

MEXICO

Annual Report on Consumer Policy Developments 2001

I. Introduction

Profeco is a Federal governmental decentralized public organism, with legal personality and own patrimony. Article 28 of the Constitution, the Federal Consumer Protection Law (Ley Federal de Protección al Consumidor, LFPC), its Regulatory and Organic Statutes, the Federal Law of Metrology and Standardization and other dispositions constitutes its normative framework. Profeco is the only federal public administration entity in charge of watching over the execution of the obligations contained at the LFPC.

II. Rethinking the consumer protection public policy in Mexico

Mexico has not been left on the sidelines of the changes occurred in the global economy. Nowadays, the country is one of the economies with more integration ties at world level as long as a number of free trade treaties have been signed with the main commercial blocks. The opening of several sectors to competition has increased the consumers' benefits in the marketplace transactions, but, at the same time, they have been exposed to new forms of fraud and manipulation.

The challenge of Profeco continues to be achieving that consumer's expectations are the correct ones as refers products or services and that they don't celebrate unfavourable contracts. The design of consumer protection public policy should consider both the changes occurred on the global market economy and the new developments of the economic theory. Likewise, it shall take into account specific domestic market aspects in order to influence appropriately on each one of them.

At the present time, the consumer protection public policy should privilege the preventive focus, since the bigger risk associated to the increasing quantity of available consumer information implies supervising the accuracy and truthfulness of this information. The rethinking of the consumer protection public policy in Mexico should assist the following aspects:

- ❖ The starting point should be designing an integral public policy in such a manner that the different instruments (attention of complaints, diffusion and verification and surveillance) became part of an all-coherent one, built starting from the essential problem of information and education associated to consumer protection.
- ❖ Contrary to that carried out up to now, the evaluation of the consumer protection should be done in function of results, not of actions. Users opinion and a modern administration system are fundamental to achieve this goal.
- ❖ The education for the consumption and not only the information supply should be the major axis of the work with the society: social organisations, consumer organisations, students and the whole population.
- ❖ Consumers' organisations should be self-administrative and their members shall have a more active attitude in order to be able to assimilate the given information on different aspects (price, quality, domestic technologies, etc.).

- ❖ The alternative dispute resolution mechanisms must be enhanced, for instance, for the global solution of complaints in the more recurrent cases and the promotion of the arbitration between suppliers and consumers.
- ❖ Verification activities should have a preventive focus that helps to the execution of the norms, grant legal certainty to suppliers and consumers and avoid fraudulent or deceiving commercial and advertising practices.

III. Memory of works 2001

The Federal Consumer Protection Law grants to Profeco preventive and corrective functions. Within the first ones are consumer's rights diffusion; dissemination and information activities about goods and services offered in the market; consumers training to acquire better consumption habits; the performance as an expert and consultant as regards the quality of goods and services; the registration of model agreements and the promotion and support for the constitution of consumer organisations.

As regards corrective functions, the Law points out its faculty to represent consumers' interests through collective or individual actions; to support the solution of differences between consumers and suppliers, according to administrative procedures pointed out by the Law; to watch over the execution of the Mexican Official Standards (NOMs) and of maximum or official prices, rates, quality and weight of the products, as well as the commercial and advertising practices.

Aware of the deep changes that the country has suffered in economic, politics and social matters, and the impact of those changes over the consumption practices, the current administration considers that the work of the consumer protection public policy should be built around the preventive and educational actions, directed both to consumers as to suppliers, without discredit of the corrective programs. The consumption relationships will be more harmonic as long as consumers are better informed and vigilant of their rights. In 2001 began an important effort in this sense. Independently of the core programs, in 2001 Profeco began an ambitious institutional modernisation project that embraces the bring up to date of the legal framework; the work programs design and evaluation, and the systems and management modernisation, so the Institution became able to respond to its new economic and social context.

The main objective of the modernisation is to provide to the users better services; although, in general terms, it is possible to claim that the Institution has good image among the population in general and its users. That is what has been found in the survey applied in July and August 2001 in 37 provincial cities and 14 Delegations and municipalities within the metropolitan area of Mexico City.

Profeco's core functions can be identified in three main areas: i) services to consumers and providers; ii) verification and surveillance; and iii) education and information. The most relevant actions and achievements of those areas reached in 2001 are summarized below.

A. Services to consumers and suppliers

As regards services to consumers and suppliers the institution has two objectives:

- ❖ To protect and to defend the consumer's rights in order to avoid that their patrimony is damaged because of undue practices or suppliers' abuses;

- ❖ To educate suppliers to the purpose of diminishing the incidence of complaints and to create a culture of service to the client.

The task includes:

- ❖ The counselling and attention of the consumers' consultations;
- ❖ Complaints and accusations reception;
- ❖ Complaints' attention through reconciliation and arbitration mechanisms;
- ❖ Combined work with those suppliers that have an important number of complaints through a special program denominated Program for the Improvement of the Quality of Goods and Services (PROMECABISE);
- ❖ Model contracts registration;
- ❖ Advertising practices pursuit;
- ❖ Emission of administrative resolutions.

1. Counselling and consultations

Profeco lends counselling and assists the consumers' consultations, through the consumer's telephone or in a personalized way, on very varied topics, from price information, quality of products and services, domestic technologies, businesses references, to procedures for formatting and filing complaints and reception of accusations on practices affecting consumers.

