer trust is built on a false claim, even after it is corrected later, it cannot undo the perception that already existed for years.

8.6 Case of Misleading Medical Advertisement by Company Y

Company Y, well known in Ayurvedic and herbal wellness build their empire on the idea that ancient remedies could heal modern diseases over time. Their advertisement began to promise more than wellness. They promise to cure diseases that you are not even allowed to advertise like hypertension and diabetes to heart diseases and even COVID-19. their propaganda was based on the complete elimination of these conditions.

The products were showcased with confident, endorsements, medical, looking visuals, also claims like clinically proven and tested formula. Many consumers, specially in the ruler area, trusted these ads as genuine and medical advice, they often replaced prescribe medication with these so-called cures. What look like marketing soon became a public health concern. The advertising standards Council of India receive multiple complaints between the 2021 and 2023. They even found several ads in violation of its code on truthfulness and exaggeration. Yet since ask is a self regulatory body is recommendation held no binding force on the company. The company continued to run its campaign ignoring every advisory.

Eventually, the issue reached the Supreme Court[46] which stepped in after repeated in actions by regulator the court directed the immediate withdrawal of all misleading advertisement and criticize bodies like AYUSH, FSSAI, CCPA for failing to fulfil their statutory duties. Even after the companies, product license was suspended, they manage to introduce the same formulation under the modified labels and soft wordings.

Regulator	Legal Provision	Violation / Action Taken
ASCI	Code Ch. I (truthfulness). Ch. IV (public trust)	Upheld multiple complaints; issued withdrawal recommendations (ignored)
CCPA	CPA 2019, Sec. 21 - power to impose fine (f10 lakh) for misleading ads	Issued warning notices in 2023; no formal penalty executed
AYUSH / State Licensing Authority	Drugs & Magic Remedies (Objectionable Advertisements) Act, 1954 - Sec. 3-4 prohibit cure claims	Suspended licences of 14 products; enforced product withdrawal
Supreme Court of Indian	/MA v. Patanjali (2024) - Contempt jurisdictio	Imposed restraint orders, directed takedowns, prohibited sales

[46] Indian Medical Association v Patanjali Ayurved Ltd and Another (Supreme Court of India, WP (C) No 645 of 2022, decided 7 May 2024).

8.7 Analysis and Awareness Gap

This case reflects regulatory paralysis. ASCI detected the problem but lacked teeth; CCPA and AYUSH moved only after judicial orders. What's worse, no regulator issued any public advisory to inform consumers about banned or modified products.

So, while labels changed, public perception did not. People continued to buy the same medicines, unaware of past violations.

That's where regulation failed in silence, not in law.

8.8 Proposed Fix

Introduce a Mandatory Consumer Alert Protocol a joint ASCI-CCPA-FSSAI press release within 15 days of any ad withdrawal or license suspension. Silence, in regulation, protects the violator, not the consumer.

8.9 Evaluation and Regulators

The two cases discussed so far, one involving false purity claims and the other about medical cure advertisement reveal more than just corporate misconduct. They expose the gaps between detection, enforcement and accountability.

To understand how these gaps exist this section, this paper also evaluate the main regulators like ASCI, FSSAI, CCPA through the lens of a true regulator. This analysis is based on timeliness, enforcement power coordination, consumer accessibility, proactive oversight, and ability to maintain public awareness. The seven essential parameters of real regulator.

Evaluating ASCI and Other Regulators Through These Parameters

Parameter	ASCI	FSSAI	CCPA	AYUSH / State SLA	Supreme Court
Timeliness	⚠️ Slow reaction	✅ Faster (post-2024)	⚠️ Intermittent	⚠️ Inconsistent	✅ Consistent
Enforcement Power	⚠️ Advisory only	✅ Legal sanctions	✅ Legal sanctions	⚠️ Suspension power	✅ Contempt powers
Public Communication	❌ Weak outreach	⚠️ Limited	⚠️ Limited	❌ None	✅ Transparent
Coordination	⚠️ Minimal	⚠️ Moderate	⚠️ Weak	⚠️ Poor	—
Consumer Accessibility	✅ Easy complaint filing	⚠️ Moderate	✅ Available	⚠️ Bureaucratic	—
Proactive Oversight	⚠️ Complaint-driven	✅ Judicially prompted	⚠️ Inconsistent	❌ Absent	✅ Active
Compliance Impact	⚠️ Limited	✅ Improved (after judicial pressure)	⚠️ Partial	⚠️ Weak	✅ Strong

8.10 Inference

ASCI is seen to perform well in ethical detection, but fails when it comes to timeliness, enforcement, and public awareness.

FSSAI and CCPA has power, but lacked visibility and coordination, while the Supreme Court emerges as the true enforcer, not by design, but by default.

8.11 Cross-Country Comparison: How the UK and Japan Prevent Misleading Advertising

A closer look at the regulatory practices of the United Kingdom and Japan shows that effective consumer protection is less about reacting to violations and more about preventing them in the first place.

In the United Kingdom, misleading advertising is addressed through a combination of strong self-regulation and visible public accountability. The Advertising Standards Authority (ASA), supported by statutory bodies such as the Competition and Markets Authority, acts swiftly when an advertisement is found misleading[47]. Ads are not only withdrawn promptly, but the entire decision-making process is made public. Detailed rulings, explanations of violations, and compliance outcomes are accessible to consumers. This public documentation serves two important purposes: it informs consumers about misleading practices and creates reputational consequences for brands. As a result, delayed enforcement is rare, and advertisers are incentivised to comply early rather than risk public scrutiny.

Japan adopts an even more preventive approach. Under the Act against Unjustifiable Premiums and Misleading Representations, advertisers are subject to strict evidentiary and visual accuracy standards[48]. In Japan, images are treated as claims in themselves. If a product's packaging or advertisement visually suggests a quantity, quality, or ingredient that does not accurately reflect the product, it can attract immediate sanctions. This high threshold leaves very little space for exaggeration. By setting such strict standards at the initial stage, Japan reduces the need for frequent enforcement and eventually misleading advertisements are filtered out before they reach consumers.

What unites both systems is a shared understanding of three core principles: first, high regulatory standards that prevent deception at the entry stage; second, swift corrective action before consumer perception solidifies; and third, public visibility of enforcement, ensuring consumers are aware of both the violation and its correction.

In contrast, the Indian framework lacks all three. Over-representation through visuals is routine, enforcement is delayed, and corrective actions often occur quietly. Products are shown overflowing with ingredients that they barely contain, creating great impressions without explicit claims. When action is finally taken, it happens behind closed doors, leaving consumers unaware of what was misleading and why. This gap between representation, regulation, and public awareness explains why misleading advertisements continue to influence Indian consumers long after they should have been stopped.

8.12 Structural Reform

First, the automatic escalation mechanism

Every upheld ASCI complaint should automatically go to the CCPA within 48 hours for legal action. There should be no waiting for months, no polite reminders, just direct escalation.

Second a public disclosure protocol

Whenever an ad or a product is withdrawn, there should be a joint press release and a public media advisory issued by ASCI, CCPA and the specialized regulator dealing with that area like FSSAI. It should be done within 15 days because silence after a correction only benefits, the violator.

Third high risk pre-clearance

Any advertisement for food, medicine or child targeted products must go through compulsory preapproval before it's released to the public.

Fourth a central ad registry

We need one unified online portal that shows every penalized or withdrawn advertisement, which is accessible to the public at any point of time.

[47] A Advertising Standards Authority, CAP Code: The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (ASA 2023)https://www.asa.org.uk/type/non_broadcast/code_section/03.html

[48] Record of Law, Truth in Packaging: How Japan and India Differ on Food Labeling Standards (24 June 2025) https://recordoflaw.in/truth-in-packaging-how-japan-and-india-differ-on-food-labeling-standards/

And fifth, behavioural corrective advertising

When misleading ads are withdrawn, the same brand should be required to run a corrective ad for 30 days at least which clearly acknowledges the change, addressing the falsehood and repairing consumer memory.

Because in the end reform isn't just about pulling edge down, but it's about pulling public trust back up.

8.13 Conclusion

Misleading advertisement in India revealed a much deeper issue than just false marketing. They try to expose a system where regulators act only after being reminded by the courts and where compliance happened quietly without the public awareness.

The X 100% juice companies and company Y cases both show this pattern clearly. For years violation persisted and when actions finally came, it came without communication and even then companies just came back with softer words and new packaging, Instead of real accountability that should have happened.

Bodies like ASCI and FSSAI, do identify the problems, but they failed to ensure that the truth reaches the public and without transparency, enforcement loses all its meaning because if people still believe in the same falls claim, then regulation has only change the label, not the impact on the society.

That is why my closing line is simpler:

"True regulation begins not when an advertisement is withdrawn, but when the public finally knows why."

09

PARTIAL CREDIT ENHANCEMENT: TRANSFORMING INDIA'S INFRASTRUCTURE FINANCE

Ekanvita Baldwa and Sadhika Jindal

9.1 Abstract

The Reserve Bank of India ("RBI") has played a transformative role in developing and regulating credit facilities in India. By tracing Partial Credit Enhancement ("PCE") from its early concept to the comprehensive 2025 reforms, this paper examines how the RBI's regulatory framework has influenced a variety of ideas such as incentives for bond issuers, participation by institutions, and overall confidence in the financial markets. The paper analyses certain regulatory gaps in RBI's implementation of the PCE framework. This exists in the form of three interlinked weaknesses, i.e., regulatory inertia, narrow consultation, and an overly conservative prudential bias, which limited uptake of PCE-backed bonds. With the government recognising PCE as an important tool to support India's growing capital expenditure and RBI's subsequent directions for a stronger framework, the paper assesses whether RBI has successfully balanced caution to manage risks with ambition, in order to drive growth while meeting its policy goals.

9.2 Introduction

Infrastructure acts as the foundation of a booming economy like that of India. As per the Union Budget 2026-27, India's infrastructure financing needs are surging to ₹12.2 trillion, driven by massive investments in energy and other sectors that demand vast credit from domestic and international sources[49] Traditional banking alone cannot meet this scale, prompting the Finance Ministry's recognition of PCE in the Union Budget for 2025-2026 as an important tool[50]. The announcement in the Budget brought forth the need for a strong PCE framework in order to shift from reliance on conventional bank loans to participation in market-driven bond financing, which in turn addresses the financing gap.

PCE is a Non-Fund-Based ("NFB") facility, which is mainly issued to mitigate risk. It is a specialised line of credit which increases the creditworthiness of bonds and allows infrastructure projects to tap bond markets in an effective manner. This differs from traditional bank loans which disburse cash up front, instead enhancing the credit profile of a bond. This is done often through Special Purpose Vehicles ("SPVs") by floating bonds to the public in order to raise debt instead of seeking funding from banks directly. An important feature is that of playing a part in achieving the "Double A" (AA) rating goal.

> Indian institutional investors such as insurance and pension funds face legal restriction on sub-AA bonds and by way of PCE, ratings are upgraded to unlock certain vast pools of capital. The primary goal is to improve the credit rating of bonds, making borrowing cheaper for issuers and increasing market access for a broader base of investors.

[49] A "Union Budget FY 2026-27: Strengthening Capital Goods Sector." Gov.In, www.pib.gov.in/PressReleasePage.aspx?PRID=2222521®=3&lang=. Accessed 18 Feb. 2026.

[50] "HIGHLIGHTS OF UNION BUDGET 2025-26." Gov.In, www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2098353®=3&lang=2. Accessed 19 Jan. 2026.

9.3 Evolution of Partial Credit Enhancement in India

Timeline and History of PCE

In April 2025, the RBI released draft guidelines on NFB credit facilities, including guarantees, letters of credit, and co-acceptances, with the aim of standardizing regulations for banks, Non- Banking Financial Companies ("NBFCs"), and Housing Finance Companies ("HFCs"). These guidelines also covered a chapter on PCE, to help companies access diverse funding and support infrastructure projects.

Earlier, these directions were introduced a Partial Credit Guarantee ("PCG") model was first tried through the IIFCL-ADB scheme in 2012[51] , after which RBI issued its own PCE guidelines for corporate bonds in 2015[52]. Despite the guidelines being in force, there has been limited uptake over the last decade with essentially no PCE transactions occurring in the country.

The need for a stronger PCE framework gained attention due to its slow uptake and the government's drive to boost capital expenditure to decrease overdependence on conventional fund-based facilities. Therefore, as was made clear by the Union Budget 2025-2026, establishing a robust PCE framework was imperative to address the financing gaps in the market and encourage actual participation in the bond market, which ultimately led to the finalisation of the directions.

The RBI replaced the 2015 corporate bonds directions in August 2025 which showed the application of the framework by the permitted financial institutions. These directions consisted of requirements for exposure limits, risk assessment, as well as compliance for entities engaging in such bond market activities. In November 2025, however, RBI replaced this singular framework and instead issued multiple sets of directions[53] for various financial institutions including a separate chapter for PCE tailored to the context of that institution. Regardless of the restructured re-release, the core concept, and provisions, as well as risk weightage for capital adequacy ratios remained the same as August 2025, only reorganising the previously issued directions. The intention behind this restructuring appears to be advocating for a more granular approach which ensures uniformity.

9.4 Features of PCE Under RBI's 2025 Framework[54]

Within RBI's 2025 Directions, features have been introduced which clarified the risk and operational profile of PCE facilities. Firstly, all Regulated Entities ("REs") are required to establish clear policies internally which must specify quantum, risk assessment procedures, exposure limits as well as pricing for PCE. The facility itself is subordinated, meaning senior creditors receive priority on repayment, and once agreed, a PCE commitment cannot be revoked or made contingent on future actions of the issuer. Drawdowns from PCE are strictly permitted only for bond servicing, such as coupon or principal payments, and are not allowed for other uses like operating expenses or acquisitions. The arrangement thus acts as a revolving facility, which allows repaid amounts within the PCE limits to be re-drawn, only if this is agreed by parties. Since PCE funds can only be issued for bond repayments, investors remain protected and project discipline is strengthened. The eligible instruments to which this facility can be granted include corporate bonds, bonds issued by Municipal Corporations, and bonds by non-deposit taking NBFCs above a particular asset threshold.

[51] A Careratings.com, www.careratings.com/uploads/newsfiles/1745823533_Article%20on%20Partial%20Credit%20Enhancement%20-%20CareEdge%20Report.pdfm. Accessed 2 Feb. 2026.

[52] Org.In, https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=10035&Mode=0. Accessed 20 Jan. 2026.

[53] The set of directions have been attached in the "Reference" section below.

[54] "Notifications." Org.In, www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12889&Mode=0. Accessed 9 Feb. 2026.

9.5 Transformative Changes in the PCE Framework

The recent reforms brought forth by RBI depict a push to modernise bond markets with wider participation. Certain transformative changes after the uptake can be viewed as transformative. For example, in the current standing framework, PCE may be granted by Scheduled Commercial Banks ("SCBs) (not including Rural Regional Banks), along with All India Financial Institutions ("AIFIs"), NBFCs and HFCs, in the middle and upper layers. However, earlier, only SCBs could provide PCE. Thus, now the pool of eligible and permitted providers has been expanded which deepens penetration into the market. Additionally, the coverage limit per provider, which was earlier capped at 20% of a bond issue, has now shot up to 50%, making issuance and sanctioning more flexible and faster.

The regulations relating to capital requirements have also been made more flexible. The earlier differentiated risk weights calculated on the full bond amount in most cases often meant that the capital cost for providers was high. While the updated framework now applies risk weights only on the PCE amount and puts a cap on it, it is expected to reduce the burden on providers and lower borrowing costs for issuers.

Example

SCB, Bond size ₹100, Rating: BBB, Risk weight: 100%, CRAR: 9%:

PCE taken ↓

- ₹20 PCE → ₹1.8 capital: It is (20*100%*9%) and not (100*100%*9%)
- ₹30 PCE → ₹2.7 capital
- ₹40 PCE → ₹3.6 capital
- ₹50 PCE → ₹4.5 capital

For the purpose of capital computation in the books of the PCE provider, the lower of the two pre-enhanced credit ratings shall be reckoned, if there is any dissonance in the ratings published by the credit rating agencies.

Regardless, rigid repayment and NPA recognition rules remain unchanged, with drawn PCE required to be repaid within 30 days or else classified as NPA after 90 days, which is a huge challenge that remains a limiting factor to issuer flexibility, increases potential capital strain, and may keep the attractiveness of PCE limited as issuers may be forced into quick asset sales or refinancing under stress. Additionally, using PCE as a tool to restructure loans is not allowed. However, if the project is healthy and payments are on track, replacing a bank loan with bonds (and supporting them via PCE) is just refinancing, not loan restructuring.

Example

- A construction company took a ₹500 crore loan from a bank (the RE) to finance a project. This loan is standard, that is there have been no defaults and all payments have been made on time. Now, instead of continuing this earlier loan taken, the company decides to raise bonds of an equivalent amount of ₹500 crore to refinance the earlier loan. They decide to take PCE support for the new bonds issued to boost the bond's credit rating so that investors will buy.

- Here, since the project was healthy with sound fundamentals and the loan was standard, this refinancing with PCE support would not be classified as restructuring. However, if the company had poor financials and was missing repayments or showing signs of stress, and then PCE-backed bonds were issued to replace the loan, that could be considered as restructuring.

REs providing PCE are required to hold capital reserves based on the pre-enhanced rating risk weights of the bonds, with a capital floor maintained according to the rating at bond issuance. When ratings decline below investment grade, REs must maintain full capital against their PCE exposure, which protects the financial system but increases costs for issuers. Exposure limits, both individual and aggregate, ensure controlled risk concentration. Furthermore, PCE providers are barred from investing in the bonds they guarantee to avoid conflicts of interest and preserve market integrity.

