Page 1179 - 1184

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Business Self-Regulation in India: A Study with Special Reference to Consumer Protection

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ABSTRACT

Business Self Regulation is the mechanism that is followed by industries and various business entities for their smooth functioning and protection of consumer. Hence business self regulation is an important aspect of Consumer protection. With the enactment of Consumer Protection Act 1986, the focus has been shifted towards regularization of businesses in order to prevent the number of cases before the Consumer Forums. Such regularization is done through the code of ethics that is followed by the industries. The business community has prioritized to regulate itself and the corporate sector has turned to be more accountable now. But even after the existence of such laws and policies, there are number of cases that that have been lying pending before the consumer forums. This pendency of cases shows the ineffectiveness of the policy of business self regulation. This policy should be backed by Government sanction. The Consumer Protection Act 2019 too is silent about the process of Business Self Regulation. The article would highlight the importance of the theory of Business Self Regulation from consumer perspective and the researcher would also discuss the code of ethics that have been followed by the industries to regulate themselves.

Keywords: *Business, Self-Regulation, Industry, Consumer, Policy.*

I. INTRODUCTION

Self-regulation, in all its myriad permutations, is a vital part of today's global economy. Diverse industries, such as health care, higher education, fashion, advertising, mining, marine fishing, professional sports, and nuclear power, have used self-regulatory processes to govern industry practices. The private sector relies on self-regulation to address a range of issues, from establishing industry standards, to developing and applying codes of professional ethics, to ensuring consumer confidence.[3]

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[3] Daniel Castro, *Benefits and Limitations of Industry Self-Regulation for Online Behavioral Advertising*, The

Self-regulation means a regulatory process through which an industry-level organization such as a trade association or a professional society, sets and enforces rules and standards relating to the conduct of business in the industry. Businesses Organizations have developed the idea of self-regulation to decrease risks to consumers, increase public trust, and combat negative public perceptions. The Industries use Self Regulation in order to minimize State's interference in their trade and other activities and to provide greater satisfaction to consumers by themselves.

Most of these activities occur through self-regulatory organizations (SROs). SROs are the non-governmental organizations formed by the private sector to set standards, monitor for compliance, and enforce their rules. Some SROs operate with endorsement by government. Government regulation is often industry specific. Monitoring and enforcing regulations are important parts of the regulatory process. Self-regulation uses self-policing as the primary mechanism to ensure compliance and provide remediation.

The best way of promoting high standards of business practices is through self-regulation. Business should be conducted in a manner that earns the goodwill of all concerned through quality, efficiency, transparency and good values. Businesses have launched "Codes of Ethics" and social practice.

Regulatory styles vary considerably from country to country and industry to industry. Regulations may set market conditions, such as price controls, market-entry conditions, product requirements and contract terms, or social obligations, such as environmental controls, safety regulations or advertising and labeling requirements.[4] The impact of regulations on the economy depends on the nature of the regulation and how efficiently and effectively it is implemented. While regulations impose costs on firms, causing them to shift resources away from other activities to achieve compliance, these costs are often justified as a means of improving social welfare. Regulations, especially if they are performance-based, may also induce innovations that benefit consumers, producers and society. In some instances, regulations may even increase competitiveness by improving the quality of products and services and giving firms that produce these products and services a first-mover advantage.[5]

II. Code of Ethics

Codes of Ethics are statements of values and principles which define the purpose of the

Information Technology & Innovation Foundation Report, December 2011.

[4] Luke A. Stewart, "*The Impact of Regulation on Innovation in the United States: A Cross-Industry Literature Review,*" Institute of Medicine Committee on Patient Safety and Health IT, June 2010.

[5] Robert D. Atkinson and Les Garner, "*Regulation as Industrial Policy: A Case Study of the U.S. Auto Industry.*" Economic Development Quarterly, Vol.1(4), November 2007

company. These principles are written as credos or guiding principles. Code of ethics state 'this is who we are and this is what we stand for'. Every business Endeavour is characterized by objectivity and commitment of its practitioners. Business, therefore, has to maintain the highest standards of behaviour so that its actions and decisions result in overall benefit to industry, employees, customers, shareholders and society in general.

In the pursuit of the requisite standards, business should serve its constituents in a manner befitting the fair image of the business community, including the performance of the following functions:[6]

1. State only what can be achieved. Goods and services provided must confirm to the commitment as promised to the customers. Business must be realistic and truthful in stating claims.
2. The customer must be given the best possible service and treated with respect and fairness. All actions must be directed to meet customer needs and requirements.
3. Fairness in business should extend to all constituents of business. Interests of all constituents must be protected with respect and dignity.
4. Business must understand and respect the needs, concerns and welfare of the community and society. It should use knowledge and experience for up-gradation of the quality of life. All business endeavors must combine the qualities of private excellence for public good.
5. Any practices that do not embody the above process and which are adverse to the interests and fair image of business and society, and are in disharmony with this Code should not be considered. It is believed that the best way of promoting high standards of business practices is through self-regulation. The Code has been designed as an instrument of self-regulation to serve as a voluntary guideline towards a better quality of life and higher standards of business practices.

