

## Action Taken Report (ATR)

### CUTS CCIER International Advisory Board (IAB) Meeting

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#### 1. BACKGROUND

CUTS International's Centre for Competition, Investment & Economic Regulation (CUTS CCIER, [www.cuts-ccier.org](http://www.cuts-ccier.org)) has regularly held meetings of its International Advisory Board members (IAB) on the sidelines of international conferences that are either organised by CUTS and/or other organisations, where a critical mass of IAB members participate. The last meeting of the IAB was held on the sidelines of the OECD Global Forum on Competition 2012 on 17<sup>th</sup> February 2012 in Paris, France. A report of this meeting has been prepared and circulated.

This is an Action Taken Report (ATR) that summarises the suggestions received from the members of the IAB over time, and corresponding actions that were taken. The ATR starts with a section briefly describing ongoing projects of CUTS CCIER – and their current status.

#### 2. ONGOING PROJECTS

##### Funded

1. ***India Competition and Regulation Report (2011 and 2013)*** <http://www.cuts-ccier.org/icrr2011>: CUTS is implementing this project with the support of The Ministry of Foreign Affairs (Norway).
  - a. **ICRR 2011** – The report ‘Competition and Regulation in India, 2011’ [www.cuts-ccier.org/icrr2011/pdf/Competition\\_and\\_Regulation\\_in\\_India-2011\\_Leveraging\\_Economic\\_Growth\\_Through\\_Better\\_Regulation.pdf](http://www.cuts-ccier.org/icrr2011/pdf/Competition_and_Regulation_in_India-2011_Leveraging_Economic_Growth_Through_Better_Regulation.pdf) has been published and released in an event in New Delhi on 26<sup>th</sup> December. This the 3<sup>rd</sup> report and takes a close look at the following key sectors – Microfinance, Retail, Natural Gas, Real Estate (Residential), Road (Passenger Transport) and Telecom Regulation, other than cross cutting issues of Independence and Essential Facilities Doctrine. Furthermore, periodic surveys of perceptions on the scenario show an upward increase of awareness and satisfaction.

- b. **ICRR 2013** – CUTS has initiated its next volume (ICRR 2013) focusing on Coal, Railways, Financial Sector Regulation, Private Healthcare and cross cutting issues like: Regulatory Uncertainty and Impact on Investments, Sinecures affecting Regulatory Performance, Regulatory Reforms and Economic Growth. It has been planned to publish this by the end of the year.
- 2. **Business Regulation and Corporate Conduct (BRCC) Project** ([www.cuts-ccier.org/BRCC](http://www.cuts-ccier.org/BRCC)) – A project that CUTS has initiated in cooperation with the Norwegian Institute for International Affairs (NUPI), to assess how industrial development in India can occur in a sustainable manner through enabling policy reforms and appropriate practice changes. Final report has been drafted and is currently being finalised, national level policy inputs (issues note based on the final report) is also being prepared. Capacity building for pharmaceutical firms and private healthcare units are also planned in the month of February and March 2013.
- 3. **Capacity building of CSOs to demand DSM/RE in India (DREC)**, ([www.cuts-ccier.org/DREC](http://www.cuts-ccier.org/DREC)) – A project being supported by Climateworks Foundations (USA) and to be implemented in two states of India (Gujarat and West Bengal) to develop understanding and awareness of CSOs, so that they mobilise greater consumer demand for renewable energy products/services in India. The project was launched in June 2011 and now is in final stage. Two dissemination meetings at state level and one national conference will take place sometime before March.
- 4. **National Competition Policy & Economic Growth in India (ComPEG)**, ([www.cuts-ccier.org/COMPEG](http://www.cuts-ccier.org/COMPEG)) – CUTS with support from British High Commission (BHC) aims to take forward the agenda of a National Competition Policy and focus on sectors: Pharmaceuticals, Electricity and Agricultural Products, given the several emerging competition concerns therein and its impact on all the other sectors of the economy. The project aims to show the loss or gain of competition impediments to enable a strong advocacy agenda. Project started with its launch meeting in August 2012. Research Design Meeting was also held in November 2012. Now, that research phase of the project is going on full swing. Survey activity is planned in the next month.
- 5. **Competition Reforms in Key Markets for Enhancing Social and Economic Welfare in Developing Countries (CREW)**, ([www.cuts-ccier.org/CREW](http://www.cuts-ccier.org/CREW)) – CUTS has initiated a project from November 2012 to be implemented over a period of three years in four countries (two African & two Asian) and across two common sectors. This project is supported by DFID (United Kingdom) and GIZ (Germany). The project aims to develop and implement a framework/approach to assess measurable long term impacts of competition reforms on social and economic welfare in developing countries. A planning meeting of the project was held in Bonn, Germany in the month of November, 2012 to plan the preparatory phase of the project. An Inception

