

Mahesh Kumar Jain: Consumer protection in a digital financial world - initiatives and beyond

Speech by Mr Mahesh Kumar Jain, Deputy Governor of the Reserve Bank of India, at the Annual Conference of Banking Ombudsman, Mumbai, 21 June 2019.

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Deputy Governor Shri Kanungo, Executive Director, Mrs. Marandi, other Executive Directors of the Reserve Bank of India, Managing Directors/ Chief Executive Officers from banks, overseas guests, colleagues from the Reserve Bank of India and other institutions.

I am happy to be here for delivering this address at this annual event of the Consumer Education and Protection Department (CEPD), Central Office (CO) on a historic moment as we enter the silver jubilee year of the Banking Ombudsman Scheme which was started on June 14, 1995. John F Kennedy, while addressing the US Congress on March 15, 1962 had said and I quote,

'Consumer by definition include us all. They are the largest economic group in the economy, affecting and affected by every public and private economic decisions. Two thirds of all spending in the economy is by consumers. But they are the only important group in the economy who are not effectively organised, whose views are often not heard.'

And we all know how important this day is for all of us pursuing consumer protection.

Reserve Bank's measures on consumer protection

We, at the Reserve Bank of India have come a long way since then as we recognised the significance of customer service and consumer protection in the banking sector early on. The Reserve Bank has remained mindful of the need to empower the common man, the retail customers and the small entities to ensure balance in a bank/ Financial Service Providers' (FSP) approach to this segment of customers vis-à-vis large and corporate customers. The Reserve Bank, as a multi-service central bank, has been proactively engaged in initiatives to build a strong financial system, expand the reach and access of financial services and ensure protection to customers of banks/FSPs. Since the 1970's, the Reserve Bank has progressively created, reviewed and updated, an elaborate guidance framework for banks on good customer service, including an internal grievance redressal mechanism with reporting to a Board level Committee.

Let me start with a brief account of the measures taken by the Reserve Bank in the area of consumer protection. Consumer confidence and trust in a well-functioning market for financial services promotes financial stability, growth, efficiency and innovation over the long term¹. Effective customer protection regulations together with an easily accessible mechanism to resolve disputes between customers and the regulated entities in a timely manner, are essential for promoting consumer confidence. Further, awareness measures for customers on financial matters instills in them knowledge about their rights and responsibilities and helps them to make right financial decisions.

Specifically, in its pursuit of the objective of consumer protection, the Reserve Bank introduced the Banking Ombudsman Scheme on June 14, 1995, for the customers of banks, which has been reviewed periodically so that it retains its relevance as an apex level complaint redressal mechanism for customers of banks. Reserve Bank has also launched the Ombudsman Schemes to include the customers of non-banking financial companies and Pre-paid Payment Instrument (PPI) Providers. These Schemes have evolved over time as apex level complaint redressal mechanisms for customers of entities regulated by the Reserve Bank. I may mention here that these Schemes provide a cost-free and expeditious redressal of complaints relating to deficiency in the services by eligible entities covered under respective Schemes.

The Reserve Bank had created a dedicated Customer Service Department in 2006 to act as the nodal department in the Reserve Bank for grievance redressal of complaints received from the public. The department, has since been renamed as Consumer Education and Protection Department (CEPD), and continues to focus on providing a level playing field between suppliers and consumers of financial services, by easing the imbalances emanating from information asymmetries, inadequate disclosures and unfair treatment. In addition, the Charter of Customer Rights², put in place by the Reserve Bank in December 2014, comprising of broad over-arching principles to be adopted by banks has been playing an important role in protecting the interests of their customers.

