



Decentralizing Consumer Protection: a Comparative Study between México, USA, Sweden & Brazil

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Santiago Roca, PhD.

Professor and Director

Centro de Propiedad Intelectual, Competencia, Consumidor y Comercio

CEPIC, Universidad ESAN.

sroca@esan.edu.pe

Mexico: Centralized-Deconcentrated

- **Centralized:** PROFECO (Federal Attorney's Office of Consumer)
- **Deconcentrated:** Delegations and sub-delegations (PROFECO's regional offices dependent on Directorate General of Delegations)
- Delegations and sub-delegations can assist individual complaints and encourage **conciliation or arbitration**. They cannot resolve conflicts.
- They can act ex-officio in order to sanction infractions to Official Mexican technical norms and non-compliance of weights and measures.

Mexico: Centralized-Deconcentrated

Who enforces consumers' protection law?		Who administer justice?	
Federal level	Federal Attorney's Office of Consumer Protection (PROFECO)	Administrative	Delegations y Subdelegations (Just infractions to official Mexican technical norms and non-compliance of weights and measures)
		Conciliation, arbitration	PROFECO itself or an independent and accredited arbitrator.
State level	Delegations and Subdelegations	Judicial	Federal courts.

Brazil: decentralized

- **Consumer Protection Code (1990):**
 - Comprehensive and free legal assistance to consumers.
 - **Consumer Protection Attorney** (Attorney General's Office)
 - **Commissariat** specialized in the repression of criminal offenses against consumer protection law.
 - **Special Courts of Minor Cases**
 - Promote the creation and development of **consumer protection organizations.**
 - Department of Consumer Affairs (**DECON**) statewide.
 - Consumer protection program (**PROCON**) at the local or municipal level.

Brazil: decentralized

- **1997: Department of Consumer Protection (DPDC)** (within Ministry of Justice)
 - Coordinator of the **National System of Consumer Protection (SNDC)**
- Resolution of individual conflicts: different instances and systems.
 - Special courts (minor cases)
 - Instances of conciliation or extrajudicial mediation
 - Ordinary courts within the judiciary (main causes)
 - Attorney of Consumer Protection supports consumers in their conflicts.
- Commissariats prosecute and punish criminal offenses against consumer.
- Strong consumer organizations: there are more than 2500 all over the country.

Brazil: decentralized

Who enforces consumer protection law?			
Monitoring law compliance		File a complaint to the Judicial Power	
Federal level	Department of Consumer Protection and Defense (DPDC)	Civil	Consumer Defense Attorney
State level	DECON's		
Municipal level	PROCON's	Criminal	Commissariats
Civil Society	Consumer organizations and associations		
Who administers justice?			
Administrative		Conciliation, arbitration	Judicial
Minor cases	Specialized Tribunals	At all levels. (voluntary)	Its own organization
Major cases			

USA: mixed system

- **At the federal level:**

- **Bureau of Consumer Protection (BCP)** of the Federal Trade Commission (**FTC**)

- Monitor compliance with consumer protection laws.
 - It has investigatory power.
 - It has authority to set specific administrative norms for consumer protection.
 - It can sue on behalf of consumers in civilian courts or administrative tribunals.
 - It promotes and educates consumers and suppliers about consumer law.

- **Department of Justice (DOJ)**

- It is the only one who can bring criminal cases.

- **Other specialized federal units** (FTC coordinates with them):

- Consumer Product Safety Commission (CPSC)
 - Food and Drug Administration (FDA)
 - National Highway Traffic Safety Administration (NHTSA)
 - Federal Communications Commission (FCC)
 - Office of the Comptroller of the Currency (OCC)

Desconcentrated:

It has 7 regional offices throughout the USA

USA: mixed system

- **At the state level:**

- **State Attorney General** (in each of the 50 states).
 - Observance and investigations.
 - Advocates for consumers and can sue in administrative tribunals or civil courts of the state.
 - In states where State Attorney General does not perform this function, the **State Government Department** can assume it.

- **At the county level:**

- **District Attorney's Office**
 - Ex officio work
 - It also receives and publicly disclose complaints before administrative judges (offices or courts for small cases) and in judicial courts.
- In its absence, a **County Office**.

USA: mixed system

- Consumers can appeal individually in ascending order:
 - The own trading business
 - The manufacturing company
 - **Better Business Bureaus** (Non profit organizations supported by business)
 - **Consumer Organizations**
 - National or local government offices
 - Administrative Courts
 - Judicial Power
 - Legal actions for consumer protection are brought in state courts.
 - Actions between citizens of different states are brought in federal court.

USA: mixed system

Who enforces consumer protection law?			
Monitor compliance with laws		File a complaint to the Judicial Power	
Federal level	Bureau of Consumer Protection of the FTC	Civil	Bureau of Consumer Protection of the FTC
State level	State Attorney General/ Government Department		State Attorney General/ Government Department
County level	District Attorney's Office/ County Office		District Attorney's Office/ County Office
Civil Society	Consumer organizations	Criminal	Department of Justice (DOJ)

Who administers justice?			
Administrative		Conciliation, arbitration	Judicial
Minor cases	Offices or Courts for small complaints	At all levels. (voluntary) Some companies offer mediation, conciliation and arbitration systems.	State courts
Major cases			Federal courts

Sweden: selfregulation and State

- The **Swedish Consumer Agency (SCA)** is the main administrative body adscribed to the **Ministry of Integration and Gender Equality**. It has as main functions:
 - Enforce consumer policies and laws.
 - Monitor and realize studies.
 - The Director of the SCA acts as **Consumer Advocate** and is responsible for ensuring that companies comply with the law. He can represent the interests of consumers in collective causes.
- Together with the Agency are a variety of authorities to monitor and supervise (sectoral rules).