Example

- A company issues a ₹500 crore bond with Partial Credit Enhancement (PCE) from a bank.
- Bank provides PCE facility = ₹100 crore (can be drawn by bond issuer if needed to pay bondholders).
- At the time of issue:
  - Pre-enhanced rating (without PCE) = BBB.
  - Capital required (based on risk weights being 10% (assume)) works out to = ₹10 crore.

This ₹10 crore is the floor capital → capital can never go below this during the bond's life.

(a): Change in Pre-enhanced Rating

- Suppose rating improves from BBB → A.
- Based on risk weight, new capital requirement = ₹8 crore.
- But because of the floor rule, the bank cannot reduce below ₹10 crore (the amount required at issuance).

Therefore, they must keep ₹10 crore capital.

(b): Bond Outstanding vs. PCE Size

- Years later, the bond has amortised:
  - Outstanding bond = ₹80 crore.
  - PCE facility = ₹100 crore (still on books).
- Now, the bond size is smaller than the PCE facility. - In this case, the capital requirement can be recalculated on the smaller bond size because risk has reduced.
- Say risk weight demands ₹6 crore capital at this stage. - Then, the bank can now reduce capital to ₹6 crore (since bond < PCE size).

©: Downgrade Below Investment Grade

- Later, the pre-enhanced rating slips from BBB → BB (junk grade).
- Rule: If rating is below BBB−, the bank must hold full capital equal to the PCE provided.
- Here, PCE facility = ₹100 crore. The bank must hold ₹100 crore capital, irrespective of bond balance.

In all circumstances, the capital computed for PCE as mentioned above and required to be maintained by the PCE provider, shall be capped by the total amount of PCE provided and not the full bond amount.

9.6 PCE Safeguards

PCE transactions are governed strictly to guarantee transparency, fiscal responsibility, and regulatory compliance. Disclosure requirements are of importance and require that bond offer documents distinctly mention the credit ratings both with and without PCE, thus allowing investors to better assess the risk profile. An escrow mechanism must be set up under a bond trustee arrangement to ensure mandatory ring-fencing of project assets and cash flows[55]. All revenues deposited in this account are supervised by an independent trustee, thereby protecting dedicated project funds from unrelated liabilities, and improving transparency. Furthermore, security and cash flow sharing agreements need to be explicitly mentioned and

[55] Ratings, 2025 l. "Proposed Partial Credit Enhancement Framework: A Step Forward to Boost Infra Financing." Careratings.com, www.careratings.com/uploads/newsfiles/1745823533_Article%20on%20Partial%20Credit%20Enhancement%20-%20CareEdge%20Report.pdf. Accessed 20 Jan. 2026.

documented beforehand among all stakeholders, lenders, bondholders, and the REs providing the PCE. There must be specifications regarding the manner in which security interests are shared and how project cash flows are allocated between loan repayments, bond servicing, and PCE obligations before bonds are issued.

9.7 Additional Conditions for Bonds Issued by NBFCs and HFCs

There exist certain conditions to be followed by those bonds issued by NBFCs or HFCs which assists in ensuring credit discipline while limiting concentration risks. These conditions are that of (i) the bonds must have a minimum tenor of three years or more, ensuring stability in the medium to long term for refinancing; (ii) the proceeds of PCE-backed bonds can only be used to refinance debt which already exists by replacing earlier high cost or shorter tenor loans with new borrowings; and (iii) the REs which provide PCE must have stringent systems of monitoring and reporting, including end-use covenants and certification, audits, etc.

Example

An NBFC having outstanding loans of ₹500 crore at 10% may issue PCE-backed bonds worth ₹500 crore at 8%, guaranteed partly by a bank. The new proceeds must exclusively repay the old loans, and the bank must verify that the NBFC does not deploy the funds elsewhere.

Example

If Bank X has capital funds of ₹50,000 crore, the 1% cap equals ₹500 crore, hence, it can provide PCE up to ₹500 crore for one NBFC's bond issue. However, if Bank X's Tier I capital is ₹2,000 crore, the 20% single-borrower exposure cap limits its exposure to ₹400 crore, which is lower. Therefore, the effective maximum PCE Bank X can extend is ₹400 crore, as both regulatory limits must be observed simultaneously.

9.8 Partial Credit Enhancement (PCE) Framework: 2015 vs 2025 Changes

Aspect	2015 Framework (Before)[56]	2025 Framework (After)[57]	Remarks
Eligible Providers	Only Scheduled Commercial Banks	Extended to include All India Financial Institutions (AIFIs), NBFCs (top, upper, middle layers), Housing Finance Companies (HFCs)	Broader coverage and penetration expected by including more REs.
Individual Coverage Limit	PCE provided by a single entity limited to 20% of bond issue size	Increased to 50% of bond issue size	Easier, faster sanctioning and smoother issuance process by allowing higher single-provider exposure.
Aggregate Coverage Limit	Aggregate PCE by all banks limited to 50% of bond issue size	No change: continues to be 50%	Maintained to keep overall risk exposure capped.

[56] Org.In, https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=10035&Mode=0. Accessed 20 Jan. 2026.
[57] "Notifications." Org.In, www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12889&Mode=0. Accessed 9 Feb. 2026.

Aspect	2015 Framework (Before)	2025 Framework (After)	Remarks
Capital Requirement Basis	Capital requirement calculated on the entire bond amount, using differentiated risk weights for pre-enhanced and credit-enhanced ratings	Provision entered for Capital requirement based on the PCE amount, based on risk weight of pre-enhanced rating	Significant reduction in capital requirement expected, lowering cost and increasing attractiveness of PCE.
Capital Maintenance	Initial required capital maintained till bond outstanding falls below PCE amount; then capital based on outstanding bond amount	No change	Stable capital maintenance approach retained.
Capital Requirement if Rating Downgrade Below Investment Grade	Capital at 1250% risk weight on PCE amount to be maintained	REs must maintain full capital as per PCE amount, but overall capital would be lower than the current 1250% risk weight norm	More favorable for providers, likely to reduce cost for issuers.
Investment Restrictions	Banks were barred from investing in bonds where they are PCE providers	All PCE providers barred from investing in any PCE-backed bonds irrespective of provider	Encourages more participation from Pension Funds, Mutual Funds, Insurers, deepening bond market liquidity.
Pre-Enhanced Rating Threshold for PCE Eligibility	Bonds with pre-enhanced rating of BBB- or higher only	No change	Maintains quality control and investor confidence.
Mode of Issuance	PCE provided as a non-funded irrevocable contingent line of credit	No change	Non-fund-based facility approach retained.
Escrow and Trustee Mechanism	PCE administration through trustee-monitored escrow account	No explicit change mentioned	Continues to ensure monitoring and timely intervention.
Repayment and NPA Recognition of Drawn PCE	- Drawn PCE tranche repayable within 30 days after drawdown. - Treated as NPA if unpaid beyond 90 days after the due date.	No change in clause; remains a legacy challenge. Unpaid PCE after 30 days leads to sharp downgrade and affects issuer flexibility.	Still a key concern limiting flexibility and increasing potential capital and cost burdens on issuers.

Overall, these changes address the gaps of low uptake of PCE and high capital barriers, as well as lay down a structure for steady growth and risk management of India's financial system. By making regulations clearer and more practical, RBI is encouraging wider and safer use of PCE as a tool to strengthen infrastructure financing and build trust in bond markets.

9.9 Global Perspectives: Infrastructure Financing Models in Other Countries

In India, to make infrastructure projects bankable, they count on specialised public support. The most common mechanisms of infrastructure financing are Viability Gap Funding ("VGF"), and PCG which differ from traditional bank loans.

VGF acts as a subsidy in the form of a grant, deferred payment, or convertible loan received from the government to close the gap between project costs and private returns. Additionally, PCG is a promise backed by the government to cover a part of a loan or debt service of a bond, as used by IIFCL-ADB and development banks. An example of PCG in India is an ADB-backed facility aimed to mobilise private funds by covering early-loss exposure on project bonds.

Under RBI's newest updates on PCE cannot be structured as a guarantee. Instead, it operates explicitly in the form of a non-guaranteed credit enhancement. Thus, PCE strengthens a bond's rating and attracts investors while PCG is a credit risk cover, and VGF is a fiscal subsidy.

The United States of America (USA)

For project financing, USA uses various tools for credit enhancement, which are labelled differently from that in India. At the federal level, credit assistance is provided by the Transportation Infrastructure Finance and Innovation Act ("TIFIA") program by way of loan guarantees, direct loans, and standby lines of credit to major surface-transport projects. These instruments are able to provide projects access to long term capital at rates lower than what they may receive privately. For instance, TIFIA can leverage one federal dollar into $10 of credit assistance[58]. Similar to PCE, TIFIA guarantees are contingent, and the federal government covers debt if the project's cash flow falls short but apart from that, the project operates independently. By this, USA highways and transit projects are more bankable without full tax-financed grants.

In contrast to this, India's PCE structure is provided by REs like banks, USA's programs are sovereign in nature. However, the goal, which is to broaden the funding base beyond banks, remains similar. By offering contingent loans or guarantees, these programs reduce the premium that private investors demand, much as PCE does for Indian infrastructure bonds.

The United Kingdom (UK)

In the UK's infrastructure financing framework, government support for credit enhancement has shown by way of enactment of the Infrastructure (Financial Assistance) Act of 2012 under the UK Guarantees Scheme. Under this, unconditional, irrevocable guarantees on infrastructure debt could be issued. Between 2013-2016, the UK Government had guaranteed lending of £1.7 billion to seven different projects[59]. These included principal as well as interest, which provides a sovereign roadblock, reassuring private lenders. This differs from PCE in India considering it is partial, whereas this is a complete 100% backed guarantee by the Government.

9.10 Regulatory Shortcomings in RBI's PCE Framework

As seen in this paper, there has been a significant leap of change in the course of ten years with little to

[58] "Federal Program Financing Tools." Dot.gov, www.fhwa.dot.gov/ipd/finance/tools_programs/federal_debt_financing. Accessed 12 Feb. 2026.
[59] Org.uk, www.nao.org.uk/wp-content/uploads/2015/01/UK-Guarantees-scheme-for-infrastructure.pdf#:~:text=Treasury%20to%20issue%20an%20unconditional,The%20Scheme. Accessed 13 Feb. 2026.

no action in between. However, certain weaknesses still exist which prevent PCE from realising its complete potential.

Firstly, RBI did not actually intervene to look into the reasons why businesses did not use the facility, although there was increasing evidence which portrayed that infrastructure and corporate financing still relied on traditional bank loans. Only after the call for urgent action in the Union Budget 2025-2026, did RBI finally restart the process. Due to this delay, significant opportunity costs on India's corporate bond and infrastructure markets were imposed, holding back diversification along with economic growth.

Secondly, there was limited dialogue in the consultation process, and only internal deliberations existed within the RBI as opposed to progressive regimes seen globally. There existed limited visibility for working papers or discussion documents which were open to the public or stakeholders to comment upon. For years at end, industry associations and infrastructure sponsors have brought up concerns about high capital costs, strict eligibility norms, and lack of market liquidity. However, these concerns have seldom translated into prompt regulatory change.

Lastly, a major concern is the burden put forth on PCE exposures. Since PCE is a contingent liability with lower correlation to funded exposures, it is argued that the risk weights of RBI on REs are conservative disproportionately. Even though this may be prudentially sound, it can lead to a hindrance to scalability.

9.11 Conclusion

The current framework, which is to come into effect from April 2026, is expected to materially strengthen infrastructure financing in India by making it easier for projects to raise money from the bond market, instead of relying on conventional bank loans.

> The new directions allow a wider range of REs, including NBFCs and development finance institutions to provide credit enhancement, increasing the overall availability of support and backing.

By enabling infrastructure bonds to obtain higher credit ratings through enhancement, the new PCE framework makes them eligible for investment by insurance companies, mutual funds, as well as pension funds, which usually only invest in highly rated instruments. At the same time, clearer prudential rules increase investor confidence and promote the development of a deeper corporate bond market. Overall, this revised PCE framework helps mobilise more private capital, reduces pressure on bank balance sheets, and creates a more sustainable system for long-term infrastructure financing in India.

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5.https://rbi.org.in/Scripts/BS_ViewMasCirculardetails.aspx?id=9902
6.https://www.careratings.com/uploads/newsfiles/1745823533_Ar ticle%20on%20Partial%20Credit%20Enhancement%20-%20CareEdge%20Report.pdf

New set of directions (November 2025):

1.https://rbi.org.in/scripts/NotificationUser.aspx?Mode=0&Id=12957
2.https://rbi.org.in/scripts/NotificationUser.aspx?Mode=0&Id=12959
3.https://rbi.org.in/scripts/NotificationUser.aspx?Mode=0&Id=12981
4.https://rbi.org.in/scripts/NotificationUser.aspx?Mode=0&Id=12983
5.https://rbi.org.in/scripts/NotificationUser.aspx?Mode=0&Id=13041
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12.https://rbi.org.in/scripts/NotificationUser.aspx?Mode=0&Id=13159

10

THE IPO VALUATION DILEMMA

Shaurya Singh

The first draft of this article was presented at the seminar titled 'Navigating Through the IPO Valuation', organised by the Centre of Regulatory Governance, Jindal Global University, Sonipat, on February 18, 2026, and has since been revised to incorporate inputs received from the former Chairman of SEBI, Mr. U.K. Sinha, following discussions at the seminar

10.1 Abstract

This article examines the regulatory challenges arising from Initial Public Offering ("IPO") valuation practices in India during FY 2021–2022 and FY 2022–2023, a period in which several public offerings witnessed substantial post-listing price corrections resulting in significant losses for primary market investors. These patterns are flagged not as isolated instances of market volatility but as broader questions on the effectiveness of the existing regulatory regime in addressing valuation-related risks. The analysis is situated within the twin objectives of the Securities and Exchange Board of India ("SEBI"), namely the protection of investors and the promotion of the development of the securities market, which may operate in tension, given that valuation is inherently subjective and strict regulatory intervention may impede the growth of the primary market. Recent regulatory amendments are examined in this context, and it is argued that disclosure-based measures may not sufficiently address concerns relating to IPO valuation, which is not amenable to a single regulatory response. A balanced regulatory approach is therefore proposed involving enhanced pre-offer disclosure mechanisms; reconsideration of the mandatory retail allocation framework; and the selective use of hard underwriting in offerings presenting elevated valuation risk.

10.2 Introduction

India's capital markets witnessed record-high public offerings between 2021 and 2025. This study, however, confines its scope to patterns observed during FY 2021–2022 and FY 2022–2023, a period marked by notable concerns regarding the pricing of Initial Public Offerings ("IPOs") of new-age technology-driven enterprises. Corporate valuations in these sectors are particularly complex as metrics of valuation continue to evolve, and growth-oriented companies routinely command valuations substantially elevated relative to companies in conventional industries.

> The premium reflects perceived future growth potential; however, the quantification of that potential is inherently subjective and varies considerably across analysts. This subjectivity presents a challenge for the Securities and Exchange Board of India ("SEBI"), whose twin statutory objectives under the Securities and Exchange Board of India Act, 1992[60] —the development of India's securities markets and the protection of investor interests—can pull in opposite directions when IPO valuations are called into question.

[60] Securities and Exchange Board of India Act, 1992: "An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market."

Several IPOs during FY 2021-2022 and FY 2022–2023 were associated with elevated offer prices followed by significant secondary market price corrections, resulting in losses for primary market investors. Reports indicated that approximately half of the worst-performing post-IPO stocks of 2021 were new-age companies, with certain securities recording drawdowns in excess of 60% from their offer prices[61]. Elevated valuations are not inherently problematic as they may simply reflect investor confidence in growth trajectories[62]. For instance, the Nifty IT Index in September 2023 carried a price-earnings ("P/E") ratio of 26.75[63], exceeding the benchmark Nifty 50 Index[64], and standing in sharp contrast to the Oil and Gas sector's P/E of 8[65], largely due to its perceived growth prospects.

However, concern arises where valuations are not supportable by fundamentals and primary market investors bear a disproportionate share of the resulting risk.