Through these mechanisms, in 2001 were attended almost 2.5 million consultations, 85% by means of the consumer's telephone and the rest in a personal way. In global terms, this service increased 2.4% in comparison with 2000. On average, they were monthly assisted almost 176 thousand phone consultations and more than 30 thousand by personal means. The demand of the service was substantially higher in July, November and December, when were orchestrated seasonal programs like Beginning of the new school cycle, All Saint's Day, Christmas and New Year were orchestrated.

The consumer's telephone service is available in Mexico City and in 39 provincial cities through local numbers and a toll free national number (01-800-9031300). It is important to highlight that starting from March, 2001 the schedule of this service runs from Monday to Friday in the central offices (from 8:00 hs to 21:00 hs) and for the first time is available on weekends (from 8:00 hs. to 20:00 hs.).

In 2001 began actions aimed at unifying the network of the consumer's telephones and to integrate the information of the different services provided by Profeco through a call centre, in this manner in the future consumers enters a national network that provides them not only information about their locality, but also access to all the services of the Attorney's Office, including the status of a particular complaint or accusation.

Besides the general consultations and counselling above mentioned, in the area of administrative resolutions and arbitration were assisted 2,091 consultations, mainly on the arbitration procedure or the particular situation of the consumer's files that are in their way of administrative resolutions. This information will be also incorporated to Profeco's integral system information.

2. Complaints

Consumer complaints' handling constitutes one of the best-known services of Profeco and, perhaps, it is the most thankful for the population. Complaints are the main mechanism used by consumers to protect their rights and look for redress of the damage when is considered that they have been harmed.

Consumers formatting and filing complaints consider that a supplier or lender of services does not respect prices, quantities, terms, deliveries, conditions, modalities, features, guarantees, interests and other commitments settled down in the purchase-sale contract.

The consumer complaints handling is based on the procedure settled down in the Law, including three alternative dispute resolution mechanisms: immediate conciliation, personal conciliation and arbitration. A complaint can pass through one or several stages depending on the complexity of the matter to be solved and on the will of the parts in conflict in order to arrive to a satisfactory arrangement.

The conciliatory process has been effective because of the quick and cheap controversy solution between consumers and suppliers. However, an important procedure limitation is that, although Profeco can make use of means to force suppliers to attend audiences, in none of the stages can be forced to the consumer damage redress.

In 2001 were received more than 143 thousand complaints (5.4% more than in 2000), while the total amount recovered by consumers who filed complaints ascended to almost 131 million dollars, 37.5% more than that quantity recovered in 2000, what means that every month were recovered 11 million dollars on the average on consumers behalf.

It is important to mention that the Delegations (Profeco's regional offices in Mexico City and in the national territory) assist 98% of the complaints.

a) Immediate Reconciliation

Immediate reconciliation was settled down as a mechanism that allows reaching an agreement between the consumer and the supplier in a direct way, in order to speed up the conflict solution. In this case, a Profeco conciliatory lawyer contacts the supplier, by telephone or visiting its business address, for a closer communication between the parts and to obtain a result in a maximum lapse of five days.

In 2001, 57,120 matters entered to this procedure, 12.3% more than in the previous period. The simplest matters are usually solved by this mechanism, so only 40% of the total of complaints filed by consumers entered into this stage. Of the total cases entered by this way, 71.5% were concluded in consumers' behalf, figure that compares favourably with an index of 66.2% achieved in 2000. The concrete result of this work was the recovery of around 33 million dollars on behalf of consumers, representing 24.8% of the total recovered amount in 2001.

The goal is that at least 50% of the complaints presented before Profeco are due to be solved by this means, since it is a mechanism that reduces time and cost not only for consumers but also for providers and Profeco.

b) Personal conciliation

If the matter is not solved through immediate conciliation or because of the inner nature of the reclamation its solution it is not feasible by that mechanism, begins the personal conciliation procedure. In this case, Profeco makes an appointment with the parts to celebrate an audience with the aim to reach an agreement. For this procedure's implementation, Profeco is authorized to require to the parts all those conviction elements estimated necessary for the solution of the reclamation, as well as to impose the administrative sanctions.

93,007 files were received through this mechanism, 0.9% less than in 2000; among those are included 16,224 that could not be solved by immediate conciliation. However, 107,038 cases were concluded on behalf of consumers, including an important number of left behind matters. In this stage, were recovered approximately 93 million dollars (70.7% of the total recovered in the year) and were imposed 36,639 fines as administrative measures, representing an amount superior to 18 million dollars.

c) Arbitration

If the complaint is not solved in the previous stages, Profeco offers to the parts the possibility to use arbitration, procedure in which the parts, by mutual agreement, designate a referee to solve their controversy. This appointment can relapse on Profeco or on an independent referee. In case it corresponds to Profeco, the Institution acts in an impartial, gratuitous and quick way, offering consumers and suppliers the same treatment and it grants identical opportunities to demonstrate, through the proofs they count with, who has the reason.