Sweden: selfregulation and State

- Territorially, the SCA train and support **Local Consumer Assistance Centers** functioning in more than 300 municipalities in the country.
 - Educate, inform and provides counseling & support to consumers
 - Monitor local markets
- Consumer disputes are resolved in the first instance at the **National Consumer Complaint Board, ANR**, – Public administrative authority:
 - Its resolutions are not binding, but are usually followed.
 - Its processes are free of charge
- Second instance: **civil courts**
- Private alternative: various **self-regulatory** systems are maintained for different sectors (including consumer and suppliers organizations)
- **Consumer Organizations**: They are very strong.
 - Consumer Coalitions
 - Consumer Federation

Sweden: selfregulation and State

Who enforces law?		Who administers justice?	
National level	Swedish Consumer Agency	Administrative	National Consumer Complaints Board (ANR) – 1st instance, not binding
		Judicial	Civil courts – 2nd instance
Municipal level	Local Consumer Assistance Center	Extrajudicial non administrative	The trading company The manufacturing company Business organizations (BBB) Industrial organizations Consumer organizations and associations

Lessons on Decentralizing Consumer Protection: at the Central Level

- The **National System of Consumer Protection** is the entity responsible for:
 - Designing and proposing **state policies** and **consumer laws**.
 - Approve the plans, programs and criteria of **interinstitutional action**.
- Could be presided by the Prime Minister and be composed of representatives of other levels of government, business, consumers and major governmental entities related to food, safety, health and transportation of consumers.

Lessons on Decentralizing Consumer Protection: at the Central Level

- **The Governing or Rectore Authority** must be the main executing agency for enforcing consumer laws and policies and of the National Consumer Protection System (SNPC). It has to:
 - Promote national campaigns of prevention, inspection, promotion and control.
 - Implement defense and protection of consumers.
 - Produce massive information in order to promote more transparent markets.
 - Articulate all members of the SNPC.
 - Endorse and support the decentralization of consumer protection throughout the country.

Lessons on Decentralizing Consumer Protection: at the Central Level

- **Adjudication authorities of consumer disputes:**
- **Individual complaints** can be resolved in different instances:
 - **At** the commercial or manufacturing business
 - **At** consumer or supplier organizations
 - **At** state units which provide **administrative justice**
 - **At** arbitration systems where parties attend voluntarily
 - **At Judicial Power** as the last instance of all disputes
- **Tutelage of consumers** may be made by direct action of the authorities or consumer organizations.
- There must always be an authority empowered to bring criminal cases of consumer protection before the criminal courts.
- **The Ombudsman** must act to defend users and consumers when public administration fails or omits his duties.

Lessons on Decentralizing Consumer Protection: Regional or State Level

- **Regional or State Government.-**
 - State or Regional governments should progressively assume responsibility for enforcing national consumer laws, norms and policies, on their own territories. They should also design and propose complementary norms, policies and plans specific to their own reality.
 - It must exist a coherent and subsidiary division of work in consumer issues between the **national government** and the **regional government**, in conjunction and close coordination with other **regional sectorial authorities**.

Lessons on Decentralizing Consumer Protection: Local Level

- **Municipal Government.-**
 - It can add to their functions:
 - Provide information, orientation and education for local consumers.
 - Preventive activities.
 - Verification, monitoring and inspection of the conditions of **consumption** and of suppliers.
 - Adoption of good practices by suppliers.
 - While predominantly Municipal governments play an **executive** and **fiscalizing role** of national and regional norms on consumer protection at the local level; they can also perform a complementary norm and policy role, according to the circumstances of its own reality.

Normative Power

+
normative
power

	Norms and Policies	Technical regulations
National level	National System of Consumer Protection	Sectoral regulatory agencies
Regional level	Regional Government	Sectoral regional authorities
Municipal level	Municipal Government	

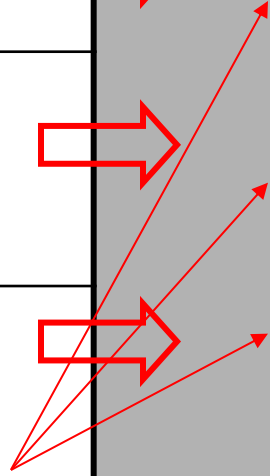
Executive and Fiscal Power

Ombudsmen Office

Who enforces law?			
Monitor compliance		Complaint to Justice	
National level	Governing Authority (INDECOPI)	Civil	- Governing Authority (INDECOPI) - Consumer organizations
Regional level	Regional Government		- Regional government --Consumer organizations
Municipal level	Municipal Government		- Municipal government --Consumer organizations
Civil society	Consumer organizations	Criminal	Governing Authority Attorney's Office



+ fiscalizing responsibility



Judicial or Adjudication Power

Who administers justice?			
Administrative level		Other mechanisms	Judicial level
Minor cases	1st instance: Office of Administration of Justice for small purchases (local notables)	At all levels (voluntary) The tradind company Self regulation Consumer organizations Business organizations (BBB) Other regulatory agencies Arbitration and conciliation system	3rd and last instance: Contentious Administrative Court.
	2nd instance: CP Offices at macro regions		
Major cases	1st instance: CP Offices at macro regions		Superior and Supreme Court
	2nd instance: Higher Tribunal at the Center		



THANK YOU VERY MUCH

Santiago Roca

Professor and Director

*Centro de Propiedad Intelectual,
Competencia, Consumidor y
Comercio, CEPIC, Universidad ESAN,
Lima, Perú*

sroca@esan.edu.pe