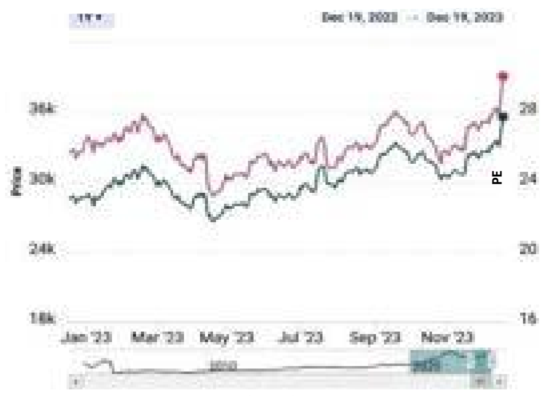


Figure 1: Nifty IT – Price vs. P/E Ratio (2023)

• Index value • Index P/E ratio

Source: Trendlyne.com | National Stock Exchange Fact Sheets (September 2023)

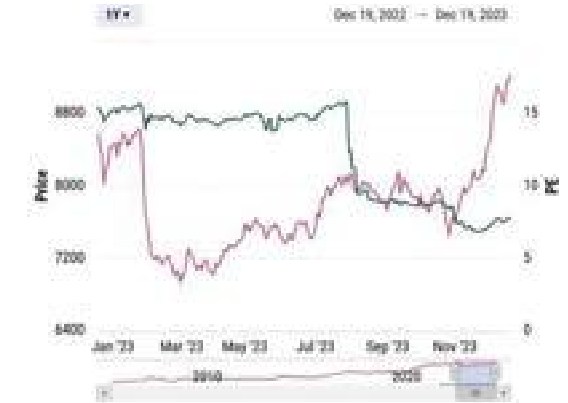


Figure 2: Nifty Oil & Gas – Price vs. P/E Ratio (2023)

10.3 Economic Consequences of Overvaluation[66]

The term overvaluation refers to observable patterns in which IPO offer prices are followed by significant and sustained post-listing price drawdowns that materially exceed contemporaneous movements in relevant sectoral or market benchmarks. Where an issuer's secondary-market decline substantially outpaces benchmark indices over a reasonable post-listing horizon, such divergence is treated in this study as indicative of an elevated issue price at the time of offering. This approach does not equate ordinary volatility or cyclical corrections with mispricing; rather, it relies on relative abnormal underperformance as a proxy for pricing that was materially aggressive in light of prevailing market conditions. The environment in which these developments occurred is characterised by relatively limited financial literacy among a substantial portion of the retail investor base[67]. Academic research has documented an association between limited financial literacy and susceptibility to information asymmetry, rendering retail investors more vulnerable to participating in offerings without a comprehensive appreciation of the underlying financial dynamics[68]. Promotional activities accompanying an IPO's roadshow can generate anticipation that may not correspond with the fair valuation of the company. Within a relatively short period following listing, several new-age companies saw investor wealth decline by more than 50% in under a year[69]. This was particularly significant given the record cohort of first-time investors entering the market during this period, as reflected by the 34.6 million demat accounts opened in FY 2021-2022 alone[70].

[61] 'Of the 10 Worst Performing IPOs of 2021, 5 are New Age Tech Startups', Times of India, available at: https://timesofindia.indiatimes.com/business/markets/of-the-10-worst-performing-ipos-of-2021-5-are-new-age-tech-startups/articleshow/93265556.cms

[62] Walter R. Good, 'When Are Price/Earnings Ratios Too High Or Too Low?' (1991) 47(4) Financial Analysts Journal 9.

[63] National Stock Exchange, Fact Sheet on NIFTY IT (September 2023), available at: https://www.niftyindices.com/Factsheet/ind_nifty_it.pdf

[64] National Stock Exchange, Fact Sheet on NIFTY 50 (September 2023), available at: https://archives.nseindia.com/content/indices/ind_nifty50.pdf

[65] National Stock Exchange, Fact Sheet on NIFTY Oil & Gas (September 2023), available at: https://www.niftyindices.com/Factsheet/Factsheet_nifty_oil_and_gas.pdf

[66] For the purposes of this article, "overvaluation" or "overpricing" is used in a price-performance sense rather than as a strictly ex ante theoretical mispricing claim.

[67] Renuka S & K V Raju, 'Financial Literacy and Stock Market Participation in India: An Overview' (2021) 16 Journal of Economic Policy & Research.

[68] Yang Liu et al, 'Information Asymmetry and Investor Valuations of Initial Public Offerings' (2020) 16 Management and Organization Review 945.

[69] Supra Note 2.

[70] Nasrin Sultana & Ashwin Ramarathinam, 'Demat Account Openings Hit a Record of 14.2 Mn in FY2021', Livemint, 21 April 2021.

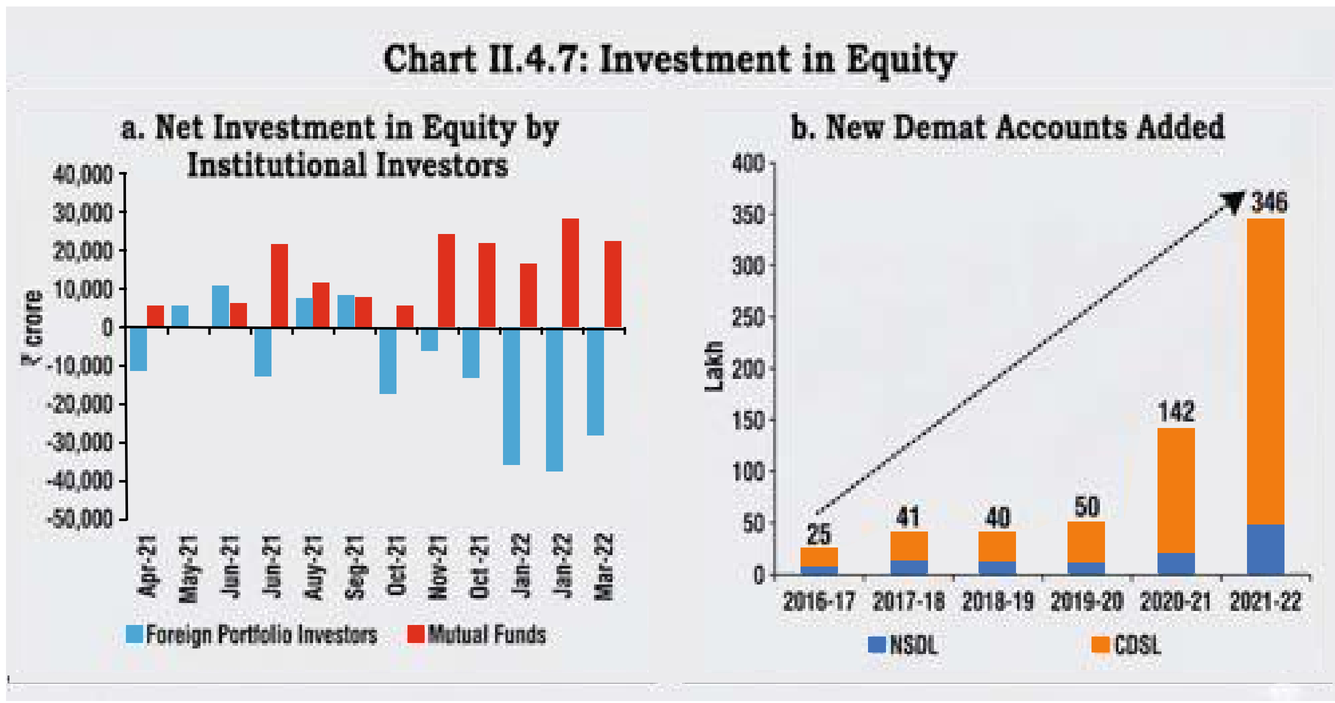
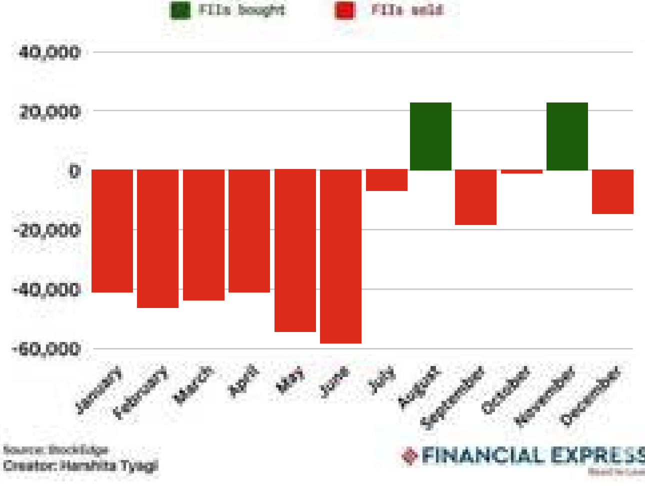
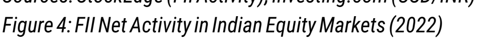


Figure 3: Net Investment in Equity by Institutional Investors & New Demat Accounts Added (Fy2016–2022)
Source: RBI Annual Report FY 2021–22 (Chart II.4.7); NSDL, CDSL and SEBI

Academic scholarship has noted that a significant deterioration in investor trust may lead investors to generalise negative perceptions across market participants, potentially resulting in partial or complete withdrawal from financial markets[71]. The aggregate effect of such withdrawal includes reduced market liquidity, a contraction in primary market capital, and increased effective cost of capital[72]. Where trust is eroded, investors may redirect savings toward tangible assets such as real estate or gold, depriving innovative enterprises of equity capital and undermining regulatory initiatives such as the Innovators Growth Platform[73]. These macroeconomic effects were evident in 2022, when sustained foreign portfolio investor selling contributed to significant rupee depreciation against the dollar[74].





Sources: StockEdge (FII Activity); Investing.com (USD/INR)
Figure 4: FII Net Activity in Indian Equity Markets (2022)

Figure 5: USD/INR Exchange Rate

[71] Tamar Frankel, 'Regulation and Investors' Trust in the Securities Market' (2002) 68 Brooklyn Law Review 439.
[72] International Finance Corporation (World Bank Group), 'Developing Domestic Capital Markets' (Issue Brief, 2016).
[73] Bombay Stock Exchange, About Innovators Growth Platform, available at: https://www.bsehitech.com/aboutus.html
[74] Hitesh Vyas, 'Why India's Foreign Exchange Reserves Fell in 2022', The Indian Express (January 9, 2023).

10.4 SEBI's Dilemma

The long title of the SEBI Act, 1992, articulates its twofold objectives:

"An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market."

In ordinary circumstances these objectives are pursued together; disclosure and transparency measures serve both. Investor protection has been pursued through progressive elaboration of disclosure requirements, with non-compliance carrying consequences including exclusion from India's securities markets and potential removal of the corporate veil for promoters for misstatements in the Red Herring Prospectus[75]. On the developmental side, SEBI has broadened market segments and introduced instruments from equities and debt to commodities and forex derivatives.

> IPO overvaluation presents a specific challenge because regulatory tools adequate to one objective tend to compromise the other. Imposing valuation ceilings or mandating specific methodologies could systematically underprice offerings, deterring companies from going public and dampening market development.

The subjective character of valuation, which is dependent on future projections and evolving metrics, makes any form of prescriptive intervention economically contested. A further constraint is the imperative of harmonising India's securities law framework with the international regime. Research has documented a relationship between the alignment of host country securities laws with domestic investor jurisdictions and foreign portfolio investment flows.[76] [77] India's permissive approach to issuer valuation is a factor contributing to this alignment, and unilateral prescription of valuation methodology would risk unsettling foreign investors.

10.5 Overview of Key Regulatory Amendments

In December 2021, SEBI amended the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 ("ICDR Regulations").[78] These amendments required issuers to specify fund allocation for acquisitions, capped funds for unspecified targets and general corporate purposes, and restricted OFS participation: shareholders holding more than 20% of pre-issue shares were limited to offering no more than 50% through the OFS mechanism, while those holding less than 20% were subject to a 10% cap. In September 2022, a further set of amendments introduced the concept of Key Performance Indicator ("KPI") disclosure in the Basis for Issue Price section of the offer document, requiring issuers to justify their quoted valuation with reference to the disclosed KPIs.[79]

However, the structural limitation of a pure disclosure-based approach is that it preserves issuer discretion to set valuations, requiring only that the chosen figure be accompanied by justificatory disclosure. Disclosure mechanisms work most effectively where the consequences of misrepresentation are clearly defined and enforceable; in the context of valuations, the subjectivity involved and reliance on projections outside the issuer's control complicate liability attribution. The S&P Global Financial Literacy Survey found that 76% of Indian adults are not financially literate against key financial concept benchmarks.[80] Therefore, the current disclosure regime premised on retail investors independently evaluating valuation claims from offer documents is insufficient without supplementary mechanisms.

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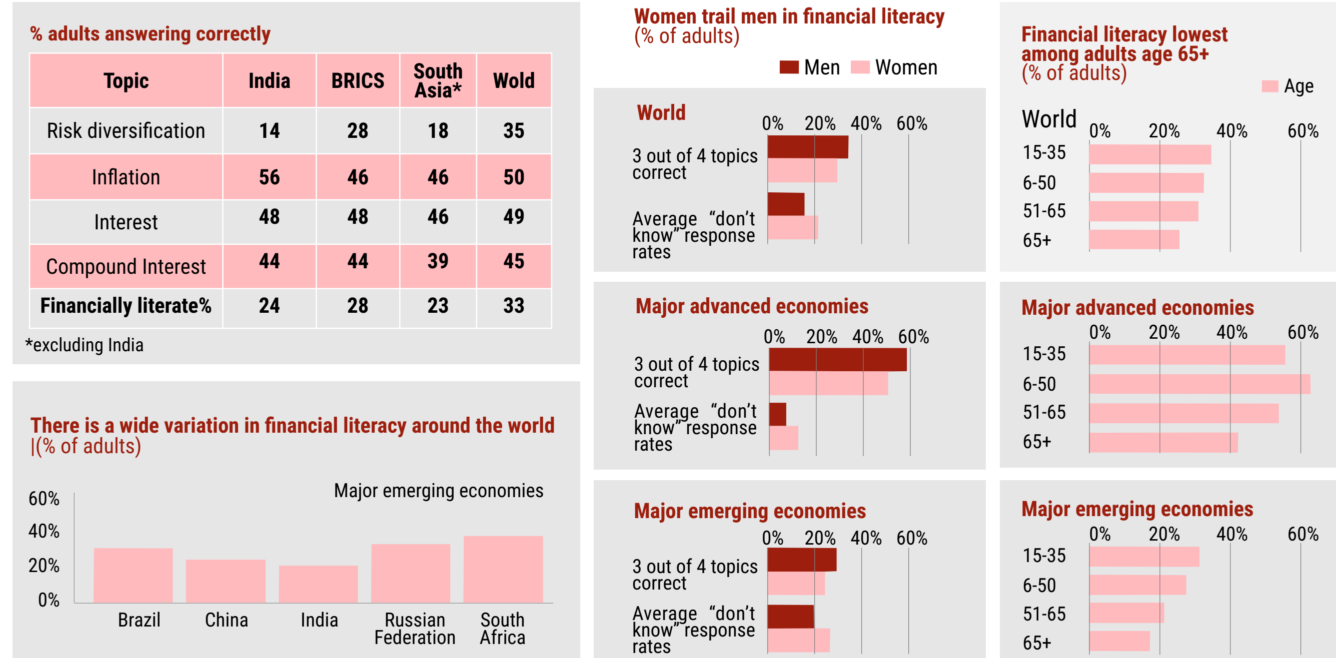
[75] Companies Act, 2013, s 34.
[76] Uri Geiger, 'The Case for the Harmonization of Securities Disclosure Rules in the Global Market' (1997) Columbia Business Law Review 241.
[77] Beth A. Simmons, 'The International Politics of Harmonization' (2001) 55 International Organization 589.
[78] SEBI Press Release, 28 December 2021, available at: https://www.sebi.gov.in/media/press-releases/dec-2021/sebi-board-meeting_55018.html
[79] SEBI Press Release, 30 September 2022, available at: https://www.sebi.gov.in/media/press-releases/sep-2022/sebi-board-meeting_63565.html
[80] S&P Global Financial Literacy Survey (2015). The survey found that 76% of Indian adults are not financially literate as per key concept benchmarks including risk diversification, inflation, and compound interest. Available at: https://gflec.org/wp-content/uploads/2015/11/3313-Finlit_Report_FINAL-5.11.16.pdf

GAPS IN LEARNING

A Standard and Poor's survey found that three-fourth of Indians are not financially literate. Here are some more findings from the survey.



% adults answering correctly

Topic	India	BRICS	South Asia*	Wold
Risk diversification	14	28	18	35
Inflation	56	46	46	50
Interest	48	48	46	49
Compound Interest	44	44	39	45
Financially literate%	24	28	23	33

*excluding India

Figure 6: Financial Literacy Gaps – India vs. BRICS and Global Benchmarks

Source: S&P Global Financial Literacy Survey (2015)

10.6 The Way Forward: Striking the Equilibrium

A multi-pronged regulatory approach is better suited to the complexity of this matter. Three distinct but mutually reinforcing avenues are recommended: 1) enhanced pre-offer disclosure, 2) reform of the mandatory retail allocation framework, and 3) selective hard underwriting.

Enhanced Pre-Offer Disclosure Mechanisms

The existing disclosure framework operates primarily through the Red Herring Prospectus and the KPI disclosure requirements introduced in November 2022. An enhancement could involve strengthening structured summary disclosures at the draft stage, thereby enabling earlier and clearer access to material financial and valuation information. In this context, the SEBI Board, in its meeting held on 17 December 2025, approved amendments to the IPO disclosure framework to provide for a focused and standardised summary of the offer document to be made available at the Draft Red Herring Prospectus stage[81]. This approach retains the disclosure-based character of the regulatory regime while enhancing accessibility and interpretability for retail participants.

In addition, consideration may be given to introducing uniform minimum disclosure criteria for stock brokers and other intermediaries that transmit information to the primary market investors. A minimum standard for communicating risk factors, valuation metrics, and offer-related charges could be mandated to ensure consistency in investor-facing materials.

[81] SEBI Board Meeting Press Release, December 17, 2025.

Reform of the Mandatory Retail Investor Allocation Framework

Regulation 32(1)© of the ICDR Regulations prescribes that in a book-built issue, not less than 35% of the net offer shall be allocated to retail individual investors[82]. This mandatory minimum was designed to democratise access to IPO opportunities. However, where it channels a significant proportion of potentially overvalued shares to the least financially sophisticated investor segment, it may operate in tension with SEBI's investor protection rationale. At the seminar on "Navigating Through the IPO Valuation" organised by the Centre of Regulatory Governance, at Jindal Global University, Sonipat, former SEBI Chairman Mr. U.K. Sinha expressed the view that this mandatory floor should be replaced by a discretionary framework. SEBI has itself subsequently engaged with this concern, proposing in a July 2025 consultation paper a reduction of the minimum retail quota from 35% to 25% for large IPOs exceeding Rs 5,000 crore[83].