Arbitration can arise from a complaint presented before Profeco when the parts don't arrive to a conciliatory arrangement. However, it exists the possibility that the consumer and the supplier undergo the arbitration without complaint or previous reclamation. There are two arbitration types: in friendly composition and in strict right. The first of them is easier, more flexible and economic to the parts, since it is not required lawyers' attendance. In the second case, it is developed following the formalities and/or requirements settled down in the Commerce Code and, therefore, it is more complex.

In 2001, 1,033 files entered to the arbitration procedure, 4.8% less than in 2000; and concluded 1,272 (it includes left behind files), almost 75% more than in 2000, when only 67% of the entered matters were concluded. 113 arbitral decisions were emitted and 1 million dollars was recovered on behalf of consumers (0.9% of the total recovered). The difference is explained by the fact that in most of the cases the parts arrive to an agreement before the arbitral decision.

d) Procedure for infringement to the Law

If complaints are not solved through conciliation and arbitration processes, Profeco can begin a procedure for infringement to the law to determine if there was or not a violation to the Federal Consumer Protection Law and, in its case, to impose the corresponding sanctions.

In the period of this report, 10,864 files entered to this procedure and 9,248 administrative resolutions were emitted: 1,095 without sanction; 346 with close down of the establishment and 7,723 with fines. The imposed fines added around 12 million dollars and were recovered around 5 million dollars on behalf of consumers. It is important to highlight that a very high proportion of the resolutions (87%) pointed out violations to the law.

3. Accusations

Accusations are other procedures used by consumers to protect their rights. Through these, consumers let Profeco know some irregularity performed by any supplier and ask the authority to put an end to this situation so consumers as a whole group can benefit. Contrary to the complaints, the consumer that presents an accusation has not been necessarily directly affected by this practice, neither it is required to present evidence. The most common cases are the accusations for abuses in the commercialisation of liquefied petroleum gas and gasoline.

In 2001, 12,021 accusations were received due to infringements to the norms for sales of goods or services, 18.4% less than in 2000. In general, the accusation is followed by a verification action to confirm the presumed anomaly and, in its case, the procedure for infringement to the law.

4. Model Agreements

A model agreement is a document elaborated unilaterally by suppliers in homogeneous formats, in which are established the terms and applicable conditions for the acquisition of a product or service. Consumers cannot negotiate the clauses individually.

To avoid that those model agreements include abusive clauses against consumers, the Ministry of Economy, by means of Mexican Official Standards (NOM), forces certain suppliers to register their agreements before Profeco. So, in a preventive way there is a contribution to the equity in the commercial relationships.

In accordance with the Federal Consumer Protection Law, the model agreements registration can be obligatory or voluntary, depending on if it exists a NOM that forces it or not. Model agreements whose registration is obligatory are the ones in the following commercial areas:

Time-sharing - (NOM-029-SCFI-1998)

Self-financing - (NOM-143-SCFI-2000)

Social events - (NOM-111-SCFI-1995)

Dry cleaner's, laundry and similar (NOM-067-SCFI-1994)

Skill programs and technical training without recognition of official validity - (NOM-137-SCFI-1999)

Truck transport (NOM-125-SCFI-1998)

Real state maintenance and furniture contained in - (NOM-138-SCFI-1998)

Graduation school services - (NOM-136-SCFI-1999)

Funeral Services - (NOM-036-SCFI-2000)

Vehicles repair and/or maintenance - (NOM-068-SCFI-2000)

Second hand vehicles sale, purchase and consignment - (NOM-122-SCFI-1997)

Leasing of vehicles - (NOM-124-SCFI-1997)

Photographique Services - (NOM-126-SCFI-1998)

Sale and purchase of construction materials - (NOM-135-SCFI-1999)

Sale of furniture - (NOM-117-SCFI-1995)

Repair and maintenance of electronic and gas appliances. - (NOM-085-SCFI-2001)

In 2001, the registration was granted to 4,335 contracts (3,437 obligatory and the rest volunteers) and it was denied to 301. Among the areas with obligatory registration there were those of repair of vehicles (1,548), laundry and ironing of clothes (494), social events (362) and sale and purchase of construction materials (244). Among the voluntary registrations were security and surveillance (313) and movies rent (224). During 2001 providing a better service and overachieving the programmed goal of 4,100 agreements for the year increased the promotion and use of model agreements. In this sense, were carried out campaigns of promotion for registration of model agreements, achieving 80% more registries in comparison with the same period in the previous year.

Also, activities to promote the registration of model agreements began among suppliers that are forced by the standards, so information applications were sent to 15 Commerce Chambers and Associations.

B. Verification and surveillance

The Attorney's Office provides protection to consumers through verification and surveillance actions to verify the legislative and regulatory instruments fulfilment in places where products or services are administered, stored, transported, distributed or traded, avoiding that those that don't fulfil the dispositions, reach the population.

Nowadays, the verification and surveillance function includes the verification *strictu sensu* of NOMs as well as commercial practices.

1. Actions

The function is carried out with four actions:

- ❖ Surveillance of the commercial behaviour to avoid undue commercial practices, as the monopolizing or concealment of products; conditioned sales; violation of offers, promotions or guarantees; deceiving advertising, etc.
- ❖ Verification of 23 metrology NOMs to guarantee the weights and measures accuracy in the commercial transactions; and
- ❖ Surveillance of the fulfilment of the non-metrology related norms to guarantee that traded products observe the standards settled down by the authority. The verification universe includes 20 services NOMs, 32 about commercial information, 25 on security and 9 about energy and thermal efficiency.
- ❖ Special surveillance of the commercial sales of liquefied petroleum gas and gasoline.