In India, we have a well-defined grievance redressal structure, the first resort on the complaint being the branch itself with proper escalation level in the banks/FSPs. It is expected that the grievances of the customers are redressed in a hassle-free manner at the first point of contact with the Ombudsman being the last resort. An important milestone in strengthening the grievance redressal mechanism available to bank customers was the institutionalisation of the Internal Ombudsman (IO) mechanism in 2015 in all public sector banks, select private sector and foreign banks. Based on a review of the framework in September 2018, the coverage of the IO Scheme was extended to all scheduled commercial banks (other than Regional Rural Banks) having 10 or more banking outlets in India. The objective of setting up the mechanism of IO was to ensure that there is undivided attention to resolution of customer complaints in banks and the customers of banks get an independent and auto-review of their grievances which are partially or wholly unaddressed before they approach the Banking Ombudsman (BO). The IO mechanism is expected to strengthen the consumer protection and grievance redressal processes in banks.

In this era of digitalisation, given the increasing use of technology by service providers and their customers, being mindful of occurrence and potential of unauthorised transactions, the Reserve Bank has issued regulatory instructions keeping the interests of the customer in mind. The 'Framework on Limiting the Liability of Customers in Unauthorised Electronic Banking Transactions' issued on July 6, 2017 is a defining development in the wake of risks arising out of rapid digitalisation of payments and money transfer transactions, where there is a judicious balance between ease of use and security of the transactions. The provisions, initially applicable to scheduled commercial banks, have in January 2019, also been extended to cover authorised non-banks that issue PPIs.

In keeping with the rapid evolution in the financial sector, the Reserve Bank has progressively reviewed and updated its instructions and guidelines relating to customer service such as, simplification of know your customer (KYC) procedures, mandating issue of Europay, Mastercard and Visa (EMV) chip/pin cards, transparency in pricing of credit, etc., of which, you are all aware.

The current strategy of the Reserve Bank for consumer protection is to create an enabling environment for developing a customer-centric financial system by instituting mechanisms for addressing information asymmetries between the providers and consumers of financial services, enhancing standards of disclosures and ensuring a better alignment of product design vis-à-vis the customer's requirements while providing an efficient and effective grievance redressal mechanism. Through all the changes and developments in the financial world, the Reserve Bank has endeavored to ensure a robust consumer protection mechanism that is visible and credible.

The Role of the Ombudsman

Before I delve into the role of the Ombudsman, let me say that in this journey of 25 years, several milestones have been achieved by the Ombudsmen and their staff. They have handled complaints with increased volume and complexity. Further, they are now handling complaints under two other Ombudsman Schemes which have been recently added to the redressal framework.

The financial sector in general, and banks in particular, are in the midst of a major revolution. A fintech wave is sweeping across financial products, processes and delivery channels. Digitalisation and electronic facilities have transformed the payments system. New types of financial entities are competing for traditional banking functions, though on a much smaller scale. Technology application and digitalisation have ensured that financial services can be availed anytime, anywhere, at the click of a button. Convenience, cost rationalisation and competition are the hallmarks of the day.

However, we are simultaneously being exposed to innumerable known and unknown risks and uncertainties – cyber security breaches, phishing/ vishing frauds, data thefts and misuse, data privacy breaches, malware attacks, etc. While it is known that these risks exist, the garb in which they manifest, when and at what severity, is unknown. With convenience, there are new challenges for customers, entities and regulatory authorities. In this background, the role of the Ombudsman has become challenging; considering the increasing number of complaints, their complexity, as well as ability to deal with the dynamic financial environment.

The position of the Ombudsman – so to say is that of the ‘Third Umpire’ in financial dispute resolution – being quasi-judicial, comes with authority and independence. Clearly authority and independence are synonymous with responsibility and objectivity. Accordingly, Ombudsman should remain mindful of their conduct and behaviour, as also the quality of their decisions. They should also be aware of the need to proactively guard against any cognitive bias. Also, while it is a fact that they are technically not assigned an investigative role or investigation tools to carry out their responsibility, Ombudsmen should, at least, adopt an exploratory approach to identify the exact issue or deficiency within their limited mandate of summary disposal. While being disciplined, fair, straightforward and upright, Ombudsmen should also remain accessible to the customers so as not to put to peril the reputation of the Reserve Bank or jeopardise public confidence in the consumer protection mechanism.