III. International implementation

Organizations in any industry share a common reputation, as many companies suffer when any lone actor engages in undertakings that damage the industry's shared reputation. As a result, crisis frequently acts as a catalyst for shifts in stakeholder perceptions of any given industry. Concerns arising out of the activities of one organization can cause regulators, suppliers, and

[6] Kiran N, "*Codes of Ethics for Indian Business*", http://www.yourarticlelibrary.com/business/ethics/codes-of-ethics-for-indian-business/99513

the general public to revise their beliefs about the reliability of other organizations in the same industry, leading to generalized and undeserved conclusions. As new public trends created by social movement activism can influence organizational responses and behavior, a result of the industry commons problem is that crisis causes firms to institute self-regulatory measures, in an effort to reduce the degree to which transgressions by one organization harm others in the same industry.[7]

Proponents of self-regulation assert that it offers significant advantages, as it can be inherently more efficient, cheaper, and less complicated than direct government regulation. The propounders also highlight how self-regulation may foster shared values, foster a feeling of ownership and participation in decision-making, and promote voluntary adherence to the rules that come from it. Several self-regulatory initiatives, such as corporate compliance and ethics programmes, codes of ethics, employee grievance procedures accreditation standard, quality assurance systems, and informational campaigns, have been implemented by numerous U.S. organisations in an effort to take advantage of these advantages.

The business community's response to the requirements of the U.S. Federal Organisational Sentencing Guidelines, which the courts use to determine the appropriate punishments for corporations found guilty of a crime, is substantially reflected in compliance and ethics programmes. According to the regulations, legal fines and penalties are calculated depending on a number of factors, including the size of the organisation, the level of senior management participation in criminal conduct, the presence of past criminal offences, and any prior obstructions of justice.

An effective compliance program consists of seven elements.[8] These are as following:

- Standards and procedures designed to prevent and detect illegal conduct by company employees must be established.
- Top management must be knowledgeable about program content, undertake reasonable supervision of program implementation, and designate high-level individuals with responsibility for program management.
- Reasonable efforts must be used to ensure discretionary authority over the program should not be given to anyone that has engaged in illegal activities or other conduct

[7] Evan A. Peterson, "*Self-Regulation: Managing the Business Environment through Compliance*", Journal of Business Administration Online – Spring 2012.

[8] Seven elements of effective compliance program, available at https://institutional-initiatives.utdallas.edu/compliance/resources/seven-elements-of-an-effective-compliance-program/

inconsistent with the program's goals.

- Reasonable measures must be employed to periodically publicize program standards and procedures via efficient training programs and broadcasting of appropriate information.
- Reasonable steps must be taken to ensure program observance, periodically evaluate program efficacy, and establish a means through which guidance on advice can be sought.
- Program standards must be consistently enforced using suitable incentives and appropriate disciplinary measures.
- Organizations must respond appropriately to discovered unlawful conduct and take any necessary measures to prevent similar conduct from occurring again in the future

IV. Benefits of self-regulation

Self-regulation is an important mechanism for governing industry practices and has many benefits over government regulation for consumers, producers, the government, and the economy as a whole. Consumers benefit from self-regulation in multiple ways. While some policymakers promote regulation as a way to reduce risk to consumers, the potential for overregulation also poses a risk to consumers. Unnecessary or inefficient regulation raises production costs for businesses without any corresponding benefits and these costs are ultimately borne by consumers. Government regulation by its nature addresses identified harms, and as such can inadvertently create barriers to innovation or competitive entry when it establishes norms that only address current market participants and practices. Self regulation can be more efficient for business, and these saving are passed on to consumers. Rulemaking, monitoring, enforcement and remediation processes can also be faster using self-regulation rather than government regulation, which means that consumers are protected sooner. Self-regulation can help reduce information asymmetry in the market.

Regulations may be rigid or flexible, gradual or disruptive. Government regulators may focus on creating rules to protect established interests, rather than creating rules that allow market participants and new entrants to innovate. In contrast, self-regulation benefits the economy by creating a more flexible regulatory environment than is typically found with state regulation. Industry experts review current activities, identify best practices, and develop these into industry guidelines. The guidelines continue to evolve over time in response to feedback from industry leaders. This more flexible regulatory environment may allow firms to operate more efficiently and minimizes compliance costs. Flexible regulations tend to maximize economic efficiency by providing firms multiple pathways for innovation.

Self-regulation may also help businesses internalize ethical behavior and principles since the rules are based on social norms and conduct of peers rather than top-down prescriptive rules. This may help instill deeper respect and acceptance of the rules and result in better firm behavior, and avoid adversarial situations in which firms try to find exceptions to externally imposed rules.

The structure of a self-regulatory organization can also help avoid conflicts of interest by including stakeholders with different interests or business models. Thus, this should not be seen as a weakness of either type of system, but rather as a challenge that must be addressed when creating effective regulatory organizations.

Self-regulation can also avoid jurisdictional conflicts and legal limitations. Whereas regulation imposed by the government on multi-national corporations (MNCs) may raise questions of sovereignty, self-regulation avoids this problem while still propagating rules beyond national borders. Flexible rules allow MNCs to better serve a global market. In addition, self-regulation can sometimes provide rules to govern behavior when government regulators cannot act.

V. CONCLUSION

Business Self Regulation is the mechanism that is followed by the industries and various business entities for the protection and care of consumers. Though with the enactment of Consumer Protection Act, various public and private corporate sectors have started following this principle. Customer Care is the foremost concern of any corporate entity. But taking into consideration the number of cases filed before Consumer Dispute Redressal Commissions, it can be observed that there is no effective implementation of the policy of Business Self Regulation due to lack of any legislative approach behind the concept. The Consumer Protection Act was repealed in the year 2019. Various new provisions have been added in the statute including the concept of Mediation, Consumer Protection Agencies etc. The present Act is still silent regarding the process of Business Self Regulation. This mechanism should be made the part of the Act, for the protection of consumer at the base level only.

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