In the United States, no mandatory minimum retail allocation applies in IPOs; distribution across investor categories is a matter of issuer and underwriter discretion[84]. Such a discretionary framework in India would allow issuers of high-risk offerings to direct more shares to institutional investors better positioned to assess valuation risk, while preserving meaningful retail participation for straightforward offerings. Safeguards would be required to prevent de facto retail exclusion from genuinely attractive listings.

Selective Mandate for Hard Underwriting

Under the current predominant practice in India, soft underwriting arrangements are employed, under which merchant bankers cover only payment shortfalls from technical or legal rejection of bids[85]. This means underwriters bear no financial exposure in the event of demand shortfalls attributable to overpricing, thereby reducing their incentive to constrain excessive pricing.

Hard underwriting commits underwriters to subscribe to shares that remain unsold in the event of undersubscription, irrespective of demand. This creates a direct financial stake in ensuring valuations are set at levels likely to attract sufficient market demand. In the United States, where hard underwriting predominates, research has documented a consequent tendency toward conservative IPO valuations[86], often involving slight underpricing to reward participating investors.[87] The absence of this industry practice in India can be identified as a structural factor contributing to the reduced incentive for prudent IPO valuation.

However, a universal mandate prescribing hard underwriting is not proposed; rather, a risk-based selective approach would target categories of offerings presenting elevated valuation risk—for example, offerings with P/E ratios massively exceeding the industry/sector average, high OFS components, or financial statements indicating prolonged financial stress. The implementation should be preceded by structured consultation with merchant bankers, institutional investors, and issuers. This approach delivers the disciplinary function precisely where investor harm is most acute, while preserving flexibility for broadly reasonable offerings.

10.7 Conclusion

The developments observed during FY 2021–2022 and FY 2022–2023 indicate that IPO valuation practices raise questions of regulatory design rather than isolated instances of market volatility. Valuation in public offerings necessarily involves forward-looking assumptions and sectoral judgment. However, recurring instances of substantial divergence between issue price and subsequent secondary market performance justify

[82] SEBI ICDR Regulations, Regulation 32(1)©

[83] SEBI Consultation Paper on Facilitating Ease of Doing Business relating to Anchor Investor Allocation, Long-Term Institutional Participation and Retail Quota in IPOs under ICDR Regulations, 2018 (July 31, 2025).

[84] Securities Act of 1933 (US); no mandatory minimum retail reservation threshold applies in US book-built IPOs.

[85] SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, Regulation 40, as amended April 2023.
Available at: https://www.sebi.gov.in/sebi_data/meetingfiles/apr-2023/1681702844118_1.pdf

[86] Wan Yin Busaba, 'Bookbuilding, the Option to Withdraw, and the Timing of IPOs' (2006) 12(2) Journal of Corporate Finance 159.

[87] Laurie Krigman & Wendy Jeffus, 'IPO Pricing as a Function of Your Investment Banks' Past Mistakes: The Case of Facebook' (2016) 38 Journal of Corporate Finance 335.

examination of whether existing regulatory mechanisms sufficiently address informational asymmetry, allocation of risk, and intermediary incentives.

The analysis undertaken in this study suggests that the challenge is not amenable to a singular regulatory response. Disclosure reforms alone cannot eliminate valuation-related risks in India. At the same time, prescriptive valuation control would risk disrupting a highly vibrant primary market. A balanced approach therefore requires consideration of multiple institutional levers operating simultaneously.

Enhanced pre-offer disclosure improves the clarity and accessibility of valuation-related information without dictating pricing outcomes. Reform of the mandatory retail allocation framework allows more flexible distribution of valuation risk across investor categories while maintaining access for retail participants. Selective application of hard underwriting introduces calibrated financial accountability for intermediaries in offerings that present elevated valuation risk. Each measure addresses a different dimension of the issue and operates within the existing regulatory structure.

The objective of regulatory intervention in this context should not be to determine appropriate valuation levels. Rather, it should be to ensure that valuation assumptions are clearly articulated, that exposure to risk is proportionately allocated, and that institutional incentives do not operate in a manner inconsistent with sustainable market development. Such an approach remains consistent with SEBI's statutory mandate to protect investors while promoting market development, and reflects the structural characteristics of India's primary capital markets during the period under review.

11

PUBLIC INTEREST LITIGATION BEYOND CONSTITUTIONAL COURTS: PUBLIC LAW ADJUDICATION BY SECTORAL REGULATORS

Parvesh Kumar Sharma

11.1 Abstract

This article examines whether Regulatory Commissions particularly the Electricity Regulatory Commissions (ERCs) in India should be permitted to entertain Public Interest Litigation (PIL) within their sectoral domain. The issue has acquired renewed significance following the Supreme Court's decision in Torrent Power Ltd v Uttar Pradesh Electricity Regulatory Commission, which held that ERCs, being statutory bodies, lack jurisdiction to entertain petitions based solely on public interest. While the Court's reasoning is based principles of statutory interpretation, this article argues that a broader constitutional and institutional analysis is necessary to settle this issue.

Drawing upon the evolution of PIL jurisprudence, the constitutional rationale behind emergence of Tribunals/Commissions and the experience and expertise gained by these bodies, the paper contends that expert regulatory bodies are institutionally better suited to address sector-specific public interest grievances. It proposes a calibrated framework under which PILs challenging regulations and policies remain within the jurisdiction of constitutional courts, while public interest complaints concerning conduct of licensees, utilities or other market participants may be entertained by ERCs subject to procedural safeguards. Such an approach, the article argues, would enhance access to justice, improve regulatory accountability and aid in imparting justice in a speedy and efficient manner.

11.2 Introduction

Public Interest Litigation (PIL) has been one of the most remarkable developments of the Indian jurisprudence on access to justice. PIL is not defined in the Constitution or any statute but evolved through judicial innovation. It fundamentally altered the rule of Locus Standi broadening access to justice, particularly for the poor and marginalized sections of society. Over the years, Constitutional courts of the country (Supreme Court and High Courts) have effectively used this mechanism to scrutinize executive action, corporate excess and institutional failure or inaction.

> Parallel to this evolution, there has been rise of independent regulatory institutions, especially in infrastructure sectors like electricity. These bodies were created to address the limitations of bureaucratic governance and traditional judiciary in balancing complex technical, economic and consumer interests in particular sectors.

This paper/article examines whether Electricity Regulatory Commissions (ERCs), conceived as expert, independent and public-interest-oriented bodies, should be allowed to entertain PILs within their sectoral domain. The trigger for this inquiry is the Hon'ble Supreme Court's recent decision in Torrent Power Ltd. vs UPERC & others, in which it was held that ERCs cannot entertain petitions solely on the ground of public interest. Though the judgement is sound in its statutory interpretation, this paper argues that the question requires broader examination that considers evolution and object of PILs, rationale and basis for introduction of tribunals and commissions and the practical aspects of regulatory governance.

11.3 Power Sector and Emergence of Regulators

Electricity's role in economic growth and social welfare does not need any emphasis. It is not merely a commercial commodity but a foundational input for economic development and

improvement of overall quality of life of citizens. Recognizing this significance, India introduced several reforms in the electricity sector post economic liberalization in the 1990s.

To de-politicize tariff determination, bring technical expertise and ensure transparency balancing consumer and industry interests, Electricity Regulatory Commissions (ERCs) were established through the Electricity Regulatory Commissions Act 1998 ("ERC Act"). Their role further evolved and broadened with the enactment of Electricity Act 2003 ("EA 2003" or "Act") which entrusted the ERCs with wide ranging regulatory, licensing and adjudicatory functions. The guiding principles for the ERCs, as per the Act are protection of consumer interest, balancing competing interests and promotion of efficiency and competition. This means that the ERCs are required to operate at the intersection of various fields like law, economics, engineering and public policy, a space where conventional adjudicatory models may prove inadequate.

11.4 Role of Central and State Electricity Regulatory Commissions

The Central Electricity Regulatory Commission (CERC) was constituted in 1998 under the ERC Act and continued under section 76 of the EA 2003. It is a statutory body with quasi-judicial powers and regulates matters of inter-state and national importance including generation, transmission, trading and development of market for electricity. State Electricity Regulatory Commissions (SERCs), similarly established under the ERC Act, are provided under section 82 of EA 2003. They enjoy the similar powers but at intra-state level.

Over close to three decades of existence, the ERCs have developed considerable institutional and sectoral expertise. A bare look at some of the orders passed by the ERCs would show that their decisions involve assessments of complex cost components, sale-procurement strategies, technical grid constraints and market behaviour – issues that the conventional courts often address only after seeking assistance of sector experts.

For context, key functions of the ERCs may be broadly summarized as follows:

- Determination of tariffs for various parts of electricity supply value chain – generation, transmission, distribution, trading etc.
- Regulation of power procurement and power trading practices
- Issuance, monitoring and enforcement of licenses for licensed activities
- Adjudication of disputes between the sector participants
- Protection of consumer interests and monitoring service quality
- Formulation and enforcement of sector-specific regulations
- Introduction of new concepts/products for advancement of the sector

This functional breadth is essential to mention to appreciate the debate whether ERCs should be permitted to entertain sector specific PILs.

11.5 PILs: Object and Evolution

The rise of PIL in India is motivated by the judiciary's recognition that the traditional rule of locus standi is not equipped to address sweeping injustices and sometimes becomes an impediment in dealing with structural injustices. The Supreme Court in cases like Hussainara Khatoon & Ors. v Home Secretary, Bihar recognized the need for diluting the rule of locus standi where systemic violations prevent access to justice for large sections of society. This allowed public-spirited individuals to espouse the cause of those who are unable to approach the courts themselves.

PIL thus became a vehicle to equalize access to justice, ensuring that matters affecting large sections of society were addressed even without individualized or actual harm. It is important to note that PIL is not defined in the Indian Constitution or any statute, rather it is an innovation of Indian jurisprudence resulting from judicial activism.

11.6 PILs Connection with ERCs

There is a conceptual connection between object of PILs and ERCs which is usually overlooked. PIL expands access to justice by relaxing procedural barriers and ERCs expand State's capacity to regulate complex sectors through specialised institutions. Like PILs, the underlying objective behind establishment of ERCs was also furtherance of public interest, though in a specific technical field. The idea was to institute an authority with expertise, efficiency, and responsiveness in a field where techno-economic regulation was critical. So, ERCs were created as expert quasi-judicial bodies for a specialized sector to protect interest of consumers, end-users or public.

Seen together, PILs and regulatory commissions are complementary innovations – both seek to broaden justice delivery beyond the confines of conventional litigation, one through broadened standing and the other through specialized adjudication. Allowing PILs before commissions, therefore, represents a natural synergy – merging the principle of access to justice with the institutional competence of regulators who are subject matter experts.

11.7 The Torrent Case

The Apex Court's decision in Torrent case stemmed from a petition filed before the Uttar Pradesh Electricity Regulatory Commission (UPERC) by an individual who was not a consumer of the distribution licensee ("discom"). His petition challenged a Distribution Franchisee Agreement (DFA) entered between Torrent Power Ltd. and Dakshinanchal Vidyut Vitran Nigam Ltd. (DVVNL) praying for investigation in the transaction questioning its legality, validity and propriety. DFA gave rights of electricity distribution to Torrent at a fee to be paid to DVVNL. UPERC allowed the petition on the ground of public interest. In appeal by Torrent, Appellate Tribunal for Electricity (APTEL) though held that ERCs can't entertain PILs, but it said that the case was not a PIL and therefore maintainable as ERCs can exercise regulatory oversight over discoms.

The Supreme Court held that while section 128 of the Act permits "any person" to bring information to the Commission for initiating investigation, this does not give the ERCs general power to entertain PILs. The Court emphasized that ERCs and APTEL are creation of a statute and therefore their powers cannot be extended beyond the scope expressly conferred upon them by the statute. Thus, it set aside the orders of UPERC and APTEL clarifying that public interest cannot be the sole ground for ERCs to entertain a petition.

It is important to point out here that the dispute in Torrent case did not involve challenge to validity of any regulation or policy. Rather, it was about a commercial contract entered into between a discom and a distribution franchisee and the regulatory oversight ought to be exercised by the appropriate commission (UPERC in this case). these issues squarely lie within the supervisory jurisdiction exercised by the ERCs.

11.8 Should PILs be Allowed Before ERCs?

The Supreme Court's reasoning in not allowing PILs before ERCs is plausible as it is based on precedents and interpretation of statutes. However, there are several grounds of allowing ERCs to entertain PILs in appropriate circumstances. Apart from the conceptual affinity between PILs and ERCs rooted in respective objects, following factors also support this point:

a. **Constitutional Roots:** The reasoning of the Supreme Court in denying PIL jurisdiction to ERCs is the principle that statutory bodies cannot traverse beyond their enabling legislation. However, this reasoning overlooks the constitutional backdrop against which modern regulatory bodies and tribunals were conceived. The 42nd Constitutional amendment through articles 323A and 323B envisaged specialised tribunals to reduce the burden on constitutional courts, ensure speedy and expert adjudication and create forums that are more accessible to citizens in technical and administrative fields. Although ERCs are established under a statute, their adjudicatory character and institutional design closely align with this constitutional vision of tribalization.

When articles 323A and 323B, which have survived the test of judicial scrutiny, recognize need for alternate adjudicatory forums with specialized expertise, their jurisdiction should not be narrowly confined to boundaries of their parent statutes. A purposive and harmonious interpretation would therefore support permitting ERCs to entertain public interest matters within their sectoral domain, without being constrained by rigid rules of locus standi.

b. **Subject Matter Expertise:** ERCs are staffed with technical and economic experts who understand complex electricity markets, tariff structures, grid stability, procurement practices and consumer welfare metrics – areas where generalist courts often require external briefing or expert inputs. This reality raises a legitimate question

   – if the regulators possess the requisite expertise as well as quasi-judicial status and the constitutional courts anyways require services of experts, should the ERCs not be allowed to address public interest concerns at the first instance? Their expertise of the subject matter positions ERCs to assess systemic grievances more effectively and swiftly.

c **Easy Access to Justice:** For consumers, whistle-blowers, and civil society organisations, approaching a regulator is often less intimidating than approaching a High Court or the Supreme Court. Allowing PILs before ERCs lowers psychological barriers for citizens, consumer groups and civil society organisations to bring systemic issues to regulatory attention without waiting for harm to individual complainants to crystallise. This aligns with the purpose of PILs and enhances regulatory accountability.

d. **Efficiency and Timelines:** Regulatory proceedings are usually faster, less formal, more accessible and more flexible than constitutional litigation. Moreover, regulators have the capacity to undertake sector-wide investigations, issue interim directions, and monitor compliance on a continuing basis – features that are particularly valuable in public interest matters.

11.9 Managing Conflict of Interest

A legitimate concern in allowing PILs before ERCs is the risk of conflict of interest given that the regulators' frame regulations, enforce compliance and adjudicate disputes. The concern is grounded in the principle of separation of powers and argues that allowing PILs in ERCs may blur institutional boundaries as same body will be responsible for prescribing and enforcing policy/regulations as well as adjudication on the same.

However, the appropriate response to this concern is not to exclude PILs altogether but to follow a calibrated approach. PILs challenging validity of regulations or policy frameworks should remain within the exclusive domain of constitutional courts as these are exercises of judicial review. In contrast, PILs alleging regulatory non-compliance, misconduct by any sector participant (s), allegations of collusion against public interest etc. can be taken up by the ERCs.

Additionally, few more safeguards may be adopted to mitigate the risk of conflict of interest:

a. Administrative separation: Regulatory and adjudicatory functions may be separated and handled by different teams.

b. Mandatory recusal: Members involved in approving contested transactions should recuse themselves from adjudicating disputes in those transactions.

c. Cooling-off periods: Officials involved in enforcement of rulemaking may be barred for a fixed time from participating in adjudication of same issues.

d. Enhanced transparency: Public hearings, public consultations and reasoned orders to reduce perception of bias.

e. Appellate oversight: Power of review/revision by APTEL and Constitutional courts preserves

judicial oversight and safeguards against regulatory overreach.

Using above measures, regulators can exercise PIL jurisdiction without compromising institutional fairness.

11.10 Conclusion

The Supreme Court's decision in the Torrent Power case reaffirms the principle of statutory interpretation that statutory bodies cannot assume powers beyond their enabling legislation. However, statutory interpretation should not be done in a silo, it must consider constitutional values, institutional design and practical governance realities.

PILs and regulatory commissions share a foundational connection – they both are a tool to make governance more accountable, accessible and aligned with public interest. Not allowing the ERCs to entertain litigations in public interest will lead to underutilization of institutions which were specifically designed to cater to complex sector-specific issues with public interest as the central theme. Given their constitutional backing, sectoral expertise, easy access and mandate to protect consumers, ERCs are well-placed to adjudicate PILs concerning regulatory compliance, corporate conduct, collusions to harm consumers etc.

Allowing PIL jurisdiction to ERCs with some safeguards – excluding challenges to regulations and policy frameworks but permitting scrutiny of corporate and licensee conduct – offers a principled middle path taking care of concern related to conflict of interest. Such an approach respects constitutional boundaries while recognising the expertise and institutional strengths of regulatory commissions. In an era where governance challenges are increasingly technical and systemic, empowering expert regulators to engage meaningfully with public interest concerns is not only desirable but necessary.