The concrete actions are carried out through programs of three types:

- ❖ Permanent. – Are of general types and include the verification of the commercial behaviour on establishments and to any product or service subject to NOMs.
- ❖ Special. – They refer to a certain geographical area or specific products. Among them are included the tourist areas programs, liquefied petroleum gas, gasoline, electronic and electric products and appliances; alcoholic drinks; materials for construction, repair and maintenance of housings.
- ❖ Seasonal. - Are those that operate in certain seasonal periods, when the demand of some products increases substantially. Are included the following programs: Lent and Holy Week, Children's Day, Mothers Day, Beginning of the new school cycle; All Saint's Day, New Year and Epiphany.

a) Verification of commercial behaviour and NOMs

Excepting liquefied petroleum gas and gasoline, the main actions performed in 2001 were the following ones:

- ❖ 46,668 verification visits as regards commercial behaviour were carried out; 121,089 for the verification of non-metrology NOMs; and 143,473 as regards metrology. In these statistics are included 74,669 complementary actions in areas of commercial behaviour and normalization, to check out the implementation of the recommendations pointed out in the original visit.
- ❖ Seasonal programs included 56,223 visits. For instance, the programs of New Year and Epiphany represented 14,125 visits and the program Beginning of the new school cycle represented 12,312 visits.

b) Program of liquefied petroleum gas

The objective of the program is that suppliers of liquefied petroleum gas in portable recipients or stationary tanks fulfil the effective dispositions of security, net content and exhibition of prices, in order to offer certainty to consumers on the product that is purchasing.

Other integrated program aspects are identifying the cylinders (portable containers) with colour, plaque and logo of the distributing company; as well as the pursuit to the destruction processes of those recipients not in optimum state.

The program begins with surprise operatives to the distribution plants, to the distributing vehicles of cylinders and to the armoured tanks (road tankers). During 2001, Profeco watched over that the price charged to consumers didn't surpass the limit fixed by the authorities. Among the actions done, the most important ones were:

- ❖ 14,932 verified distributing vehicles (11.3% more than in the year 2000); 645 immobilized vehicles (25% more than in 2000); 44,613 immobilized cylinders (21.6% of the total load).
- ❖ 888 verified plants (60% more than in 2000), 24 of those were closed down (only 3 in 2000).

- ❖ 1,024 economic sanctions were imposed for a total amount of 1.7 million dollars.

c) Gasoline Program

In the case of gasoline the objective has been to improve the commercialisation conditions of this product in the country. Since the beginning of the program it has been verified that the fuels are the same ones that the consumers of gasoline and diesel are paying for. The program also takes care that the electric and electronic operation of the instruments is made in accordance with the NOM, with the aim to avoid that devices or computer programs are placed for altering dispatch of the fuel in consumers' damage. The main actions carried out in 2001 included:

- ❖ 5,446 verified stations, 48.3% more than those verified in 2000 and 18.4% more than the established goal for the year 2001.
- ❖ 88,807 verified dispatch fuel hoses, 59.8% more than in 2000. Of the total, 3,517 were cautioned and 3,390 immobilized.

2. Integral program of verification and surveillance

Beyond the mentioned specific corrective actions, the fundamental thing in the work carried out in 2001 was the designing of a Verification and Surveillance Integral Program that determines the direction of the actions to develop in the following years.

The program was designed to protect consumers in their commercial relationships, through the detection and prevention of abusive practices from suppliers, the non-fulfilment of Mexican Official Standards and the infringement of the regulation related to weights, measures and products labelling.

Verification actions are guided to producers, commercial agents and lenders of goods and services with the aim to promote the voluntary execution of the norms and to achieve the continuous improvement of the products and services offered in the market.

C. Education and information

Education actions have created an important capital in terms of a stock of information that supports consumers in their purchases (prize/quality), in the production of basic products (domestic technologies) and in the healthy feeding.

Profeco has diverse products and mechanisms that, depending on their objective and expected users constitute a fundamental tool in the task of informing and educating consumers to prevent abuses.

1. Actions

a) The Consumer Magazine

In an effort to inform consumers, should be mentioned in the very first place the positioning achieved by the Consumer's Magazine. In 2001 an important work was made:

The central topics of the publication are the quality tests, an example of the research done at Profeco's laboratory. Such studies occupied until 50% of the total space of the magazine, impeding the incorporation of novel contents. This used to left outside important issues with the rising information poverty. For this reason, the extension of the studies has been reduced using another

type of graphic elements, duplicating the number of sections for other interest topics like the “black list”, “consumers opinion”, “consumption through the time”, “sustainable consumption”, “consumption in figures”, “habits and traditions”, “Profeco in action”, etc.

In 2001 was improved the design, paper, impressions and pictures quality, making the product more readable and friendly for users, without increasing its production cost.

As a result of the previous changes, the demand increased, passing from 60 thousand to 70 thousand delivered copies. The total copies in 2001 reached 830 thousand.

b) The consumer's Newspaper

Considering that the magazine is mainly read by middle class professionals, in 2001 the institution began analysing the possibility to publish a publication for urban class popular groups. The project could begin during 2002 with a mural exposition that would be placed in crowded places like metro stations, public markets, etc.