Meeting and First Project Advisory Committee (PAC) Meeting of the project is scheduled on March 13-14, 2013 in Jaipur, India.

6. Research Report on '**Unfair Trade Practices in India**': CUTS with the support of GIZ India, commenced a project to investigate and analyse the status of unfair trade practices in India, to highlight issues and to recommend a way forward to address such issues within the framework of Indian law. We are in the process of finalising a report of CUTS recommending the structure and powers of such agency, interlinkages to other state agencies and the legislation process of the agency's implementation, to help MoCA arrive at a well-informed decision.

#### ***Non-Funded***

7. ***Why do countries adopt a new competition law? (Second Laws)*** – CUTS initiated the second phase of the research study covering few (not the same) countries from the first volume of different sizes and levels of economic development across the world. The first volume ‘Evolution of Competition Laws and their Enforcement: A Political Economy Perspective’ (<http://www.routledge.com/books/details/9780415672139>) of this research project has been published by Routledge in December 2011. This book (Volume – I) is a collection of (nine) country essays highlighting the motivations in various countries that led to repeal of an old law and adoption of a new one. Countries at different levels of economic growth were chosen for this analysis, so that a set of criteria (for adopting new competition laws) could emerge from the analysis. The country essays were contributed voluntarily by various CUTS friends/partners/fellows.
8. ***Consumer Protection Regimes in the World (CPRW)*** – A first volume of this book is being readied and would contain essays about the state of consumer protection regimes from about 30 countries (analyses using the UN Guidelines for Consumer Protection). The country chapters were contributed by INCSOC members. CUTS along with Consumers International (CI), will jointly publish Volume I by early 2013.
9. ***Competition Regimes in the World - A Civil Society Report*** (CIRComp Volume II): A self-supported project to prepare a report entitled ‘Competition Regimes in the World’, the 1<sup>st</sup> volume covers about 120 countries around the globe and now the revised report will carry the competition policy & law/regulatory/consumer protection scenario of 148 countries around the globe, which is a ready reference for all stakeholders, including policy-makers, academia, civil society, and the business community.

**10. Campaign on World Competition Day (WCD):** CUTS is running a campaign to adopt the World Competition Day (WCD) on 5<sup>th</sup> December since 2010 to ensure that consumers from across the world realise the potential benefits from an effectively implemented competition regime, and also play their role in making competition regimes work worldwide. This year campaign is being taken forward in pursuance of the theme, i.e. “Adverse Impact of Cartels on Poor”. Many countries have supported this initiative and celebrated the day in their countries by issuing press release, writing articles, TV interview and organising event on the theme etc.

### 3. ACTIONS ON IAB SUGGESTIONS

This section summarises the comments received from the IAB members and corresponding actions taken by CUTS and/or those in the pipeline.