12

INSURANCE SECTOR: REGULATOR AS A STRATEGIC ASSET

Subhomoy Bhattacharjee

12.1 Introduction

Following the RN Malhotra committee report on insurance in 1994, the government of India moved to open up the till then nationalised sector. The committee under the former Governor of RBI had recommended that the private sector be permitted to enter the insurance industry. The report made out a case for foreign companies to be allowed to enter the sector by floating Indian companies, preferably as a joint venture with domestic partners.

Based on those recommendations, in 1999, Irdai was constituted by the Union Ministry of Finance as an autonomous body to regulate and develop the insurance industry. In April 2000, Parliament passed the law making Irdai a statutory body. The key objectives of the regulator included the promotion of competition, enhancing customer satisfaction through increased consumer choice and offering lower premiums, while at the same time ensuring the financial security of the insurance market.

By August 2000, Irdai had opened up the market for competition inviting applications for registration as insurance companies. This included foreign companies too, which were allowed equity of up to 26percent. Irdai drew its authority to frame subordinate regulations under Section 114A of the Insurance Act, 1938. This is the critical clause under which the regulator has continued to issue a vast number of regulations, ranging from registration of companies for carrying on insurance business to protection of policyholders' interests at the other end.

Before we proceed further, note that the Irdai, as a financial regulator, was

A) Incorporated in the 20th century

B) The regulator opened offices in response to the demand to open up the insurance business to the private sector

C) Take advantage of the new technologies emerging to offer wider spread and lower premiums, offering consumers a wider basket of choices

The proposal to offer a 26 per cent stake to foreign insurers was the classic regulatory play. The rules of the game were insulated from the political uncertainties to offer a long-term play to the companies.

Let us examine the regulator from four perspectives

1. Legal challenges
2. Ease of Regulations
3. Impact on Business
4. Impact on Consumers

12.2 Legal Challenges:

In the Indian regulatory environment, getting the requisite laws passed for the regulators to operate has been relatively straightforward. Once the laws were passed, the regulators have essayed their role within the ambit of these laws. Their own regulations have had the force of delegated legislations.

This has also been made possible because most of the laws relating to the sectors had in built provisions for setting up a regulator. So the Indian Parliament gave a wide latitude to the regulators to decide on how to modernise the sector, bring in competition and protect the interests of the consumers. An example is the Electricity Act of 2003, under which the Central Electricity Regulatory Commission was established.

The exception was the insurance sector. The Insurance Act of 1938 was older and had detailed provisions to guide the sector. As a result, every time the regulator wished to bring in changes, the law had to be amended. For instance, the periodic raising of the limit for foreign direct investment, unlike other sectors, had to be referred back to Parliament because of this rigidity. This created regulatory uncertainty and made businesses circumspect about putting more finance into the sector. It even made it difficult bringing in regulations for consumer-friendly moves like making the health insurance business more flexible.

Recognising this straitjacket, several provisions of the Act had to be rewritten in 2015. As a Government press note issued after the amendment noted; "The passage of the Insurance Laws (Amendment) Bill, 2015 paved the way for major reform related amendments in the Insurance Act, 1938, the General Insurance Business (Nationalization) Act, 1972 and the Insurance Regulatory and Development Authority (IRDA) Act, 1999…The amendment will remove archaic and redundant provisions in the legislations and incorporates certain provisions to provide Insurance Regulatory and Development Authority of India (IRDAI) with the flexibility to discharge its functions more effectively and efficiently"[88]. (sic)

12.3 Ease of Regulations:

From this perspective, Ease of Regulations means how adroitly the regulator has developed a legal framework that helps companies to enter and expand in the sector. From the Indian perspective, this also means dealing with conflicts of interest.

To insulate the market from the reach of the political executive, one of the first steps Irdai took was to separate the governance of the state-run insurance companies from the government. In December 2000, the structure of the General Insurance Corporation of India was dismantled. Instead, there were now to be four state-run independent companies competing among themselves and with the emerging private sector companies. The market was broadened to make the General Insurance Corporation into a national re-insurer. This, too was a technological play. Re-insurance, a technologically sophisticated business, got an Indian face.

However, while this proved relatively easy in the non-life space, the life insurance business was trickier. Irdai had to wait till 2022 to change the legal scaffolding of Life Insurance Corporation (LIC). The company was established by an Act of Parliament, which predated the establishment of Irdai. As a result, a lot of changes in the capital structure of LIC had to be made before the company could offer a public issue. This was, however, most significant. We shall examine this subject again when dealing with the "impact on consumers".

[88] Press Information Bureau, Government of India, Ministry of Finance, March 13, 2015 https://www.pib.gov.in/newsite/printrelease.aspx?relid=117043

Suffice it to note here that the delays in the dismantling of the privileged status of LIC had a cascading impact. Reforms in the life insurance sector have trailed those in the non-life.

Episode 1:

In the non-life space, Irdai stopped the practice among the non-life companies, mostly state-run then, to set the same premiums as per a Tariff Advisory Committee. This practice had killed any competition in the sector, and it was a relief when it was abolished. This was an anti-competitive behaviour that would have been frowned upon by the CCI.

The dismantling of these practices, created its share of problems. Without the support of such an agreed premium structure, the industry found itself without any guardrails. Problems emerged as companies resorted to rampant discounts, taking down premiums to absurd levels. It was suspected that the insurance companies would go bankrupt, putting at risk the financial safety of lakhs of insured people. The spectre was held up as evidence of regulatory failure.

What was not realised was that it was the presence of Irdai that forced the companies in the sector to make their undercutting transparent. It also allowed the Irdai to come up with solutions that used technology and the force of law to make the companies retrace their perilous undercutting.

The response by the Irdai was to develop the practice of actuaries. These professionals were necessary for any insurance company to employ to provide the guardrails of how underwriting should be practised. This involved setting up the training infrastructure, the system of qualifications and related issues.

There are many more, but it will be good enough to note that with each year, the regulator has gotten stronger. A piquant situation developed when there was possibly the first public face-off between two regulators. This was Irdai and the Securities and Exchange Board of India.

By 2008, the expanding ranks of insurance companies had found it necessary to expand their profitability. One of the means they discovered was to sell a hybrid insurance cum investment policy with a tax saving option, known as ULIP (unit linked insurance product). It rapidly caught the attention of customers as an alternative to mutual funds. Data shows that between 2008-10, the total investment into ULIPs was Rs 135,256 crore, with the number of policies sold at 71.97 million. This was multiple of the investment corpus of the mutual fund industry. (We examine those issues in our detailed paper on Irdai)

The dispute was one of the reasons for the Union Finance Ministry to set up the Financial Services Legislative Reforms Commission or FSLRC. By offering the insurance companies strong support in the dispute, the Irdai bolstered their confidence.

Episode 2

A series of far-reaching regulatory changes were put into motion in the period 2022-25, in response to several developments. The number of insurance companies in the economy had expanded, they had brought in vast pools of capital, but the benefits in terms of benefits for the citizens, especially those from the weaker income group, were not visible.

The Irdai, as the regulator, began a series of reforms to address this shortcoming. The exercise began with Irdai taking up a comprehensive review of the regulatory framework to promote the ease of doing business by reducing the compliance burden. Yet the goal of protecting of policyholders' interests was kept paramount. The initiative represented a significant shift towards adopting global best practices, emphasising proportion-ality, materiality,

and a comprehensive analysis of the activities of regulated entities.

In the process, all the regulations, circulars and guidelines pertaining to the insurance sector were re-evaluted and examined for their relevance, agility, simplicity and adaptability, along with the associated burden and the cost of compliance. One of the key elements of the evaluation exercise was wide consultations with stakeholders in particular and with the public in general. These consultations "imparted critical inputs and deep insights resulting in better understanding of the ground realities, the needs of the sector and the transformations required therein"[89].

This extensive and participative process led to the condensing of the number of regulations pertaining to insurers and intermediaries to almost a third—28 from 78 as on 31st March, 2024. Similarly, to reduce compliance burden and to enhance operational efficiencies in the insurance sector, a huge number— 167 circulars were repealed. Irdai issues an average of 45 circulars a year, so this meant erasing about three years of work.

Further, 82 returns have been rationalised and a one-stop reference for all regulatory returns to be filed with the regulator was provided for. The revised framework is principle-based and allows sufficient flexibility to insurers with necessary guardrails, reducing their compliance cost. A sunset clause of three years has been added to ensure regular /periodic review and incorporate dynamism into the regulatory landscape.

These principles-based regulations are now ten. An inspection of these principles shows they have been brought in after a thorough review of the insurance sector's regulatory framework. They cover critical areas or what can be called typical pain points, such as protecting policyholders' interests, obligations towards rural and social sectors, motor Third Party insurance, electronic insurance marketplace –popularly known as 'Bima Sugam', unified norms for all category of insurance products, operation of foreign reinsurance branches, and aspects relating to registration of insurance companies, actuarial practices, finance, investment, expenses of management including commission and corporate governance.

To sum up these changes amalgamate rules into what a regulator is essentially supposed to offer. A principle-based regulatory framework. It has decluttered the Irdai table, allowing it to consider a Risk-Based Supervisory (RBS) framework for the Indian insurance industry and for consumer protection.

Essentially, as the scale of the two Episodes shows, these exercises are impossible tasks for any other branch of the government, particularly to be executed on a piecemeal basis. The presence of the regulators provides a set of orderly conditions for the sector to develop. In the two decades since 2000, the Irdai has issued 169 regulations, each of which can be broadly described as subordinate legislation. For a 24-year period, this works out to a frequency of 7 per year or one every two months. All of them became necessary to issue as the sector expanded (see Annexure 1).

12.4 Impact on Business:

By 2024 there was 73 companies in the sector which write life, non-life, health and agriculture insurance policies, besides of course, re-insurance. The total insurance premium generated is Rs 11,19,613 crore and total claims paid out is Rs 7,66,172 crore, which is 3.46percent of the Indian GDP. (December 2024). The domestic market has expanded at a CAGR of 17percent over the past two decades. By the end of FY26, the total premium is projected to reach Rs. 19,30,290 crore, or roughly $ 222 billion.

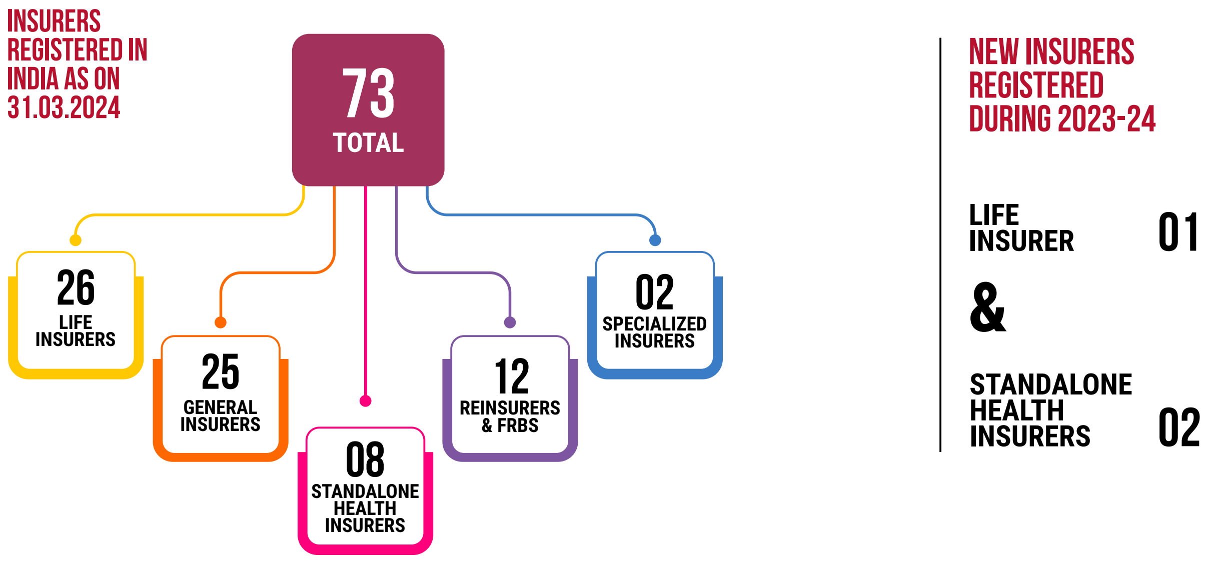
This is the fifth largest insurance market in the world. Yet in the year 2000, except the government

[89] Annual report, Irdai 2023-24 its col. page 62

run companies, none of the others were in business. It is easy to say that none of these would have been possible without the ease of bringing in new regulations, the sustained amendments in them and more. These developments have both, opened new avenues for growth as well as allow scope to the insurers to take their business up to speed with the latest technology.

17percent over the past two decades. By the end of FY26, the total premium is projected to reach Rs. 19,30,290 crore, or roughly $ 222 billion.

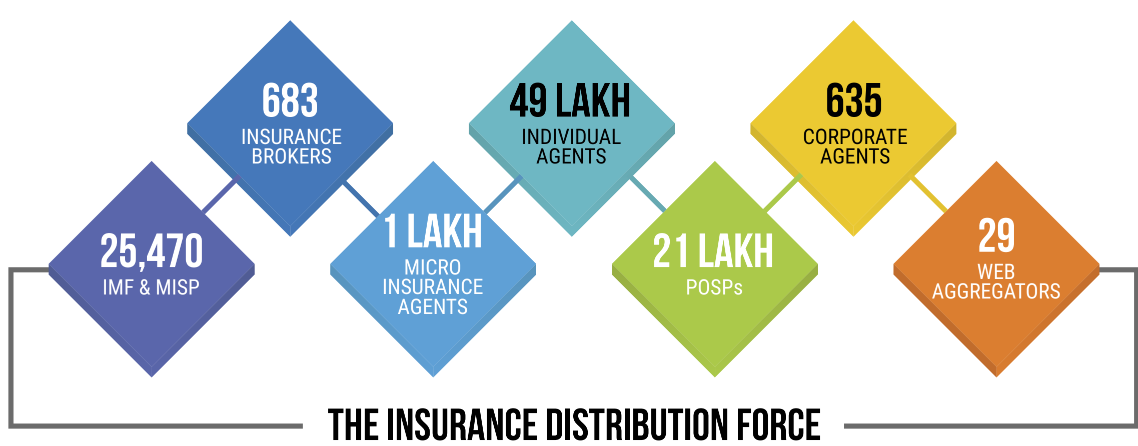
INSURANCE SECTOR IN INDIA



Source: Irdai Annual Report—2023-24

But those numbers, impressive as they are, do not do justice to the expansion of the sector. It is the sales force of insurance agents, points of sale presence, insurance brokers and insurance market players who provide the cutting edge for the delivery of business in the sector, for the citizens.

INSURANCE DISTRIBUTION AT A GLANCE



Source: Irdai Annual Report—2023-24

There are, of course, sore spots. The most visible is the shallow insurance penetration in India at 3.7 per cent against the average of 7 per cent for mature economies. Some of the shallowness is also due to

the low per capita income of India, which makes the buying of an insurance policy, even for health cover, a costly exercise for families.

There are numerous other data points like assets under management or the total insurance premium, all of which demonstrate that the sector has prospered with the nurturing of the regulator.

To understand the specific impact on business, let us examine how a very new area of insurance business has been impacted through regulatory actions. This is Re-Insurance. The government of India decided that India should emerge as a reinsurance hub in Asia. This was signing on to a business opportunity, but only if the regulator understood each step of the sequence.

Reinsurance is a most consequential tool for insurers to manage earnings and tamp down balance sheet volatility. Reinsurance offers insurers the scope to limit their exposure to large risks and resultant catastrophic events.

An early step taken in this context was just after the market was opened. India did not have a reinsurance company till GIC Re was transformed from a holding company to one in the reorganisation of the state-run non-life companies in 2000. The more notable changes happened much later with the enactment of the Insurance Laws (Amendment) Act, 2015. The Act facilitated the entry of major global reinsurers into the Indian market through their branches.

To make the new architecture viable Irdai brought in (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations 2015, and the IRDAI (Lloyd's India) Regulations 2016. The regulations allowed that, other the Indian reinsurers, essentially GIC Re, foreign reinsurance branches (FRBs) registered with Irdai could also provide this business. The regulator ramped up this architecture further by allowing Insurance Offices of foreign companies located in the Gift City and small cross-border reinsurers to also enter the Indian market. These were Irdai (Re-insurance) Regulations 2018.

To make the process easier, Irdai notified the Irdai (Re-insurance (Amendment) Regulations in August 2023. These regulatory changes were thus taken in sequence, like steps in a dance form. Notice, these were all regulations and so within the ambit of the Irdai. The Amendment Regulations brought changes to the earlier regulations 2018, mandating the minimum retention of 50 per cent of the business within India of the Indian reinsurance business underwritten. A new and simplified Order of Preference was instituted for a business to be hawked by a company. Instead of a six-tier system, it was streamlined to four levels. Simultaneously, the compliance and reporting requirements were simplified. The Amendment Regulations also introduced relaxations in terms of the manner and format of the regulatory filings as well as the records to be maintained by Indian Insurers.

Finally, the minimum capital requirement for opening a new office of a foreign reinsurer was lowered to Rs 50 crore, halving it from the earlier limit. As the Irdai itself noted "The Amendment Regulations signify a significant shift in India's reinsurance landscape, fostering a more favourable business environment and positioning India as a leading global reinsurance hub"[90]. Eleven of the world's leading reinsurance companies have established bases in India by this decade.