Also, in 2001 began an important press coverage effort to assist the rural population that historically has not been user of Profeco’s services. As of December 2001, is been inserted, inside the newspaper of another government institution dedicated to the Mexican rural population, a page named “The Consumer's Newspaper”, with specific messages for this kind of population. This is only a first step in the project for the attention of the left behind population groups with a free publication done specifically for them. The project is expected to consolidate during 2002.

c) Other printed material

Other produced printed material are directed to offer an information and orientation service on specific topics; for instance, pamphlets about nutrition, environment, seasonal campaigns, Christmas guides, cooking recipes, posters, etc, distributed through the Delegations offices, complaints attention modules placed on strategic places and consumer organisations. In 2001 the institution printed more than 5 million copies.

d) Electronic Means

Media coverage to inform consumers also has a history in Profeco. It has represented a suitable mechanism to reach an important number of consumers making possible to impact in a public that has a limited access to the institutional services because of their residence place or due to budgetary reasons.

(i) Radio

A radio program called the “Radio Consumer’s Magazine”, with a duration of 15 minutes, was produced from 1995 to November 2001. This radio program was the radio version of the TV program. In December 2001 the institution began transmitting a new radio program named “The consumption room”, broadcasted by 7 radio stations in Mexico City and 215 provincial cities. This is the first institutional produced program specially directed to youths.

(ii) Television

The television program “TV Consumers Magazine” is produced at Profeco’s study with a commercial production quality. It includes information on the quality test made at the Lab, domestic

technologies and nutrition. The presentation is in charge of specialists and 9 TV channels in Mexico City and 40 TV provincial channels broadcast it.

(iii) Internet

Profeco has its own Internet page that includes legislative information, available services for consumers, verification and surveillance programs, prices information, quality tests, domestic technologies, healthy feeding, alerts for consumers, as well as the possibility of formatting and filing complaints and accusations or to carry out consultations through this means. It includes links with other related institutions, national and international, (OECD, and-Consumer, etc.) also working on consumer affairs. In 2001 an average of 55 thousand people visited the site.

The page is in a transformation process in order to improve its graphic design, to include more information, and to render it more dynamic and friendly.

e) Information about prices

(i) Who is who in prices?

Price information is basic to achieve competitive and efficient markets. The publication “Guide to buy cheaper: Who is who in prices?” responds to the basic idea of guiding consumers by offering prices of general articles deemed to be of high-priority consumption, commercialised in different establishments. This publication diffused the lowest average prices, with their respective trademark and presentation and by commercial establishment, of a basket of generic products grouped in: basic nutritious; fruits and vegetables; home and personal cleaning products; medications and appliances. In province, the information is diffused through local newspapers or posters at the Delegations offices. Also, the information is available at national level through the consumer's telephone and in the Internet page.

(ii) Who is who in money delivery from USA?

The program “Who is who in money delivery from USA” shares the same objective of price diffusion. In this case, the program assists Mexican citizen working in the United States of America and their families in Mexico. The aim is to provide them with information on the total cost (commission and differential of the exchange rate) charged by companies providing the service of money remittances from the United States to Mexico.

In order to continue decreasing the costs to the users of this service, the institution is working in coordination with the Presidential Office for Mexicans Abroad, the Ministry of Foreign Relation, CONDUSEF (protection for users of financial services) and the Bank of the National Saving and Financial Services.

The program obtains information in 8 American cities and of 22 companies, covering this way the most important cities and the main companies. In 2001, began the analysis of the covering extension in both senses. Also, in order to increase the efficiency of the program, the institution is working to offer the information in a clearer and more comprehensible way and to improve the diffusion in Mexico, so the information arrives to who needs it.

f) Consumer Organisations

Consumer Organisation allow an articulation between the population and Profeco in the tasks of information and education. The institution directly promotes these groups: they have been

considered as a mechanism for information transmission and training. In 2001, the Direction General for Consumer Organisation undertook the design of a new auto managerial focus for these groups, for the better performance of these social units where the consumer's figure became strengthened.

2. Education like rector axis

The current institutional programs and activities re-thinking process has implied a reflection on the difference among the information and education processes. The educational process goes beyond providing information or training to consumers, but recognizing this option like necessary for the construction of a critical consumption culture. Profeco's current vision seeks to go further on, because the education is not a process limited to inform consumers, no matter how important is the information.

In 2001 were taken the first measures to constitute the education for the consumption like pillar of the consumer protection public policy.

D. International activities

In 2001 an important task began oriented to identify different international organisations analysing public policies for consumer protection and to fortify the institutional presence in the international arena.

Profeco's activities at the international level are aimed at strengthening its core activities and to extend the institutional links with consumers, homologous entities and international consumer protection organizations.

Desirous of advancing toward the approval of world-class services and of consolidating like a world-class efficient institution, within the national and international context, Profeco is looking forward to participate, in an active way, in the definition of the consumer protection public policy at international level, both at the bilateral and multilateral context.

