Q16

For achieving the desired objectives,it is necessary to ensure that the regulatory institutions remain independent and autonomous. Discuss in the light of experiences in recent past.

UPSC Civil Services Mains 2015 · GS II · 12 marks · Governance and Policy

Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

Core demand of the question

- For achieving the desired objectives,it is necessary to ensure that the regulatory institutions remain independent and autonomous. Discuss in the light of experiences in recent past

Revision summary

Regulators exist so technical decisions are not daily political favours.

Independence needs tenure, independent funding and distance from a ministry that also plays in the market.

RBI, SEBI, TRAI-DoT, electricity commissions and investigative agencies show the cost when autonomy thins.

Accountability to Parliament, CAG and courts must sit beside independence.

Appointment and the power of ministry "directions" are the usual weak points.

Introduction

A regulator is created so that technical, repeated decisions - licences, tariffs, prudential norms, spectrum, food standards - are not made as daily political favours. Independence means the agency can decide on evidence, publish reasons, and be removed only for cause. Autonomy means money, staff and procedure that do not sit inside the parent ministry's file. Recent Indian experience shows that when those conditions slip, objectives of competition, safety and financial stability slip with them. Independence is not isolation from Parliament; it is distance from the daily executive.

Body

Why independence is necessary

- Ministries promote sectors and often own public enterprises. A regulator that is a wing of the same ministry cannot fairly police that enterprise or its private rivals.
- Investors and citizens need a known rule, not a phone call. Predictable orders lower the cost of capital and the temptation of corruption.
- Technical questions (capital adequacy, grid codes, clinical trials) need tenure and expertise. Annual transfer of generalist officers destroys memory.
- Independence must still answer to statute, judicial review, CAG audit of accounts, and a parliamentary committee. Autonomy without accountability becomes a fief.

Experiences in the recent past

- **Reserve Bank of India:** statutory independence under the RBI Act is real on paper. Tensions over interest rates, government borrowing, and later public debate on the central bank's reserves showed that fiscal pressure can crowd a monetary and banking regulator. When the banking regulator is leaned on to hide non-performing loans, financial stability - the objective - is the first casualty.
- **SEBI:** a statutory market regulator with adjudication powers. Sahara and other long enforcement sagas showed both the need for a strong SEBI and the delay when orders are stayed and coordination with the government and courts is weak. Appointment and a full board matter as much as the Act.
- **TRAI and the telecom department:** TRAI is recommendatory on many licensing issues while DoT remains licensor. 2G-era experience showed that when spectrum and licences are political, a weak or bypassed regulator cannot deliver competitive, non-corrupt allocation. CAG's 2G audit became a public substitute for a regulator that had not been allowed to bite.
- **CERC and SERCs in electricity:** open access, tariff and renewable purchase obligations fail where State governments keep utilities as patronage machines and treat the electricity commission as a tariff-suppressing office. The Electricity Act, 2003 assumed independent commissions; State practice often did not.
- **CBI and CVC:** not classic market regulators, but recent disputes over the CBI director's appointment, the Single Directive, and ministry control illustrated how an investigating body that is not operationally autonomous cannot meet the anti-corruption objective. The Vineet Narain line and later the 2013 CBI-director statute were attempts to write independence into process.
- Food Safety and Standards Authority and drug regulators have faced charges of understaffing and industry capture - autonomy without capacity is empty.
- Appointment of retired civil servants on short, renewable terms, funding through ministry grants, and the power to issue binding "directions" in the parent Act are the usual levers that hollow out autonomy.

How to keep institutions independent in practice

- Fixed, non-renewable tenure; a bipartisan or collegium-style appointment; removal only by a stated process.
- Independent budget charged on the Consolidated Fund or a regulated fee, not a monthly ministry dole.
- Open hearings, reasoned orders, and a specialised appellate tribunal so independence does not mean unreviewable power.
- No parent-ministry nominee dominating the board where the ministry is a player in the market.

Flow diagram

Regulatory objective -> Independent appointment tenure budget

Independent appointment tenure budget -> Reasoned orders

Ministry directions short tenure -> Capture and delay

Reasoned orders -> Stability competition safety

Capture and delay -> 2G NPA tariff failure

Conclusion

Desired objectives of fair markets, safe products and stable finance need regulators who can say no to the ministry and to the incumbent firm. Recent experience with RBI-fiscal tension, SEBI enforcement, TRAI versus licensing, electricity commissions, and investigative bodies shows that statute alone does not create autonomy. Tenure, money, appointments and the end of dual roles (promoter plus umpire) are what keep the institution independent. Accountability to Parliament and courts should rise in the same step, so autonomy does not become impunity.

Facts & figures

RBI Act, 1934

Creates the Reserve Bank as a statutory body; monetary and banking regulation still face fiscal and appointment pressures in practice.

SEBI Act, 1992

Gives the securities regulator statutory powers to make regulations, investigate and adjudicate market misconduct.

TRAI Act, 1997

Creates TRAI; licensing and spectrum have often remained with the Department of Telecommunications, splitting umpire and promoter.

Electricity Act, 2003

Requires Central and State Electricity Regulatory Commissions; State governments have often still steered tariffs politically.

Vineet Narain v. Union of India (1998)

Supreme Court directions on CVC and CBI autonomy; later statutes on the CBI director tried to hard-wire a less partisan appointment.