The results! Foreign reinsurers have rapidly expanded their market presence in India, with their share, in terms of gross written premiums (GWP), almost doubling from 25.8 per cent in 2019 to 49 per cent in 2023 (financial year ending March 2024). Their market share is estimated to surpass 50 per cent in 2025, according to Global Data, a leading data and analytics company. Of course, there is a concentration risk. The market share of the top four foreign reinsurers increased from 19.4 per cent in 2019 to 44.4 per cent in 2023. The analysis adds that this expansion is "attributed to the supportive regulatory environment, competitive pricing, flexible terms compared to General Insurance Corporation of India (GIC Re), a growing economy, and increasing insurance penetration". In other words a very strong endorsement of the regulatory steps.

[90] Insurance Sector, India: https://www.ibef.org/industry/insurance-sector-india

12.5 Impact on Consumers

When we turn to the impact on the consumers, the picture is less than effusive. But let's take the positives, first. Chart 2 shows the impact on consumers. In the pie chart of insurance distribution workforce, there is the category of micro agents, who number about a lakh. They sell insurance policies to the low-income groups with small ticket sizes. Just in FY24, a total of 17.8 crore lives were insured under this category of group micro insurance business. Remember, these agents are not tied to only one monolithic insurance company. It is impossible to conceive of such a scale of operation by a government ministry, by say, apportioning business across companies, nurturing those micro agents and generating confidence among the people in the small towns and sometimes semi-rural areas to do so.

What the numbers therefore describe is a sampler of a vast network that expands insurance coverage across the country. We can then clearly discern that the explosion in the number of insurance companies, of intermediaries and even of the populace seeking insurance needs a regulator to mediate.

One of the negative aspect is that of mis-selling of insurance policies. Mis-selling in the Indian insurance sector "is a significant concern that involves the sale of insurance products to consumers without proper disclosure of terms, conditions or suitability. Insurers are encouraged to tackle the problem of mis-selling by conducting a root cause analysis to identify the underlying causes. To prevent or reduce mis-selling, insurers have been advised to implement strategies such as assessing product suitability, implementing distribution channel-specific controls and developing a plan to address mis-selling grievances, including carrying out a root cause analysis on periodic basis. That 24 years into the business, Iraqi has to make this assessment is an unnerving admission of a huge reputation and risk problem in the sector.

Seen against the profile of the total business of the sector, the numbers are not huge. The number of life insurance claims related grievances per thousand claims reported was about 12, whereas the same in the case of general and health insurance was about 0.6. But perception matters.

The problem is most acute in the health insurance business. Early in 2025, the CEO of UnitedHealth Insurance in the USA was shot dead by an alleged dissatisfied customer, which speaks volumes about the regulatory risk in the sector.

Yet the route to solve the problem is also through the regulator. Particularly so as these numbers also make it clear that it is only a regulator without skin in the game who can afford to issue circulars and legislations which will be supported by every insurance company or a distribution intermediary.

It is appropriate, then to ask a counterfactual. Would the developments have gone through if there were no Irdai and the sector was instead nurtured by a combination of Parliament and the finance ministry as the executive? If the finance ministry had to issue each of them, it would have needed to drop every other sector and only focus on the sector. It would have needed to listen to the perspective of each of the 73 companies before bringing those out, check up with the other ministries concerned and then got down to the task of issuing those.

And all the while, since it is also the largest shareholder of five of the biggest insurance companies, the steps would have created a legal conundrum. Ministry executives sit on the board of all the five insurance companies. There was thus a direct conflict of interest with the other 68 companies.

The counterfactual is easy to answer in another way, too. It might seem that the rapid pace of issue of circulars and subordinate legislations over the years and the stagnant insurance penetration may be militating against the aim of offering certainty of policies. Yet despite the numbers, notice that all circulars and subordinate legislations have been issued under one common Insurance Act of 1938 and the Irdai Act of 1999. So the source of the legislation was not disturbed. The enthusiasm of both domestic and foreign companies in opening businesses in the sector and finally the demand to raise the FDI limit for the sector to 100 per cent, is a testimony that the regulatory experiment has succeeded.

12.6 Regulators as Strategic Assets

Yet the 21st century has introduced several challenges to the regulatory model, cutting across sectors. Of them, two are the most critical. The first

of these is the network effect and the role of Machine Learning. The second is the sharply increasing alignment of business with the dominant political ideology of the country. Both these trends are happening globally.

Business in the twenty-first century is often getting linked with the aims of the political executives. In the prevailing climate of retreat from globalisation, it is open to question if the principles of regulatory detachment from business, hold. Leading companies in each major economy have begun to move almost in lockstep with the political formations. Sometimes it is the companies that are getting into governance.

For instance, one of the earliest manifestations of the growing political alignment in any economy came from the USA. The bailout of AIG by the then-US administration happened in 2008 at the depths of the global financial crisis. There was no clear reason why the bailout happened except that the company had strong support in the US Congress.

By 2025, countries are developing payment mechanisms that sidestep Swift. The supply chain shocks are encouraging unconventional responses like the deployment of navies to escort commercial shipping fleets. The race for critical minerals among countries and for the setting up of semiconductor design and fabrication units is another manifestation of the same tendencies. The governments of the day are wedging themselves into the economic life of their citizens. To take advantage of these new trends and also, at times to shield themselves from competition, companies are aligning themselves vigorously with the political executive. In that sort of a tight embrace, it is difficult for a regulator to suggest that the efficiency of the market must segregate between a winner and a loser. It is impossible to ask if a health or a life insurer in India will be allowed to go down under when they are seen as most essential to the perceived well-being of the economy. So measurement of the efficiency of the capital becomes a difficult exercise in such an environment.

Consequently, it will be very difficult for the regulator to admit to strong political baggage and yet enforce financial discipline for one or more companies. In sectors like electricity distribution, where the companies are often parastatal, the impact on the financial probity can be easily guessed.

Even more than the impact of the steps taken in the Global Financial Meltdown of 2008, has been the recent tie-up (and split) between the fortunes of the current US Presidency and that of corporate interests. It is a no-brainer that corporate interests will be a powerful ballast to a political party in a democracy.

However, the sine qua non of the regulatory structure was that it is apolitical. The essence of globalisation in the 20th century was the felt need for an apolitical environment where capital could be deployed solely based on risks of the market, existing technology and the share of competition, devoid of any extraneous risks like that of political expropriation, sanctions and so on.

The rise of the regulator was meant to create an environment where this congruence did not become overbearing. The regulator was meant to create a space for other

There are more. Technology, of which machine learning is the most prominent, has vastly altered the precepts of competition. One of those is also the network effect, which offers a massive advantage to the first mover in any sector. The others are climate risks and the consequent changes in the demands of the citizens.

Taken together, citizens are goaded to respond to governments much more frequently than the 20th-century model of governance implied. This has also become possible as technology has made it easier for the governed and those governing to be in contact with each other.

These risks, which may be described as unknown risks, have invaded all businesses. Companies from the West cannot invest in countries that face sanctions, or wars disturb the supply chains. Financial plumbing, like international transfer of money through banks like Swift, has itself been weaponised. In this context, the guidance of business by a regulator might have to sweep in the political currents. The laws themselves may have to be rewritten.

Let us examine the state of play of the insurance sector via this prism. The first is the inflow of foreign capital. The Irdai has signed on to an

amendment of the Insurance Act to allow foreign direct investment in insurance companies to reach 100 per cent.

This is epochal, even more than the fraught decision to allow 26 per cent FDI in the sector in the year 2000, because nations are retreating into isolation in insurance, like many other sectors. The first is the fear that a foreign company could be a front for money to roll in from unfriendly countries. Blocking those is often beyond the remit of the regulator and has to be decided politically. The other is often a non-economic consideration, that the financial safety of the citizens of the country may not be decided upon by a foreign-owned company.

The other is the government's impatience with the supposedly slow speed at which insurance is spreading in the country. The union government has itself devised umbrella schemes to reduce the gap in the coverage that citizens can get. These are PM-JAY : Pradhan Mantri Jan Arogya Yojana, PMFBY : Pradhan Mantri Fasal Bima Yojana, PMJDY: Pradhan Mantri Jan Dhan Yojana, PMJJBY : Pradhan Mantri Jeevan Jyoti Bima Yojana, PMSBY : Pradhan Mantri Suraksha Bima Yojana, PMVVY : Pradhan Mantri Vaya Vandana Yojana

Once the contours of the schemes have been framed by the government, the insurance companies have been left with the sole role of marketing those. The regulator's role is more emasculated in the circumstances. The usual rules to judge the viability of the schemes have not been undertaken, nor has the regulator the option to alter the terms of the schemes to offer the underwriters a chance to create policies that do not ravage their balance sheet. Instead, it simply notes, "To enable greater coverage of lives, the proportion of lives stipulated as social sector obligation has been raised from 0.5-5 per cent to 10 per cent of all lives covered for all Life, General and Standalone Health insurers. This shift widens the social sector insurance net significantly, bringing more lives under its protection "[91].

Similarly, the revised Motor Third Party Regulations move away from focusing on each insurer's Gross Direct Premium, and instead emphasise the market share of the insurer and growth in the number of insured vehicles. Each company has been assigned a year-on-year target percentage increase in renewed policies of insured vehicles and coverage of uninsured vehicles. These targets basically divvy up the uninsured pie and ask the companies to cover those.

While companies have been laggards in selling third-party insurance, several other factors limit them, too. But as the target is a political one, the regulator feels constrained in offering leeway to the companies in meeting the targets.

Moving on to a general issue vis-à-vis the regulators, it is clear that these examples could be multiplied. They are infact, becoming the norm. Overall they demonstrate the supposed emasculation of the role of the regulators. The developments point instead to the government's keenness to direct the economic outcome of sectors.

In this context, would the political executive align with the regulator to punish a recalcitrant company in a financial meltdown? Imagine what could happen if the financial solvency of a company goes below 150. Yet the company may have met the political goals splendidly. For instance, should space programs be subject to risk risk-return ratio, when the nation is also determined to use the domain as a defence multiplier. The risks are clear, but the solutions are not easy to offer.

The scale of the convulsions is so high that even conventional boardroom issues like ESG and DEI, which were considered fairly straightforward, where the regulators had begun to issue directions, have taken sharp tones.

If the political executive and the legislature in this new environment still feel convinced to let the regulator guide the sectors, take unpleasant decisions, and ask for expansion of their remit, it can be safely assumed that the regulators have become strategic assets.

[91] Annual Report 2023-24.pdf, page 71, Box II.2; https://irdai.gov.in/document-detail?documentId=6436847

13

IS MENS REA RELEVANT FOR PROSECUTION UNDER THE INSIDER TRADING REGULATIONS?

Meghmala Mukherjee

It is a well-known fact that detecting insider trading is one of the most difficult tasks for any securities regulator. The anonymity of trades executed on stock exchanges provides a veil for individuals undertaking such actions. Prosecution against insider trading is of paramount importance, as it is directly linked to investors, both retail and institutional, having more faith in the securities market and thus investing more, thereby bypassing the ills identified in the famous lemons market theory. However, over the past few decades, instances of successful prosecution against insider trading have increased in India. SEBI has employed multiple investigative methods to identify and penalise the perpetrators, thus ensuring continued confidence in the Indian stock market.

Recent instances of SEBI penalising for insider trading include:

Date	Details of Case	Amount (in INR)
May 20, 2025	Arun Khurana, Sumant Kathpalia, Sushant Sourav, Rohan Jathana, Anil Marco Rao (IndusInd Bank matter)	19,78,08,053
July 29, 2025	Rupesh Satish Dalal HUF (HDFC matter)	10,00,000
September 17, 2025	Ajay Bhatia and Supreet Singh Luthra (Adani Group matter)	1,59,34,000
October 15, 2025	Indian Energy Exchange Limited (IEX) matter	173,14,00,000

Prosecuting insider trading is not an easy task. Apart from anonymity, there are questions of intention and actions. The SEBI (Prevention of Insider Trading) Regulations, 2015 ("2015 Regulations") and the erstwhile SEBI (Prevention of Insider Trading) Regulations, 1992 ("1992 Regulations") do not specify mens rea (i.e. guilty mind) as a component in determining insider trading in the Indian securities market. Regulations 3 and 4 of 2015 Regulations are clear – neither insiders can communicate, provide or allow access to any unpublished price sensitive information ("UPSI"), nor can people procure such UPSI from insiders; and no insider, when in receipt of UPSI, can trade in securities listed or proposed to be listed, unless so exempted. The list of exceptions is peppered along Regulations 3 to 5, including takeovers, block trades, and trades made pursuant to trading plans by such insiders.

However, the situation varies across jurisdictions.

In 2001, the SAT noted that, pursuant to the penal consequences for insider trading, it is relevant to consider the intention or motive of the persons indulging in insider trading. Thus, if a person indulged in insider trading without having any intention to gain an undue advantage, then such a person cannot be charged with insider trading. In the last few years, the Hon'ble Supreme Court has also doubled down, stating that the motive for making a gain is essential for a charge of insider trading. However, in such cases, the motive is linked to the corporate purposes, i.e. only if the trades were undertaken for a "legitimate purpose".

However, this inclusion of motive in determining guilt under the insider trading regulations has not always been accepted. In a subsequent case in 2005, the SAT agreed with SEBI's argument that a purposive interpretation of the 1992 Regulations cannot be undertaken, and legitimate corporate purpose cannot be read into the legislation. Similarly, in 2006, the Supreme Court also noted that mens rea is not an essential ingredient since insider trading is a civil legislation, and proving mens rea is not a prerequisite before levying any penalty.

The absence of mens rea from the regulations by the Indian regulator is deliberate, and not a drafting oversight. This can be evidenced from the Note to Regulation 4 of the 2015 Regulations, which inter alia provides that the 'reason for undertaking trades or the purposes to which he applies the proceeds of the transactions are not intended to be relevant for determining whether a person has violated the regulations'.

Some argue that by including the exception of 'legitimate purpose' in Regulation 3, SEBI has implicitly agreed that mens rea is a relevant factor in determining guilt under the 2015 Regulations. However, we contradict this. The mere inclusion of the 'legitimate purpose' exception does not take away the restrictions imposed on trading based on UPSI under Regulation 4 of the 2015 Regulations. What this exception allows is for UPSI to be communicated to facilitate legislate business transactions. India follows the principle of "limited parity of information theory", which expounds that if certain conditions are fulfilled, insiders are permitted to selectively disclose UPSI. Thus, the core principle subsists - that even if UPSI is received by a person for a legitimate purpose, they cannot use the UPSI to trade, whether or not a profit is made pursuant to such a trade.

Thus, the question remains open for our consideration. We aim to review all case laws under the insider trading regime to determine the current position of the law on a year-by-year basis, determining the percentage of persons who have been found guilty even in the absence of mens rea, i.e., the judicial bodies refused to accept the absence of mens rea as a legitimate defence to insider trading. This also includes consideration of the jurisdiction of the SAT and the Hon'ble Supreme Court to determine the law of the land. This will assist SEBI in investigating and prosecuting more persons who may have indulged in insider trading. This will increase market confidence in investors (both retail and institutional), at a time when we are seeing many foreign portfolio investors (FPIs) exiting the Indian stock markets, causing losses to the companies and the indices.

While mens rea is a significant issue, SEBI's enforcement effectiveness is also challenged by other substantive defences that have gained traction in appellate forums:

1. The Counter-Trade Defence: For instance, in SEBI v. Abhijit Rajan, the Supreme Court considered the defence of counter-trades, where the accused argued that they had undertaken both buy and sell transactions, resulting in net losses, thereby negating any profit motive. This defence raises critical questions: Should overall trading patterns negate individual trades made with UPSI? Does the absence of profit undermine the strict liability framework of the 2015 Regulations?

2. The Legal Necessity Defence: In Rajiv B. Gandhi v. SEBI, the defence of legal necessity was raised that trades were undertaken not to profit from UPSI but to meet urgent financial obligations such as debt payments or discharge of existing liabilities. Courts have shown varying degrees of sympathy to such defences, potentially creating enforcement uncertainty. The question arises: Should urgent financial necessity constitute a valid defence under a strict liability regime?

3. Evidentiary Presumptions and Burden of Proof (Balram Garg v. SEBI): The 2015 Regulations contain presumptions to assist enforcement - particularly the presumption that a person in possession of UPSI is deemed to have traded on the basis of such information unless proven

otherwise. However, the effectiveness of these presumptions in actual litigation remains unclear. Are these presumptions being rebutted easily? Is the burden of proof being diluted during appellate proceedings? Are evidentiary standards being applied inconsistently across SAT and Supreme Court?

These defences, individually or in combination with mens rea arguments, may be creating significant gaps in SEBI's prosecution efforts.

Understanding their prevalence, success rates, and judicial reasoning is essential for determining whether the problem lies in:

- Legislative gaps - the regulations themselves need amendment
- Regulatory gaps - SEBI's enforcement approach or evidence gathering needs strengthening
- Judicial interpretation gaps - courts are reading defences into strict liability provisions that the legislature did not intend

Pursuant to such determination, the other question to be considered is whether SEBI needs to amend the 2015 Regulations to include mens rea as a component and amend the note to Regulation 4. This would align with SEBI's intention to bring the 2015 Regulations in line with international standards.

This will also assist in the following:

- Counter-Trade Cases: Frequency and success rate of counter-trade defences; judicial reasoning for accepting/rejecting such defences; impact on overall deterrence
- Legal Necessity Cases: Pattern of cases invoking financial necessity/debt discharge defences; standards applied by courts to evaluate legitimacy of such claims
- Presumption Analysis: Effectiveness of statutory presumptions under Regulation 4; rate at which these presumptions are rebutted; evidentiary standards required to overcome presumptions; consistency across judicial forums
- No Profit/Benefit cases.
- Combined Defence Strategies: Cases where multiple defences (mens rea + counter-trade + necessity) are raised together and their cumulative impact on prosecution success

The research will span over a period of 1 year, commencing from February 2026. We will commence with analysing cases under the 1992 Regulations, which will take 2 months, and then proceed with analysing case laws under the 2015 Regulations. As the analysis is proposed to be undertaken on year-on-year basis, we anticipate that analysing case laws from each year under the 2015 Regulations will approximately take 2-3 weeks. We will also continue our monthly discussions to discuss our preliminary findings and the views from each party.