1. Bilateral Actions

In the bilateral scenario the institution begun or consolidated cooperation ties with third countries in consumer affairs, favouring the exchange of information and the implementation of joint projects that provide specific tools to the participating countries for a better defence of consumer's rights.

a) Agreements

Derived from the Agreement of Economic Association, Political Dialogue and Cooperation between Mexico and the European Community and their States Members, in July 2001, Profeco presented to the community authorities an actions proposal for bilateral cooperation in consumer affairs. For Profeco it is important that the economic cooperation with the European Union (UE) includes, among one of its high-priority axes, the consumer protection public policy, by virtue of the narrow relationship that this area has with such aspects as standardization, competition policy and foreign trade, and because of the possibility of taking advantage of the experience of its States members in this subject.

b) High level visits

In 2001 Profeco welcomed diverse high-level representatives from Latin America countries. In May 2001 it was received a delegation formed by officers of the Ministry of Economy and of members of the Congress Commission for Consumer Protection from Guatemala. The objective of their visit was learning from Profeco's experience and performance in order to implement in Guatemala the project "Mechanisms and Procedures for the Consumers Protection."

In June 2001 was welcomed the visit of the Secretary of the Small and Medium Businesses, Consumers and Foreign Trade of the Government of the county of Córdoba, Argentina. The objective of the visit was the exchange of national experiences on consumer protection.

By the end of 2001, was carried out, within the facilities of Profeco, an internship of two officers from the Ministry of Economy, Industry and Trade (MEIC) of Costa Rica, within the framework of a bilateral project. Costa Rica had interest in learning from Profeco's procedures, with particular emphasis in the system for complaints attention (SISEQ) as well as to identify eventual cooperation areas between both countries.

c) Seminars

Profeco's high-level representatives participated in seminars carried out abroad. In January 2001 the institution participated, with the topic of Mexican advertising regulation, in the "International Conference for the Euro-Latin American Consumers Dialogue for the Development and the Democracy 2001-2003", held in Cartagena of India, Colombia.

Also, it is important to mention the participation in the "First Ibero-American Seminar on Consumers Justice Access", organized in September 2001 by the Consumption Rights Studies Institute (IEDEC) in Ciudad de la Plata, Argentina, where Profeco shared its experience as regards resolution of controversies through conciliation and arbitration procedures.

d) Specific Studies

Profeco's international activity has included the institutional participation in diverse studies and analysis carried out by instances dedicated to consumer affairs. For instance, the Ministry of Trade and Industry and the National Consumer Agency of the Kingdom of Denmark carried out a benchmark study on the functioning of markets in OECD. Profeco participated in the survey of the study. The study was based on the evaluation of the following four basic elements for the appropriate operation of the markets:

- ❖ Effective competence
- ❖ Public services exposed to competition
- ❖ Good information on goods and services
- ❖ Clear Rights for consumers and businesses

In the global index, among 26 participant countries, Mexico occupied the position number 14.

Another international study the institution participated in was the one undertaken by the American Bar Association Task Force on E-Commerce and Alternative Dispute Resolution of the United

States of America (ABA), in conjunction with the University of Washington. Profeco answered a questionnaire. The Task Force was seeking international input to identify differences in dispute resolution processes that may arise due to different cultural context worldwide. Also, was seeking input on the use of online dispute resolution (ODR) to resolve Internet Related disputes as well as dispute arising offline.

In May 2001, Profeco assisted the Consumer Ombudsman of the Kingdom of Norway petition who requested to participant members States in the IMSN information regarding consumer protection, particularly on the performance of the national agencies for consumer protection as regards punishment and the sanction system.

Lastly, in the second semester of the last year, Profeco presented to the Ecuadorian authorities for consumer protection a cooperation project proposal entitled "Exchange of bilateral Mexican-Ecuadorian experiences in the area of consumer protection with particular emphasis in education to consumers". At the moment, the institutions are evaluating the required mechanisms to be implemented in order to perform the mentioned project.

2. Multilateral achievements

Within the multilateral arena, the aim is to strengthen Mexico's presence in international fora that analyse the *avant-garde* tendencies in the public policies for consumer protection deriving in a Mexican state of the art practice. In that sense, has been privileged the collaboration with the Organization for Economic Co-operation and Development (OECD), the United Nations Organization (UN), Consumers International (CI) and the International Marketing Supervision Network (IMSN), three excellence fora on this subject.

a) OECD

In 2001, Profeco paid particular attention to its relationship with the Committee on Consumer Policy (CCP) of the OECD, specialized high level forum where are designed the most avant-garde consumer protection public policies.

Profeco participated on the OECD workshop on electronic commerce that took place in Berlin, Germany, in March 2001. Also, in September 2001, Profeco attended the 61^o Session of the CCP in Paris.

In the same way, during 2001 Profeco participated in some efforts developed by the OECD Committee of Tourism by resolving a questionnaire on national tourism policy and its relationship with the measures taken to protect consumers as tourists.

b) United Nations

Regarding the relationship with the United Nations Organization (UN), during 2001, Profeco worked closely with two of its specialized organs: the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Organization for Agriculture (FAO). In the case of UNCTAD, the institution emitted specialized comments at times of the Experts Meeting on Consumers Interests, Competitiveness, Competition and Development that was held in October 2001 in Geneva, Switzerland.