S.No.	Suggestion received	Specific Issues raised	Actions taken/planned
1.	Analysis of 7Up projects	<p>The countries (7Up) where CUTS has undertaken research and advocacy work on competition issues should be re-visited in order to analyse how the 7Up project (research and awareness/advocacy) helped the process of competition reforms.</p> <p>CUTS should maintain close contact with the partners/CSOs/NRG in these countries</p>	<ul style="list-style-type: none"> <li>CUTS initiated an assessment (internally) to understand how the ‘7Up Projects’ have contributed towards domestic competition reforms in the countries, and prepared a report of the same ‘Did we make any difference? Reforming Competition Law Regimes in the Developing World through the 7Up Programme’. (<a href="http://www.cuts-ccier.org/pdf/Reforming_Competition_Law_Regimes_in_the_Developing_World_through_the_7Up_Programme.pdf">http://www.cuts-ccier.org/pdf/Reforming_Competition_Law_Regimes_in_the_Developing_World_through_the_7Up_Programme.pdf</a>)</li> <li>CUTS is in already discussions (concluding stage) with funders and will initiate a ‘follow-up’ initiative ‘<i>Competition Reforms in Key Markets for Enhancing Social and Economic Welfare in Developing Countries</i>’ (CREW project) in selected 7Up countries. The aim is to develop an approach, which would help in assessing impacts of competition reforms on consumers and producers in selected markets.</li> <li>Close contact is being maintained through e-groups and participation in meetings.</li> </ul>
2.	Interface between competition and sector regulation	<p>(i) Empirical research on the interface between competition and sector regulation</p> <p>(ii) An important research question would be ‘What kind of Sectoral decisions impinges on</p>	<ul style="list-style-type: none"> <li>CUTS has developed a Viewpoint paper on the same and has this as an issue to be covered in a future multi-country research and advocacy project. A number of cases of how this cooperation has been implemented in other countries would be studied, so that these ‘young agencies’ can draw relevant lessons.</li> <li>A research project ‘Evolving Effective Cooperation between Competition Authority and Sector Regulators - Lessons from Indian and International Contexts’ has been implemented to study how regulatory conflicts between the competition authority</li> </ul>

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		Competition Commissions?"  (iii) Assess the compatibility between competition and sectoral legislations	and sector regulators can be resolved deriving from the approaches followed by other countries. The study explored the historical genesis of regulatory conflicts in India and four countries (Brazil, South Africa, South Korea and Spain), and resulted a report <i>Harmonising Regulatory Conflicts</i> . <a href="http://www.cuts-ccier.org/pdf/Harmonising_Regulatory_Conflicts.pdf">www.cuts-ccier.org/pdf/Harmonising_Regulatory_Conflicts.pdf</a>
3.	Competition Policy and Consumer Welfare	CUTS should focus on the plight of poor consumers while planning such research	<ul style="list-style-type: none"> <li>CUTS has also prepared a monograph on '<i>Why should Consumer be interested in Competition Policy and Law</i>', <a href="http://www.cuts-ccier.org/pdf/Why_should_consumers_be_interested_in_a_competition_law_and_policy.pdf">www.cuts-ccier.org/pdf/Why_should_consumers_be_interested_in_a_competition_law_and_policy.pdf</a> which demonstrates through case-studies/evidence of how competition enforcement can assist consumers (especially the poor). It has also been translated in Malay language (Malaysia's official language) by FOMCA.</li> <li>CUTS is in the process to prepare a monograph on 'Why should businesses be interested in Competition Policy &amp; Law?', which will be ready by April 2013.</li> </ul>
		A case study approach should be undertaken to assess welfare impacts of competition law enforcement	<ul style="list-style-type: none"> <li>CUTS is implementing a project to study Unfair Trade Practices (UTPs) in South East Asian countries, which is being supported by IDRC.</li> <li>A study on analyse the situation in India regarding Unfair Trade Practices (UTPs) and limitation of the Law Enforcement is being implemented with the support from GIZ India.</li> </ul>
4.	Regulatory Impact Assessment (RIA)	Undertaking RIAs in some of the developing countries. Refer work done by World Bank and others	<ul style="list-style-type: none"> <li>CUTS has prepared a proposal on Regulatory Impact Assessment (RIA) and submitted to Planning Commission of India, Government of India. It is still under discussion.</li> </ul>
		RIA-related project should focus on the 'ability of a specific regulatory policy in promoting competition in key markets'	<ul style="list-style-type: none"> <li>CUTS has worked as the Knowledge Partner and Coordinator of the Working Group on Business Regulatory Framework (WG BRF) set up under the Steering Committee on Industry by the Planning Commission of India.</li> <li>The above mentioned CREW and COMPEG projects will throw up some interesting data on regulatory impediments.</li> </ul>