The responsibility of objective dispute resolution cast upon Ombudsmen, while being significant is not singular. The Ombudsmen must, therefore, refrain from self-limiting their role as that of mere grievance redressal. In fact, Ombudsmen should leverage their vantage position to obtain a fair idea of the business conduct, the strengths and weaknesses of banks. In particular, Ombudsmen should ensure that regulated entities remain responsible and accountable to their customers, and their behaviour is consistent with the principles of sound financial conduct as prescribed through various guidelines issued by the Reserve Bank.

In order to ensure that consumer awareness reaches to persons in the remote corners of the country, we need to spread awareness through both physical and digital modes. Conducting and participating in the Town Hall activities and other awareness programmes in their jurisdiction should remain an ongoing agenda for Ombudsmen. Since the programmes are conducted outside the Ombudsman Offices, could these be used as opportunities to redress the grievances of the complainants by going near to them? In that case, the Ombudsman can plan well in advance and take on board the complainant and the concerned entities. This will have a positive impact with regard to the accessibility of the Ombudsman.

Educating and spreading awareness through digital modes are being undertaken from the Central Office level. While such effort should continue at an enhanced scale, awareness should be spread in local languages for easy understanding and effective communication. The content should be carefully designed to spread financial literacy and awareness regarding customer rights, their obligations, their responsibility in the conduct of financial transactions and safeguarding financial information in a simple way to be easily understood by the common man. This is critical for the success of any programme designed for their protection and welfare.

Complaint Management System

In order to effectively support the Ombudsman framework, the Reserve Bank has started

implementing a technology enabled Complaint Management System (CMS) as an upgrade to the currently operational Complaint Tracking System (CTS). The new system will integrate the entire grievance redressal mechanism of the Reserve Bank, which includes the Banking Ombudsman, the Ombudsman for NBFCs, Digital Ombudsman as well the Consumer Education and Protection Cells (CEPCs) at Regional Offices that handle complaints which are not covered by the Ombudsmen Schemes. The new system will also encompass all the regulated entities – banks, NBFCs and PPI providers – as also allow the customers themselves to keep sight of grievances and their redressal. The system will reduce manual process resulting in reduction of Turnaround Time (TAT) and facilitate improved data analytics for use by stakeholders. Further, CMS has an awareness module on the front page containing information materials in audio, video and text formats.

The Role of banks/FSPs

Let me now turn to the role of banks/FSPs. All financial entities have a special relationship with their customers and thus, it is their duty to recognise issues raised by them in their financial transactions and provide a fair redressal of their customer grievances. Banks/FSPs need to maintain transparency in pricing, service charges, fees, and penalties.

Banks/FSPs not only need to make sufficient disclosures on all aspects of their functioning and operations but also need to play a proactive role in educating customers on the products offered, the operational techniques, risks involved, safeguards and redressal options available. Liability for customer losses due to lapses on the part of banks/FSPs should lie with the latter. The Reserve Bank guidance on limiting customer liability in unauthorised electronic banking transactions targets this perspective³. More important than compensation, however, should be on 'prevention' through awareness initiatives. This would also help minimise complaint origination at the bank/FSP level and reduce complaint clogging at the Ombudsman level. As I have mentioned earlier, I would like to add that the Reserve Bank has issued guidelines last year strengthening the Internal Ombudsman Scheme in banks. While it is envisaged that the IOs appointed by the banks would be independent in their functioning; it is imperative that banks understand that all complaints which are partially or wholly rejected by the banks must necessarily pass through the desk of IO before final closure. I am sure the banks are taking steps to appoint adequate number of IOs, in line with the volume of complaints received by them as provided in the scheme.

A critical aspect of consumer protection that calls for dedicated attention within banks/ FSPs is management engagement. Top and Senior Management in charge of grievance redressal need to take responsibility for the performance and robustness of the redressal framework and engage through deep involvement, close monitoring and oversight of issues involved. They and their staff, need to be driven by 'true service' sentiments. Customer service and consumer protection should not be relegated to the sidelines by goals driven by hard targets and sales related incentives for on-boarding customers. Banks/FSPs are, at times, found wanting in these aspects. The rising number of complaints on mis-selling of products by providing incorrect or incomplete information to customers, fraudulent transactions caused due to breach in security protocols, breach of customer privacy, etc., point in this direction.