Also, as regards FAO, Profeco added its hard work to that of other government Mexican entities to pursuit the Action Plan of the World Food Summit (CMA), with the purpose of commemorating, on

16 October 2001, the World Food Day and to prepare Mexico's participation in the summit that will take place in Rome in the year 2002. It is necessary to underline that Profeco is involved in the tasks that are carried out in the sessions of the Committee of World Alimentary Security.

c) Consumers International

During 2001 Profeco kept a close contact with the Regional Office for Latin America and The Caribbean of Consumers International (CI). This communication allowed the institution to participate in multiple activities: i) surveys on the basic limits of consumers protection applied in Mexico; ii) studies to determine the strengths and weaknesses of homologous institutions in the Latin American region; iii) international campaigns related with the tasks undertaken within the *Codex Alimentarius* (particularly about food security, food risk); and iv) studies on sustainable consumption with the aim of analysing if Latin American authorities indeed are applying the UN Guidelines for consumers protection.

d) International Marketing Supervision Network

Another important forum is the International Marketing Supervision Network (IMSN). Profeco participated in the biannual encounter held in April 2001, in New York City. In such a meeting, the IMSN celebrated a forum of Latin American countries to analyse the current situation of the consumer protection public policies. Profeco's representative exposed before the assistants the general consumer affairs activities carried out in Mexico. Also, the occasion served as a framework for subscribing the Memorandum of Understanding and the Agreement of Confidentiality to become a full member in the international project eConsumer.gov.

This is a pilot project to develop and maintain: I) a public Web site where consumers can find relevant consumer information materials, obtain contact information on consumer protection agencies in participating countries, and submit complaints about online and related transactions with an international component (the "Public Site"); and II) a non-public, password protected Web site where Certified Agencies can access eConsumer.gov Data (the "Government Site").

Through this important project, consumers around the world can make contact with the participant consumer protection institutions in case of existing problems in cross-border transactions, particularly those carried out by electronic means. Profeco has participated in the pilot phase of this project, becoming the only country of Spanish language involved.

e) Other fora

On the other hand, the Electronic Commerce Steering Group of the Asia-Pacific Economic Co-operation (APEC) made a survey about consumer protection in the context of electronic commerce. Profeco was part of the study, pointing out the changes done to the Federal Consumer Protection Law in order to include dispositions related to electronic commerce.

Finally, the Institution cooperated with some projects done by the National Association of Consumer Agency Administrators (NACAA) of the United States, especially in the legislative compilation on consumer protection and in another one related to the repair or redress procedures whose objective was to know the standard NACAA member practices in the calculation of consumers restitutions.

Institutional modernization

Nowadays, Mexico's participation in the regional and global commercial processes, as well as the expansion and the growing complexity of the marketplace, demand new normative and institutional answers that endow Profeco from bigger capacity and effectiveness for the appropriate execution of its mission.

With a more open Mexican economy, and assuming the principle that the consumer protection public policy is essentially an economic instrument for the best markets functioning and, therefore, consumers' well-being, Profeco began in 2001 a deep institutional modernization process including, among other aspects: adaptation of the organic structure to new environment and necessities; revision of its operative processes and their re-engineering; access to the new information technologies; training and personnel's promotion; administrative modernization; bring up to date of the normative framework and restructuring of the offices network.

The institution undertook actions in all its areas but especially in four: strategic planning and processes evaluation; normative framework revision; offices network reorganization; and computer science and administration.

Mexican Official Standards (NOMs)

The responsibilities and attribution of tasks in matters of consumer protection are set out in two basic laws, the Federal Consumer Protection Law (LFPC) and the Federal Metrology and Standardization Law (LFMN). Both laws are complemented with other regulations, principally the Mexican Official Standards (NOMs) issued by public authorities in terms of the LFMN.

NOMs are one of the main components of the Mexican consumer protection public policy. NOMs are national mandatory rules for business establishing technical specifications on safety and/or information in the production and commercialization process of goods and services.

Under the Federal Metrology and Standardization Law (LFMN), the Ministry of Economy coordinates the standardization process, but it is important to remark that in the elaboration of each NOM, several actors could take part along with federal authorities, for example: consumers, industrial and commercial representatives, and educational institutions, among others.

In 2001, the Ministry of Economy issued several NOM's, which refer to:

1. Commercial Information Standards

- ❖ NOM145-SCFI-2001, Commercial information and labeling of honey in its different presentations

This Norm establishes the commercial obligatory information that should be disclosed on labels of packaged honey, in its different presentations, traded in Mexico. It is not applicable to honey containing different products or substances than its natural components. In such a case, should apply NOM-051-SCFI-1994.

The information must be truthful and should be described and disclosed in such a form that avoids consumers confusion as regards the product nature and features, it should be disclosed in Spanish language in comprehensible and readable terms, to fulfill dispositions of other NOMs (NOM-008-

SCFI and NOM-030-SCFI). The label shall be adhered to the product and remain there until its consumption under normal conditions.

2. Commercial Practices Standards

These type of norms establish that the price and/or rates given to consumers should be in national currency; that services lenders are responsible for those services that should subcontract with third people, and that they should have a model agreement registered before Profeco, written in Spanish language and with readable characters, even if it may be written in another language. In case of controversy, the Spanish text is the prevailing one.