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5.	Governance of Regulation	Develop understanding about the concept of 'Regulatory Failures'. Also, to persuade agencies like the World Bank to assess 'Regulatory Failures' caused as fallout of their advice/policies.	CUTS has also now concluded a project on <i>Quality of Regulation</i> in select countries – India, Brazil and Kenya. The issue of 'regulatory failure' has been addressed (to a certain extent) in the research methodology. Final report will be published in a month or two and published as an e-book.
6.	Competition, Informality Growth and	<p>Experiences from Latin America, Egypt and India should be studied to develop better idea about factors leading to informalisation. There is also a need to study specifically governance factors related to informalisation</p> <p>Projects would need to assess if competition can be introduced in the informal sector in developing countries – and what benefits would accrue to consumers and producers</p>	<ul style="list-style-type: none"> <li>A discussion paper '<i>Informal Sector and Competition: A Comprehensive Agenda for Research and Action</i>' <a href="http://www.cuts-ccier.org/pdf/Informal_Sector_and_Competition_A_Comprehensive_Agenda_for_Research_and_Action.pdf">www.cuts-ccier.org/pdf/Informal_Sector_and_Competition_A_Comprehensive_Agenda_for_Research_and_Action.pdf</a> and a viewpoint paper '<i>Linkages between Informality, Competition and Economic Growth</i>' <a href="http://www.cuts-ccier.org/pdf/Linkages_between_Informality_Competition_and_Economic_Growth.pdf">www.cuts-ccier.org/pdf/Linkages_between_Informality_Competition_and_Economic_Growth.pdf</a> have been prepared to guide CUTS future work on this issue.</li> <li>CUTS is trying to persuade DFID, UK to support research on 'Competition, Informality and Growth'</li> </ul>
7.	Interface between competition and corporate social responsibility (CSR)	One of the issues to be explored would be how competition compliance can help firms better achieve CSR objectives. Further, firms have also adopted CSR practices to gain market power/dominance – which needs to be looked at.	CUTS is implementing a project ' <i>Exploring the interplay between business regulation and corporate conduct</i> ' (BRCC Project) to assess the policy environment respect to its ability to facilitate ease of conducting business and promoting corporate conduct in India. This project is also looking at competition compliance issues being followed by corporates.

## Regulatory Reform Agenda

9.	Competition in public procurement	<p>Not much attention is paid on how opening markets for procurement can help competition. Should be added to the CUTS future work Agenda.</p> <p>In India, central and state level procurement systems need to be studied, where discretion is heavily abused.</p>	<p>'Regulatory &amp; Competition Issues Adversely Affecting Public Procurement System in India' has been implemented by CIRC with the help of ICSSR.</p> <p>CUTS has implemented a research study on '<i>Government Procurement – An emerging area of global integration and good governance in India</i>', which is to explore the means for bringing into existence a better, more efficient public procurement system for India. The project is supported by the British High Commission, New Delhi under the Prosperity Fund of the UK's Foreign and Commonwealth Office. Came out with a report '<b>Government Procurement in India</b>'  <a href="http://www.cuts-citee.org/pdf/Government-Procurement-in-India_Domestic-Regulations-Trade-Prospects.pdf">http://www.cuts-citee.org/pdf/Government-Procurement-in-India_Domestic-Regulations-Trade-Prospects.pdf</a></p> <p>CUTS has provided comments on the draft public procurement bill prepared by Govt of India, which can be seen at:  <a href="http://www.cuts-international.org/pdf/CUTS-Comments_on_The_Public_Procurement_Bill_2012.pdf">www.cuts-international.org/pdf/CUTS-Comments_on_The_Public_Procurement_Bill_2012.pdf</a></p>
10.	Independence of Regulators	Not just from budgetary considerations but also in selection, appointment and removal of regulators	Covered in ICRR 2011 report, which is the 3rd volume in a series of a biennial reports on the State of Competition and Regulation in India. The issue will be further explored in the ICRR 2013 under implementation.