Finally, agility in addressing customer grievances needs to be inculcated at all levels of staff. The turnaround time (TAT) for complaints received within banks/FSPs and those referred to them by the Ombudsmen offices could then be reduced even further from the existing level of TAT.

Issues to address in Consumer Protection and Grievance Redressal

The G20 High Level Principles on Financial Consumer Protection, adopted by the Organisation for Economic Cooperation and Development (OECD) in October 2011, inter alia, mandate that jurisdictions should ensure that consumers have access to adequate complaints handling and redressal mechanisms that are accessible, affordable, independent, fair, accountable, timely and efficient. Such mechanisms should not impose unreasonable cost, delays or burdens on

consumers. What is the scope for improvement for us vis-à-vis these guidelines? Let me talk about some specific issues in this context.

1. Timeliness in complaint disposal – Irrespective of the minimum time requirement for a complaint examination with all required inputs/documentation from the involved parties, the time frame for disposal has to be reasonable. In this context, you may be aware that we are currently working on a framework to harmonise the TAT for resolution of customer complaints and charge-backs in all the electronic payment systems. Public expectations are high for early redressal and we too need to evolve a zero-tolerance framework for delays in responses from regulated entities.
2. High level of non-maintainable complaints – While non-maintainable complaints cannot be wished away, given that 48.9 per cent of the total complaints received during 2017–18 were non-maintainable could point to two things: first, the complainants are not aware about the procedural requirements for filing their complaints; and second, there could perhaps be a tendency to routinely close complaints without adequate examination in some cases. In either case, there is scope for more work from the Ombudsman.
3. Large proportion of rejections – A sizeable proportion of the maintainable complaints are being rejected, mainly on the ground that the bank was not deficient, and the complaints were not justified. During 2017–18, 33.82 per cent of the maintainable complaints were rejected, which though down from 57.23 per cent in the previous year is still rather high given that the objective of the Scheme is to facilitate resolution of issues through mediation. Further, 8.27 per cent of the total complaints were rejected citing requirement of elaborate documentary and oral evidence. However, in some of the appeal cases, it was observed that a better focused review of the facts could have resulted in a satisfactory outcome for both parties without taking recourse to the appellate mechanism.
4. Communication issues – Many a time, we deal with persons who may not understand the meaning or the implications of our communication. After all, if the recipient does not comprehend what was intended, there is no purpose served in such cases. Therefore, a concerted attempt should be made to de-jargonise the terms in all our correspondence and awareness materials. It is also essential that soft skills of the dealing staff are developed so that a customer visiting our premises goes out as a satisfied person.
5. Effectiveness of redressal system in banks – The secular trend in volume of complaints shows significant increase in most offices. As I mentioned earlier, this could be a positive indicator signifying increasing trust in the functioning of the Ombudsman mechanism. However, a portion of the increase could also be attributed to: a) the growing complexity in products, also enabled by technology, b) greater penetration of financial services covering even consumers with less than desired level of financial literacy, c) lack of monitoring and sensitisation of the dealing staff / Banking Correspondents (BCs) by banks, d) inadequate in-house redressal mechanisms, e) unfair business practices, f) ineffectiveness of the IO and g) not carrying out root cause analysis resulting in recurrence of similar complaints. Effective steps need to be taken to address these issues in banks/FSPs, both at the ground level and at the policy level.

Expectations from the Ombudsmen

I would say that overall, the performance of the Ombudsman offices has been good. Nevertheless, given the enormous challenges in terms of increasing customer awareness, innovations, digitalisation and expectations of stakeholders, we should constantly be on the lookout for areas that need our attention. Let me now talk about some expectations that the Reserve Bank has from the Ombudsmen:

1. Quality outcome: The Ombudsman should meticulously examine complaints and use

his/her specialised knowledge of financial services. This would ensure that the consumer is not placed at a disadvantage due to any lack of resources or technical knowledge. Decisions and outcomes should take into account extant regulations, applicable law and good industry practice. For this, the Ombudsman and the supporting contingent of staff members should keep themselves updated with the latest developments in policy and practices.