Expected role of NISM: Assist in the interpretation of case laws, analyse their impact on a yearly basis, and include their recommendations.

Expected role of SEBI: Discuss their viewpoints on the matter, and why they are against the inclusion of mens rea in insider trading. This may include sharing with us and NISM of the arguments made before the relevant tribunals and/or courts, informal guidance issued to stakeholders, Committee reports, and any other resources as they deem fit.

14

COMPETITION IN CIVIL AVIATION: THE REGULATORY QUARTET-DGCA, AERA, AAI & CCI

Leela Tarang Krishna Paladugu

14.1 Introduction

The ambitious scope of India's Aviation Vision 2047—forecasting over 1.1 billion passengers across 350 airports requires a sophisticated, multi-layered governance system. This framework is anchored by the "Regulatory Quartet": the Airports Authority of India (AAI), the Airport Economic Regulatory Authority (AERA), the Director General of Civil Aviation (DGCA), and the Competition Commission of India (CCI).

This paper argues that India is pioneering a unique model where these four bodies collaboratively and actively steer the market through distinct but complementary strategies: AAI fostering competition for the market, AERA simulating competition in natural monopolies, DGCA regulating market behavior (e.g., slots and pricing transparency), and CCI acting as the ex-post guardian.

This article first outlines the statutory basis, including the new Bharatiya Vayuyan Adhiniyam (BVA), 2024, and then analyzes recent regulatory actions to demonstrate the depth and synergy of this competition framework.

14.2 Statutory Frameworks

The legal governance of India's airports and air transport services is a multi-layered architecture where three primary bodies—AAI, AERA, and the DGCA—manage the infrastructure, economics, and technical standards, respectively.

AAI:

Established under the Airports Authority of India Act, 1994, the AAI functions as both a service provider and a developer. The core of its economic power resides in Section 22, which empowers the Authority to charge fees or rent for the landing, housing, or parking of aircraft, and for providing air traffic services, ground safety, and passenger amenities. While AAI manages the regional airports (airports under 3.5 Million Passengers), its role in competition is most evident through Section 12A, which allows it to lease airport premises to private entities in the public interest, thereby transitioning public monopolies into regulated private concessions.

AERA:

AERA is the specialized economic referee regulating the tariffs collected by private players under the Public-Private Partnerships (PPPs), from embarking & disembarking consumers. It ensures that they do not abuse the natural monopoly granted to them by the virtue of construction & management of the airports with annual passenger traffic exceeding 3.5 million.[92]

Its mandate is grounded in Section 13 of the Airports Economic Regulatory Authority of India Act, 2008. As per the provision, AERA is required to determine the tariff for aeronautical services by considering specific building blocks: the capital expenditure (Capex) incurred, the quality of service provided, the cost of improving efficiency, and the revenue received from non-aeronautical services.

[92] Airports Economic Regulatory Authority of India, 'Major Airports under Section 2 (i) of the AERA Act, 2008' (Public Notice 03/2025-26, 8 May 2025).

AERA does not collect these tariffs; instead, it sets the price caps that airport operators, including AAI or private firms like GMR and Adani, must follow.

DGCA:

As of January 1, 2025, the DGCA operates under the Bharatiya Vayuyan Adhiniyam (BVA), 2024, which modernizes the regulatory regime and replaces the Aircraft Act of 1934. Under Section 10 of the BVA 2024, the Central Government is empowered to make rules for the regulation of air transport services. This includes the licensing of persons employed in aircraft operations, the certification of aerodromes, and the supply of air-route beacons. While the DGCA is primarily a safety regulator, Section 10 gives it a hand in the economic environment by requiring it to monitor the prices (i.e. tariffs) cited by airlines to the consumers under Rule 135 of the Aircraft Rules, 1937, to ensure transparency.

CCI:

CCI is mandated by the Competition Act, 2002 to promote and preserve competition and eliminate practices that have an Appreciable Adverse Effect on Competition (AAEC). Its primary tools for market regulation are Section 3, which prohibits anti-competitive agreements, and Section 4, which prohibits the abuse of a dominant position. The CCI holds exclusive jurisdiction over conduct that harms the competitive process, as its mandate is to safeguard the market structure and consumer welfare rather than resolve private contractual disputes. Its mandate is cross-sectoral, applying to all industries and regulating the behavior of enterprises within them.

14.3 Sectoral Strategies towards Competition

Each sectoral entity uses its mandate to foster a specific type of competition. AAI uses it to foster competition for the market – that creates an airport run by an airport manager; AERA utilizes its mandate to regulate the natural monopolistic characteristics of an Airport Manager – by limiting the charges that can be levied by the airport manager on the consumers and customers; DGCA uses it to determine safety measures and regulate the facets that are un-regulated by AERA & AAI; & CCI, naturally, acts as the cross-sectoral guardian of competition, regulating the behaviour of the players inside the market.

AAI:

AAI fosters competition primarily through its role as the concessioning authority. By leasing airports under Section 12A, it invites global and domestic players to bid for the right to operate infrastructure And its recent strategy to bundle metro centers with regional areas - aims to establish a new paradigm for airport development.

In February 2026, the AAI initiated the third round of airport monetization, bundling five large airports (Amritsar, Varanasi, Bhubaneswar, Raipur, Tiruchirapalli) with six smaller ones (Kangra, Kushinagar, Gaya, Hubli, Chhatrapati Sambhajinagar (Aurangabad), Tirupathi.[93] This bundling strategy uses the revenue-generating potential of profitable hubs to cross-subsidize and modernize loss-making regional airports, ensuring that competition & development are not limited only to metro centers.

AERA:

Because airports are natural monopolies and the players under the PPP's are prone to abuse such a power by charging extra-ordinary costs from the consumers and the airlines, AERA is essentially tasked to simulate competition where it naturally lacks.

It achieves this by setting a maximum allowable yield per passenger (calculated by the amount of money required as investment by the airport developer, profit divided by the total number passengers expected in the 5-year control period)

[93] Airports Authority of India, 'Bids for privatisation of 11 airports by April' (Corporate Communications Directorate Press Clipping, 11 February 2026).

and determining, out of the Maximum allowable yield per passenger, specific user development fee (paid by the user at the time of purchase) & aeronautical revenue / tariff (paid by the airline utilizing the services within a certain set of time).[94]

To ensure the charge levied on the airlines and users, it even adapts a 'Hybrid till' model wherein a portion (30%) of non-aeronautical revenue revenue—from retail, duty-free, and parking services inside the airport—are used to cross-subsidize and lower the aeronautical charges – charge for fuel, ground safety, cargo – collected by airport managers.[95]

This price ceiling by a regulator impacts competition in two ways: Firstly, it ensures the Airport manager, who has the natural monopoly, to strategise development over the control period which will attract new consumers, airlines and non-aeronautical service providers.

Secondly, it improves inter-brand competition between different airport managers located close-by geographically. To illustrate, take the AERA's decisions on the Noida International Airport (NIA). By proposing an ad-hoc User Development Fee (UDF) ranging from ₹210 to ₹980,[96] AERA ensured that NIA remains a cost-competitive alternative to Delhi's IGI Airport, (which charges between ₹129 & ₹810) it introduced regional competition into the NCR catchment area.[97]

DGCA:

From the very outset, DGCA approaches regulation of aerospace and competition from a behavioural regulator point of view. The very fact that it introduces the idea of aerodrome[98] (the area, including all buildings and sheds, for the surface movement of aircrafts), and defines aircraft[99] as a machine that can derive support in the atmosphere from reactions of the air is a clear indicator as to its objectives: it's not to regulate elements of competition inside this sector rather, it intends to regulate the very fundamental instruments of this sector.

To that extent, it sets safety standards of the aircrafts, determines conditions for provision of licenses & certification for air traffic control, dictates aircraft travel areas, lays down the communication systems and many more.[100]

Its power to interfere with the economics of competition comes from Section 10(2)(b) & 10(2)(f) of the BVA. Section 10(2)(b) allows DGCA to regulate any and every air transport services (including slot allocation inside airports) & Section 10(2)(f) allows DGCA to analyse and determine any fee that is not determined / regulated by AERA & AAI.

These two powers were seen in action in the recent months - during the Indigo Pilot Crisis and the ongoing issue of unbundling ancillary services.

Following the December 2025 operational collapse at IndiGo, the DGCA curtailed the airline's winter schedule by 10%, leading to the vacation of 717 slots. These slots were then redistributed by a high-level committee to capacity-ready rivals like Air India and Akasa Air, ensuring that a single dominant carrier cannot hoard infrastructure to the detriment of market contestability.[101]

On March 20, 2026, the DGCA issued a landmark circular mandating that airlines offer at least 60% of seats on every domestic flight without an additional selection fee. This move addressed "unbundling" practices that the regulator viewed as a veil for predatory pricing.[102]

[94] Rule 89, Aircraft Rules, 1937 & AERA (Terms and Conditions for Determination of Tariff for Airport Operators) Guidelines, 2011, Clause 5 and Clause 6.

[95] A National Civil Aviation Policy (NCAP), 2016, Para 12(c) & AERA Order No. 14/2016-17.

[96] AERA Consultation Paper No. 08/2025-26

[97] AERA Order No. 07/2024-25 (dated March 28, 2025)

[98] Bharatiya Vayuyan Adhiniyam 2024, s 2(1)

[99] Bharatiya Vayuyan Adhiniyam 2024, s 2(3).

[100] Bharatiya Vayuyan Adhiniyam 2024, s 10(2).

[101] Ministry of Civil Aviation, 'Formation of Coordination Committee for Redistribution of Vacated Airport Slots' (Order, 22 January 2026).

[102] Directorate General of Civil Aviation, 'Mandatory 60% Free Seat Allocation on Domestic Flights' (Air Transport Circular, 20 March 2026).

CCI:

While the DGCA, AAI, and AERA regulate the industry ex-ante (before a problem arises), the CCI acts ex-post as the cross-sectoral guardian of competition. It oversees a totally different layer by looking beyond sectoral rules to the actual effect of business conduct on the market.

The CCI's primary role is to prevent the abuse of dominant position by an enterprise (Section 4 of the Competition Act, 2002). By its very nature, CCI stands as an overarching regulator to every sector including the civil aviation sector, regulating the behaviour of the enterprises inside the industry.

The defining competition case of 2026 was the CCI's investigation into IndiGo. The watchdog took cognizance of allegations that the airline cancelled confirmed bookings during its December 2025 meltdown and then re-offered the same seats at significantly higher prices, creating an artificial scarcity.[103]

14.4 Conclusion

The "Regulatory Quartet" represents a sophisticated and collaborative framework that is successfully steering Indian aviation toward its ambitious Vision 2047. The period between January 2025 and March 2026 has showcased a remarkable synergy, where the AAI, AERA, DGCA, and CCI have demonstrated their ability to harmonize infrastructure development, economic fairness, safety standards, and market integrity.

However, this synergy faces institutional limitations. The DGCA's under-capacity, characterized by a 50% vacancy rate in technical posts, creates critical bottlenecks that inhibit market entry and contestability. Furthermore, the cross-sectoral nature of the CCI & the emerging digital markets means its attention is increasingly drawn toward emerging concerns in digital markets, potentially effecting its response time for crucial, sector-specific interventions in the high-growth aviation sector.

As the sector continues its record-breaking expansion, one must reflect: is this evolving interface already resilient enough to serve as the definitive global blueprint for multi-layered sectoral governance? By continuing to formalize their integration, these regulators are ensuring that India's skies remain a theater of innovation, efficiency, and profound consumer welfare

[103] InterGlobe Aviation Limited (IndiGo) (CCI Case No 44 of 2025, 4 February 2026).

15

IMPORTANCE OF COMMUNICATIONS IN THE REGULATORY SPACE

Ajitesh Mullick

15.1 Introduction

The Critical Role of Regulatory Transparency and Stakeholder Engagement

Regulatory changes are initiated by the concerned authorities so that Companies operating in that sector abide by the Rules and Regulations being set, thus maintaining standards in operations, quality and other related aspects. These rules are set so that ultimate consumers are benefitting the most and are not taken for granted.

> Even as Regulators have lots of functions to perform, their main role is towards the end-users, the consumers, for whom the former must ensure fairness, efficiency, accountability, and most importantly, create trust of the public for whom the goods/services are being rendered. It is thus considered a guard against malpractice.

We take an example related to the functioning of the Food Regulator, FSSAI (Food Safety and Standards Authority of India). Their main function is "ensuring safe and wholesome food for the customers".

Now, how do consumers know which food is healthy and which may contain harmful ingredients, and to what extent? We may say that the packages contain all the details. But do the consumers read the things written in minute alphabets, hardly visible to the naked eyes – or do they even understand their significance?

Here, we had the recent case involving misusing the name "ORS" by products not meeting the WHO standards. ORS (Oral rehydration solutions) contain a mixture of water, glucose, and essential salts and are used mainly for children to prevent dehydration caused by diarrhea. However, many products labelled ORS, contained high-sugar flavored drinks or beverages that did not meet the WHO standards and posed serious health hazards. It was only after the High Court order that some action was noted. The issue has been discussed in depth in our Newsletter Summary of the CRG website.[104]

Now, it is not expected from a common citizen to track which product is certified by the WHO. And over the last few years, there have been reports of some uncertified products getting sold in medicine shops and on-line and have even been recommended by medical experts. FSSAI, though, has regularly initiated steps against such activities. While their actions are indeed laudable, the effectiveness of reaching out to end users needs improvement.

Again, as the orders from FSSAI were there, these products were already available in the markets for quite some time. Even though they did issue the orders in some newspapers, the detailed media coverage was missing; that could reach millions of consumers who use the product and which concerns their health. That would have brought clarity for many consumers on lots of issues.

Clearly, there is a lack of education on part of consumers on their basic rights. For example, in the Insurance sector, they are generally at a loss to understand why their medical claims have been rejected, or they are getting paltry amounts

[104] https://crg.jgu.edu.in/regulatory-news/9

finally. There is no knowledge of whom to approach in such cases. This leads to erosion of trust and a resultant fall in business for the corporate sector too – which we shall discuss later.

As per Department of Consumer Affairs[104a], consumers have basically 6 Rights:

- Right to Safety
- Right to be informed
- Right to choose
- Right to be heard
- Right to seek redressal
- Right to Consumer education

In the case of FSSAI, the “Safety” of the consumers was involved. For that, the latter needed to be “Informed” so that they could “Choose” the right product. When the products were faulty, they had the right to be “Heard” in appropriate forums to seek “Redressal”. But for all that to happen, they needed “Education”, which was lacking, and was not provided in the proper manner, even at a delayed stage.

Now, all these rights must be facilitated by the Regulators – and that can be achieved only through “PROPER COMMUNICATION”.

It is here that we, at the Centre for Regulatory Governance (CRG), have started analyzing the work of the Regulators from the point of view of citizens who are affected. Changes in the Regulatory space happen in every sector – but how well the consumers are made aware of the Regulations is something that is even more important.

The changes in Regulations effected for the public, will be wasted if the common man does not know about them or does not understand their implications.

It is in this regard that it becomes equally important for us in the CRG team to analyze how well, in fact, the other Regulators too are engaging with the public. This is where we have started working on.

15.2 Our databank and its analysis

Since November 2025, when the CRG was set up, we have already built a massive databank[105] on this field. There have been lots of activities in the Regulatory space since then, from the end of the Government (introducing new reforms through new Bills in Parliament), Honorable Courts (directing Regulators where needed) and the Regulators themselves (initiating new steps for improving performance), making us believe that this space is looking for more reforms this year.

The databank has been built through 2 ways:

- Tracking and noting the important media articles in Financial Newspapers
- Discussing and analyzing the contents of those articles with Faculty, Researchers and experts w.r.t. their impact on the citizens for whom the Regulatory changes have been initiated.

Based on this collective approach, we have highlighted certain critical issues that have been shortlisted. When we look at the list of news, we find that over the last few months, these are the list of Regulators that have mainly made it to the CRG website.[106]

A few striking notes have been observed in our analysis:

- There is a marked indication towards reforms in the Indian Regulatory space. This was evident from the number of Bills presented/passed in the winter session of Parliament. Whether it be the NFRA Bill, NEP, DPDP rules, SHANTI Bill, SMC Bill, VBSA Bill, CERC Bill or the introduction of 100% FDI in Insurance – all of it happening in such a short time of 1-2 months, is very significant.
- There has been involvement of the Indian Government, the Honorable Courts and the Regulators themselves – who have taken initiatives at their ends, focusing on Indian consumers.

[104a] https://consumeraffairs.gov.in/pages/consumer-rights
[105] https://crg.jgu.edu.in/
[106] https://crg.jgu.edu.in/all-regulatory-news-summary

- On top of that have been the statements made in the Economic Survey and the Union Budget this year, wherein lots of initiatives have been mentioned for the Regulatory sector.
- Ultimate focus has been on the consumers on issues related to
  - Quality and more reforms – FSSAI
  - Data Protection (DPDP Act)
  - Safety standards (SHANTI Bill)
  - Cost reduction, improved product quality (100% FDI in Insurance) and more reforms announced
  - More transparency (SMC Bill)
  - More functional autonomy for higher efficiency (VBSA Bill)
  - Improving efficiency through use of AI (CCI and NFRA)

To analyze the importance of Communications by Regulators, we take examples of SEBI and IRDAI, where one is highly proactive in communicating and the other, where new initiatives are being taken but communications need to be more effective. What effective communication can do for a sector can be determined only by comparing the end-result as to how the 2 sectors are faring in their respective fields.