Also, the information that suppliers provide or diffuse to consumers by any means should be truthful, verifiable and free of elements that may cause confusion or deceit, and should not contain false or inaccurate claims on the features of the transaction or the offered service.

- ❖ NOM-148-SCFI-2001, Commercial Practices –Normative Elements for selling company or service animals and for their training services

This NOM establishes the commercial information elements that provider must offer to consumers when trading company or service animals. The information must include services offered for their care and training, as well as those informative elements that must be in the model agreement used to formalize these operations. It is of general and obligatory observance inside the national territory.

Providers or lenders of this service should have licenses or necessary authorizations to carry out these activities; to have establishment with facilities, equipments, exhibition accessories and sanitary, environmental and security conditions according to legal dispositions; and qualified personnel.

Can be sold only non-prohibited animal species. In case of illegally marketed species, suppliers are responsible for the animal illicit origin. Suppliers should have guides for species with information for consumers about animal care.

Those lending services for animals training should elaborate a manual to describe the main service characteristics, especially those related to facilities, kind and training plan, and offered guarantees. At the end of the training period, lenders should provide consumers the corresponding constancy, on writing paper.

This norm also establishes the minimum information that animals training traders and services lenders should give to consumers; for example, price and rates, payment conditions, expenses or additional charges, permits and authorizations, legal obligations acquired by consumers, etc.

All the trading and animals training operations should be established in a model contract containing the general characteristics of the transaction.

- ❖ NOM 071-SCFI-2001, Commercial practices and normative elements for contracting medical attention with direct charge services

This NOM establishes the commercial information elements that should fulfill medical services providers who charge directly to consumers. It is of general and obligatory observance in the national territory. It is not applicable to professional services like consulting a medical doctor.

The establishment to provide this kind of services should count with personal responsible for assisting consumer's complaints on prices and offered services of medical attention.

The lender is forced to provide to consumers, in writing, the internal regulation of the establishment, as well as complete information on the diagnosis and corresponding treatment.

The provider should offer a catalogue or price/rates list regarding the medical attention services, containing, among others, the advance payment that consumers should pay. It should have a mechanism to inform users the service the medication and material prices.

- ❖ NOM-085-SCFO-2001, Commercial Practices and Information Requirements for repair and maintenance of electronic or gas based appliances

This norm establishes the minimum requirements of commercial information and of content in model contracts that should observe services providers in the case of repair and maintenance of electronic or gas based appliances. Are excluded services of repair and/or maintenance of electronic or gas based appliances given by the original guarantees that makers grant to this type of appliances.

Lenders of this type of service should not condition the repair and/or maintenance of electronic or gas-based appliances to the acquisition or rent of other products or services offered in a predetermined establishment.

Before the appliance repair or maintenance, lenders of this service should offer consumers, in writing, the corresponding foreseen charge. The norm establishes the minimum information that this document should contain.

The repair and/or maintenance won't start unless the consumer has previously given permission for the enterprise to do so and accept the foreseen charge, and the service is carried out in agreement with the conditions given by this norm as well as the established ones in the respective contract. If the service is provided at consumers home, lenders should provide identification cards to their employees.

This norm also establishes the minimum information that the lender of the service should exhibit in the establishment: for example, main services and effective rates, indicating if expenses and materials are included, delivery times and service schedules.

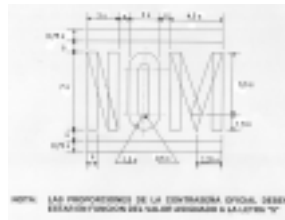
Before signing the contract, the lender of the service should also provide consumers the following information: services costs, maximum period to carry out the diagnosis, time required to do repairs, possible risks to the appliance, advance payment amount in order to initiate repairs, cost of additional services (for example, delivering the appliance to consumer's home), form and payment options, sanctions for not completing contracts, and guarantees that lenders offers for the given service.

3. Other standards and interest standards projects

- ❖ NOM-106-SCFI-2000, Design characteristic and use conditions for the official countersign

On February 2, 2001 it was published at the Official Gazette (Diario Oficial de la Federación, DOF) the standard that establishes characteristics and conditions for the use of official countersign to indicate that a product fulfills with one or several NOMs.

The logo and specifications are the following ones:



- ❖ Project of NOM-151-SCFI-2001, Commercial Practices - Requirements for data messages conservation.

This norm, still in project, represents the continuity of the activities related to the implementation of the *OECD Guidelines for Consumer Protection in the Context of Electronic Commerce*. It embraces the technical aspect derived from the legal reforms promulgated in Mexico in 2000 in relationship with electronic trade, and that modified different juridical instruments as the Commerce Code and the Federal Consumer Protection Law.

This project establishes the requirements that should be observed for conserving the content of data messages where are consign contracts, agreements or commitments that originate rights and obligations. Once approved, it will be of general and obligatory observance for traders using these means.

The norm defines concepts as electronic signature, cryptography, digital certificate, and electronic file, among others. Also, it contains an appendix with description of required elements for information conservation contained in data messages.

Traders will have the possibility of transferring to digital context documents originated in transactions carried out by different means to the electronic ones, provided they are held to the norm dispositions and be compared by a third legally authorized that verifies that the transfer is carried out entire and unalterably in accordance with its original form.