2. Fairness: The Ombudsman must exemplify a commitment to procedural fairness. The complainant, the regulated entity against which the complaint has been received and any person/entity directly affected by an Ombudsman's decision should be given an opportunity to respond before the final decision is taken. I would like to mention here that there were occasions when a case warranted reference back to the BO at the appeal stage as an opportunity was not provided to all parties to present their case.
3. Consistency: We should aim for consistency of outcome in similar cases. Else, banks will not know how they are expected to handle complaints themselves. There could also be a tendency to game the system by regulated entities in such a scenario. Frequent interactions and sharing of information among the BOs would help in this regard. I am glad to note that a Committee comprising of various stakeholders, viz., Banking Ombudsmen, Department of Payment and Settlement Systems, Department of Banking Regulation, Department of Banking Supervision, Institute for Development and Research in Banking Technology (IDRBT) and National Payment Corporation of India (NPCI), has looked into increasing instances of frauds related to digital transactions and recommended certain operational procedures to facilitate better resolution and suggested a review of relevant regulatory instructions. The report of Committee may be examined for implementation.
4. Public awareness initiatives: Unless people are made aware of the 'what and how' of the entire 'grievance redressal' structure in banks/FSPs and the Reserve Bank and the procedures for lodging complaints especially the grounds of complaints under the various Ombudsmen Schemes, the effectiveness of the grievance redressal mechanism would not be fully realised. In addition to targeted awareness campaigns by the Ombudsmen and those driven through banks and other consumer organisations, feeding information to the communications media with resolved case studies can be explored. The latter will have broader reach and it can also be effective.
5. Use of data: Though it is not a stated objective of the Schemes, data on complaints should be analysed by the Ombudsmen carefully for providing meaningful insight and support to the regulatory, supervisory and other departments of the Reserve Bank for policy formulation. Further, data in the CMS should be effectively leveraged for data analytics to derive useful information such as commonalities across complaints, causative factors and details of banks / branches / delivery channels / products presenting adverse features. The data can be useful for appropriate policy and operational actions.
6. Quality assurance: The International standard ISO 10003:2018, a quality management standard for customer satisfaction, gives guidelines for an organisation to plan, design, develop, operate, maintain and improve an effective and efficient dispute resolution process for complaints that have not been resolved by an external organisation. It would be useful to examine our processes vis-à-vis such/similar standards for possible improvements. In this context, I would be keen to learn the outcome of the consumer satisfaction survey on the banking Ombudsman Scheme being commissioned by CEPD. We need to also study the procedures and practices followed in select jurisdictions with well-developed dispute resolution systems for adoption/adaptation by the Reserve Bank.

Conclusion

As I conclude, let me also quote John F. Kennedy once again who said:

‘There are risks and costs to a program of action – but they are far less than the long range cost of comfortable inaction’.

Living with the status quo, without significant effort to change it, would lead to ineffective and unsuitable long range outcomes. So, let us continue to move with times and resolve to evolve!

I am sure that the deliberations during this Conference will seek to arrive at concrete action points for time-bound implementation towards the betterment of consumer protection in the financial sector.

I wish you all the very best!

¹ G20 High-Level committee Principles on Financial Consumer Protection.

² RBI has issued a ‘Charter of customer rights’ in December 2014. The Charter enunciates five basic rights of bank customers. These include right to fair treatment, right to transparency, fair and honest dealing, right to suitability, right to privacy and right to grievance redress and compensation.

³ In July 2017, RBI issued instructions to banks indicating that in any unauthorised electronic banking transaction, the liability of a customer would be zero or limited if the unauthorised transaction/s is reported to the bank timely and there is no contributory negligence on the part of the customer. Further, the onus of proving contributory negligence will lie with the bank.