15.3 Case Study: The Securities Market Sector - SEBI

Basic function of SEBI[107]

In a financial market where the hard-earned money of millions of investors is invested, strong regulations are being provided by SEBI. These are done through clear disclosures, rights and market conduct rules. This ensures transparency, resulting in increased trust for investors in the Capital markets.

- SEBI has over the years taken various steps to prevent and investigate Insider trading and various other manipulations and violations and taking quick steps to impose penalty and other actions. All potential market violations are addressed through online grievance redressal system on[108] platform.
- Next comes investor education, where through its SMART[109] workshops, it guides investors to make informed investment choices and provides all essential information needed to trade in the markets.
- SEBI has also been trying to improve IPO launch processes and promoting fintech innovations through its Innovation Sandbox[110] framework, as it believes “encouraging adoption and usage of financial technology (‘FinTech’) would have a profound impact on the development of the securities market,” helping modernise and expand access to capital markets.
- Newer technologies are also adopted by SEBI that improve market processes or enhance investor protection. For e.g., partnering with DigiLocker[111] to reduce unclaimed assets in the Indian stock markets.

Thus, we find that SEBI is primarily focussed on improving investor protection, not just through rules and regulations, but also through adopting newer technologies, investor education, incorporating better infra structure, seeking enhanced transparency from Companies and regular interventions to check extreme market volatility amidst creating strong rules for market manipulations.

15.3.1 Means of Communication

The SEBI website https://www.sebi.gov.in/media-and-notifications.html, under its “Media and Notifications” column, has lots of Speeches by the Chairman himself, along with public notices, covering important announcements. Regular appearances in the media through print, digital and electronic media, also come up from time to time – wherein, the investors are guided and updated on important issues.

It has its own Communications Department[112], showing the importance given to that team.

[107] https://www.sebi.gov.in/about-sebi.html
[108] https://scores.sebi.gov.in/
[109] https://investor.sebi.gov.in/program.html?type=7
[110] https://www.sebi.gov.in/media/press-releases/feb-2021/framework-for-innovation-sandbox_48987.html
[111] https://www.pib.gov.in/PressReleseDetail.aspx?PRID=2112876®=3&lang=1

One needs to know that the implication of decisions taken by SEBI is massive – it affects the entire financial market of India and has a massive impact on the stock and the commodities markets in India.

When the regulator speaks on certain important issues, one thing is clear – it has FULL AUTHORITY on the decisions it takes. No objections can be raised from the Government or the Courts, nor do they have the authority to change the decisions. Yes – discussions, criticisms on the decisions taken are always there. But there are always proper processes to address those issues. This results in building trust among people.

15.3.2 Recent cases of SEBI Undertaking "REFORMS" in the Sector, and its Communication Aspects

SEBI always strives to improve its performance and effectiveness by not just bringing in more reforms and making changes for the benefit of investors, but more importantly, effectively reaching out to the public, for whom the reforms are initiated.

- Introduction of Securities Markets Code (SMC) Bill[113], that will bring more transparency in the process, check frauds, provide better investor protection through a dedicated ombudsman and improvements in other areas that benefit the investors. Now the coverage on such bills, introduced by Honorable Finance Minister Ms. Nirmala Sitharaman, gets discussed in the Parliament Live, which ensures investors have access to all the relevant information. These are covered extensively in all media platforms.

- Carrying on with further reforms, SEBI allowed stockbrokers to become one-stop shops for financial services[114] regulated by other authorities, like Banking/Forex services, Insurance products, Pension funds and Insolvency and bankruptcy services – of course, subject to proper rules and regulations. Now, again, this news is effectively carried out and discussed in various news channels, YouTube, and other relevant platforms.

- The warning on "Digital Gold"[115] was issued not just once, but regularly through different mediums, for better investor education and protection from potential frauds.

- Bringing in new technology to the system is something that Regulators need to learn from SEBI – especially use of AI for improved performance[116]. The Sebi Chairman, Mr. Tuhin Kanta Pandey advocated the use of advanced technology by SEBI to fight financial fraud and misleading advice. SEBI uses an AI tool called "Sudarshan"[117] to scan social media (Telegram, YouTube, Instagram) for "finfluencers" giving illegal investment advice. As per his claim, they are currently removing 7,000 rogue sites per month and have taken down 120,000 so far.

There are 3 important things we observe in all these cases:

- Extensive coverage of not just the issues but their proper discussions in Print, Digital and Broadcast media. Again, through their own website, they ensure that investors are guided properly from time to time.
- The next notable thing is that the Chairman himself comes forward and discusses these issues and initiatives in all sorts of platforms available – thus lending more credence to the entire issue. This sort of pro-active approach by the top Management goes a long way in infusing "Trust" in the system, as people get educated about the process.
- Notably, SEBI has remained up to date with the latest Technological advancements and uses tools like AI for providing better and

[112] https://www.sebi.gov.in/department/communications-department-42/contact.html
[113] https://crg.jgu.edu.in/regulatory-news/24
[114] https://crg.jgu.edu.in/regulatory-news/29
[115] https://crg.jgu.edu.in/regulatory-news/10
[116] https://crg.jgu.edu.in/regulatory-news/40
[117] https://economictimes.indiatimes.com/markets/stocks/news/sebi-deploys-ai-tool-sudarshan-removes-1-2-lakh-misleading-finfluencer-posts-tuhin-kanta-pandey/articleshow/128939153.cms?from=mdr

more transparent services for the customers. Again, it is also taking care to ensure brokers too, are benefitted through its reforms – at the same time, ensuring that Rules and Regulations are properly in place.

15.3.3 END RESULT – Impact on the Market

The effectiveness of a Regulator can be measured by the growth of the sector. As mentioned by the Chairman in the 40th anniversary of the SENSEX[118], the significant rise in its value not only created wealth for investors, but also, the index has outperformed many major global markets, including the US Dow Jones and the UK's FTSE 100, over these four decades.

The markets evolved from manual trades to global integration and India is a leader in technology-driven trading, featuring instant settlements and digital transparency. The shift in market portfolio from family run businesses to diverse areas of IT, Financial services – and now Energy, Defence and other sectors have facilitated the growth of the market. Many of these shifts have been driven by SEBI's initiatives and ongoing support.

To make the markets and the entire system stronger and ensure more confidence among investors, the Regulator is focusing more on Governance & Ethics, Risk Management, and use of modern technology like AI.

Growth of Capital Market[119] and Equities Derivatives market[120]

The increased investor confidence in the market has resulted in massive growth for the Exchanges. For NSE, the Market Capitalization in the Capital Markets segment has grown from Rs 3.63 lakh Cr in 1994-95 to Rs 410 lakh Cr in 2024-25 showing a massive surge of 11,300% in these 30 years.

The Equity Derivatives market, too, has shown a phenomenal growth of nearly 300% in 10 years, from Rs 128 lakh Cr in 2015-16 to Rs 498 lakh Cr in 2025-26.

Apart from that, a Regulator gains more credibility if it remains independent in its decision-making and does not get swayed by any other authorities. The independence of SEBI from even the Courts and the Parliament makes it what it is today – a STRONG REGULATOR.

It is in this regard that it becomes equally important for us in the CRG team to analyze how well, in fact, the other Regulators too are engaging with the public.

While all important sectors have been covered by us, we find that in INSURANCE[121], there has been major reporting done. The contrast in engagements of the Regulatory body IRDAI (vis-a-vis the SEBI) with the end-users can be well noted in this sector, where lack of consumer-education and inadequate communications with them, have resulted in loss of faith on Insurance companies by the insured, despite best efforts of the Regulator. Resultant lack of growth in business has brought the IRDAI to the forefront in tackling issues of falling penetration in markets for the Insurance policies .[122]

The reporting is not about the number of reports being published in the media, but their significance. Let's understand the sequence of our reporting since November 2025:

15.4 Case Study: The Insurance Sector – IRDAI

Lack of communication has resulted in inadequate customer education, declining trust and falling penetration levels in market for the products:

In December 2025, the Draft Insurance Ombudsman (Amendment) Rules, 2025[123] was

[118] https://economictimes.indiatimes.com/markets/stocks/news/sensex-at-40-reflects-indias-market-evolution-from-manual-trades-to-global-integration-sebi-chairman/articleshow/126308984.cms?from=mdr

[119] https://www.nseindia.com/market-data/business-growth-cm-segment

[120] https://www.nseindia.com/market-data/business-growth-fo-segment

[121] https://crg.jgu.edu.in/regulatory-news?search=irdai

[122] https://crg.jgu.edu.in/regulatory-news/16

[123] Insurance ombudsman reforms: New penalties, online complaint system and appellate authority - The Economic Times

proposed by the Finance Ministry. These were aimed at protection of policy holders and improving settlement of claims – making it easier, faster and more rewarding for them to resolve disputes with insurance companies. Ombudsman, who are assigned to resolve grievances from individuals against organizations, were being proposed to get more powers to impose harsher penalties for Insurance companies, and ensure faster, digital complaint system – benefitting the Insurance policy holders.

The need for giving more importance to Ombudsman was necessitated due to the lack of effectively reaching out from the Regulator's end towards the consumers for years together. As per report in November 2025, where we had highlighted that at Bima Lokpal Day event[124], the Chairman of IRDAI, Mr. Ajay Seth emphasized the need for prompt, fair, and transparent claim settlements from insurers to restore policyholder trust. Concerns were partially attributed to ongoing disputes between insurers and hospitals.

However, the main issue was related to absence of "Customer Education". This can be attributed to deficiency in proper conveyance of necessary information - resulting in "Loss of Trust" by the insured towards the Insurance companies. The latter were thus called upon to strengthen their internal grievance redressal systems, making them "robust, responsive, and reassuring," with the goal of preventing complaints rather than just resolving them. There was a need to focus on a strong grievance system. As per the statements made there, IRDAI was pushing insurers to appoint "internal ombudsmen" to increase accountability and speed up complaint resolution

– in effect, incorporate a strong Communication channel.

15.4.1 Analysis of the Issues

The main issues related to the Insurance sector can be bifurcated into 2 areas – the first, where issues faced by the insured due to inadequate information from the Insurance Companies or the Regulators are yet to be resolved. These have been going on for a long time, and the Policy holders have suffered regularly.

The second issue relates to all the decisions taken by the Regulator that impact the Insured, but which are not effectively reached out to the latter. This has resulted in the latter not able to know about them or understand the implications of the policies made for them.

1. Regular, Long-term Issues Related to Customers – Still Not Addressed by Proper Communication Channels:

For years together, the Insured have been facing the following issues – all these are generally never addressed properly, leaving them in the lurch.

- Lack of education of the policy holders w.r.t. how claims are settled, what lies outside the purview during claims, time taken for settlement, reasons for delay etc. Most critically, many do not know who to approach during discrepancies.
- Issues related to disclosure of facts, putting them in small print, using technical jargons, not easily understood by the insured and lack of effort by insurers to explain them in simple terms, add to the agony of those insured.
- Again, another issue that crept up over the last many months that adversely affected the insured, has been decisions by the Hospital body to halt "Cashless Services" for various insurance companies. This has been a major jolt for insurers who now have to pay the hefty advance hospital fees on their own.

2. Lack of Correspondence of Major Decisions:

- We start with the latest reports from the IRDAI, where its Chairman, Mr. Ajay Seth announces 6 major reforms[125] over the next 4-

[124] https://economictimes.indiatimes.com/wealth/insure/insurance-ombudsman-reforms-new-penalties-online-complaint-system-and-appellate-authority/articleshow/125800196.cms?from=mdr

[125] https://crg.jgu.edu.in/regulatory-news-summary/41

6 months. This could be considered a significant report that should be communicated to the Insurance companies as well as the Insured in a thorough manner. However, the good initiatives regularly taken by the Regulator are not circulated widely and are published in just a few newspapers. There was hardly any correspondence through electronic media, leaving alone any discussions on the same. In effect, the news reaches very few people – mainly only those who read financial newspapers. Again, it's just not the news, but more importantly, their implications for the Insured. What do the reforms mean for them, their impact and what relief it could bring to the problems they have been facing over a long time?

- The IRDAI website[126] clearly shows what needs to improve with the communication aspects. Every report under "Media" is outdated, and even there, the contents are, many-a-times, incomprehensible. Electronic media reports were not even there.
- Finally, we take the typical case of the launch of "Bima Sugam"[127] in the reforms mentioned recently. First proposed in 2022, the launch dates kept changing ever since. The reasons were manifold as mentioned in the report mentioned below.

Concerns related to Leadership, Data-sharing, Technology and Funding are issues that have not been sorted out even after more than 3 years – as per the report. They are now proposing it to be launched in the next 4-6 months. These concerns should be sorted out at the earliest as we aim to achieve "Insurance for all" by 2047.

15.4.2 Communications by Parties Involved

Consumers:

- They communicated by showing lack of faith – resulting in rising complaints and falling business for Insurance Companies.

Regulators:

- Proposal to initiate 6 major reforms over the next 4-6 months. However, some have been delayed already, as reported above. Even as the Regulator takes all steps to bring in reforms for the benefit of the Insured, these must be acted upon and corresponded to the citizens properly, so that they are able to take advantage of the same effectively. The effect of giving more power to the Ombudsman should be seen.

Government:

- The job of the Government is not to communicate, but it is trying to do its best to support the sector and ensure its motto of "**Insurance for all by 2047**" is achieved.
- The Draft Insurance Ombudsman (Amendment) Rules, 2025 proposed by the Finance Ministry is a step in the right direction for promoting the interests of the consumers.
- As the Indian Parliament passed the historic Bill raising FDI limit in the sector to 100%, its significance for consumers could be attributed to the following:
- Better technology
- More options to choose from
- Higher competition leading to lower costs
- Better accountability expected from Companies
- More diverse products availability in the markets for consumers to choose from
- The bill creates a "Policyholders' Education and Protection Fund" to raise awareness and ensure people get their dues.
- Higher penalties for wrongdoings by Companies and their agents
- Higher Regulator Power: The regulator (IRDAI) now has the power to "disgorge" (take back) any wrongful gains a company makes at the expense of customers.

[126] https://irdai.gov.in/press-releases
[127] https://www.moneycontrol.com/banking/inside-the-delay-why-bima-sugam-india-federation-is-not-ready-despite-multiple-launch-timelines-article-13830342.html
[128] https://crg.jgu.edu.in/regulatory-news/16

15.4. End Result for Insurance Sector

As per the annual report of IRDAI, the life insurance penetration has shown a dip to 3.7% in 2023-24 vs 4% in 2022-23.[128]

Even as the Insurance sector has been the most talked about one, with regular announcements being made to address issues of the Insured, changes must happen.

The most important aspect has been – as mentioned above – Lack of engagements – be it from Insurance companies, the Regulators or the Hospitals, which all in a way should have connected and engaged properly to provide the best medical and Insurance facility to the person insured (paying massive premium every year for those services).

Such critical issues stem not from deliberate ignorance at the insurers' end – but rather from lack of education or information being provided by the Insurance agents or the Hospitals.

Why we considered the Insurance sector so important was that, as Indian markets open up, the foreign companies will bring lots of new products at cheaper rates and infuse transparency and efficiency into the system.

The existing Indian Corporates could face stiff challenge in fending them off. It's just not about how much money a Corporate has– it has got to do a lot more about customer service and customer satisfaction. Foreign investors too, would need a strong and effective Regulator. Any adverse remarks on the latter would dent India's image globally.

15.5 Conclusion

Building "Trust" among people by Regulators leads to better Sectoral growth:

It needs to be noted that unlike Parliamentarians, who have the mandate (trust) of the people, Regulators do not have that. The former can thus take decisions or pass Laws without informing the people of their implications. But Regulators must build trust among people who get affected by their decisions and for whom the decisions are made.

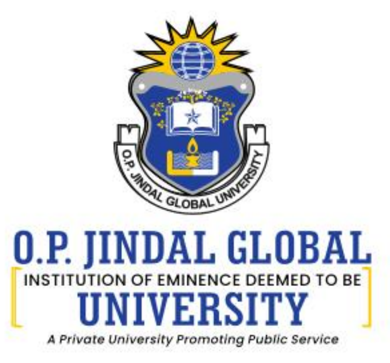
That "Trust" can be developed only when they engage effectively by:

- Clarity of objectives about the orders made and the necessity for the change.
- The top leadership must come to the forefront while announcing important facts. This helps in generating confidence among the Corporates and the end-users.
- Justify decisions to end-users, in simple language. People need to be convinced about their utility.
- Provide data and facts where needed – supporting the decision-making process.
- Provide short-term and long-term impacts.
- Active media interactions – provide information in Print, Digital and Broadcast media.
- Provide further channels for communications for further queries– like websites. Address issues and complaints fast.
- Keep the public updated from time to time about the impact of the decisions.
- Be ahead of the time to find new ways to communicate with people – as SEBI did through its Sandbox framework.

The stark contrast in the growth of the Financial sector and the Insurance sector lie in how "effectively" their Regulators convey the messages – leading to "Trust" among end-users.

The least we can now hope for is that the proposed "Reforms" in the Insurance sector are not postponed further.

Our analysis does not end here. Follow us for regular detailed reports and analysis on every Regulatory sector at: https://crg.jgu.edu.in/.



O. P. Jindal Global University Sonipat Narela Road, Near Jagdishpur Village, Sonipat – 131001, Haryana, India

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