SUBMISSION OF
MEMORANDUM TO MINISTRY OF FINANCE, GOVERNMENT OF INDIA
DURING PRE-BUDGET CONSULTATIONS ON THURSDAY, 8th JANUARY, 2015

Background

Having conferred an absolute majority during the general elections, the Indian populace continues to have faith on leadership of NDA government, as is evident from election results of various states. It is time to demonstrate that the trust is not misplaced. While the government has been successful in turning around the general mood in the country, concrete steps are required to achieve the goal of turning India into a ten trillion dollar economy by 2030 in absolute terms i.e. not on purchasing power parity.

The government must implement competition reforms to cross the Rubicon of five percent + growth rate and aim for at least six per cent in the new financial year, while protecting the needs of vulnerable consumers. In addition, it should introduce transparency and accountability in economic governance, and pro-actively work with the States.

Accordingly, CUTS International, an independent think and action tank involved in policy research and advocacy, has identified few of the following critical issues which must be addressed through the forthcoming budget falling directly under the Finance & Corporate Affairs Ministry, noting that there are other equally deserving issues which must be addressed:

1. Adoption and implementation of the National Competition Policy
2. Enactment and implementation of the Public Procurement Act and the National Public Procurement Policy
3. Enactment and implementation of an omnibus Financial Consumer Protection Act
4. Fixing of fiscal management practices

The issues are described in detail below.

1. Adoption and implementation of the National Competition Policy

Indian has been struggling with growth rate of around 5 percent for some time now (during quarter ended September 2014, the GDP growth was 5.3 percent), and has been unable to push it beyond. Despite government’s brilliant initiatives like ‘Make in India’, subdued growth in key sectors, like manufacturing (which grew by mere 0.7 percent during the April-October 2014, from corresponding period during the previous year), has been worrisome.

Consequently, the government would need to do much more that issuing statements of intent. By implementing the GST, the government would have achieved a game changing competition reform and thus steps forward to a single common market. However, in order to become much more competitive and launch the 2nd big wave of economic reforms, we need to adopt the draft National Competition Policy (NCP). The draft has been sitting in the Department of Corporate Affairs’ website since November 2011 and is pending adoption.

The following table provides a snap shot of the sectors suffering due to lack of NCP[1]:

Sector	Policy
Electricity[2]	• Monopolistic and dysfunctional structure of state utilities which create a façade of autonomous utilities, but are largely controlled by state governments • As per private players, the Ultra Mega Power Projects are not being truly successful as bids are made based on the domestic price of coal. Coal India Limited has fulfilled only 50% of its obligation as mentioned in the 12th Five Year Plan • Natural monopoly nature of transmission hinders private entry
Civil aviation	• High costs for entrants which raises the barrier to entry-fleet and equity requirements for domestic passenger air service • Preference to private players to allow consolidation
Agriculture[3]	• Distortions in marketing of agriculture produce due to the APMC Act • Procurement of agriculture commodities at MSP by government agencies with monopoly status • Restrictions on storage and movement of goods, as well as inter-state trading • Huge gap between prices consumers pay and prices farmers actually receive • Intermediaries do not always behave in a competitive manner
Higher education	• Multiple regulatory system and overregulation (UGC, AICTE) • Government control over private education
Healthcare	• Regulatory entry barriers with respect to medical education, domestic manufacture of medical devices; health insurance; and public health procurement • Prescription practice of physicians in brand names • Collusive practices between physicians and pathology labs and between hospitals and medical goods suppliers
Railways	• Monopoly • Discrimination and undue advantage to Container Corporation of India • Commodity restrictions
Road transport	• Discretionary licensing (CUTS study) • Cartelisation being facilitated by truckers union around major production sites and factories • Preferential treatment of government towards its own undertaking
Pharmaceuticals[4]	• Consumption patterns not affected by prices; Doctors and pharmacists - decision makers • Collusive behaviour of pharmacies • Government making efforts to curb trade margins • Regulatory regime - hard on manufacturers but soft on doctors and pharmacists

[1] http://www.iica.in/SectorStudies.aspx
[2] http://www.cuts-ccier.org/COMPEG/pdf/Report-Electricity_Sector_Study.pdf
[3] http://www.cuts-ccier.org/COMPEG/Research.htm
[4] http://www.cuts-ccier.org/COMPEG/PDF/Report-Pharmaceutical_Sector_Study.pdf

Sector	Policy
Finance	• Mandate to deposit government funds with public sector banks • Legislations excluding the applicability of general corporate and financial laws to public sector institutions (such as exclusion of laws governing winding up of companies) • Government guarantee for sums assured with LIC • Prudential norms and discretionary licensing policy

It encourages adherence to competition principles in policies, laws and procedures of the Central and State Governments, sub-State Authorities, optimising efficiency, achieving high growth, reducing inflation, and maximising consumer welfare, and a common national market, which includes the GST, in the process. It also seeks to promote 'competition impact assessment' to investigate if any anticompetitive effect is exerted by a provision in the existing or proposed laws, regulations and policies, enforced by them, in addition to regulatory impact assessments to get rid of arcane and irrational laws and policies, other than promoting competitive neutrality.

Like in VAT or GST, States would have to be provided fiscal incentives to facilitate adoption of NCP. The new NITI Aayog must also look into it and being a body to promote cooperative federalism, it is bang on spot to progress it.

The NCP has been proposed on the basis of successful experiences of Australia, Mexico, Denmark, Turkey, Botswana, Malawi, et al, wherein it delivered substantial benefits that have greatly outweighed the costs. A study undertaken by Australian Productivity Commission on expected benefits of competition reforms revealed that the annual gain in real GDP was 5.5 percent and consumer gains by A$9bn due to competition reforms in the nation.

Vignettes on few benefits experienced by Australia upon implementation of competition reforms	
Sector	**Benefits**
Electricity	Average real prices have reduced by 19 percent
Rail freight rates	Substantial reductions ranging from 8 percent (wheat) to 42 percent (coal traffic)
Real port charges	Reduction up to 50 percent
Telecom charges	Reduction by more than 20 percent in real terms
Retail price of drinking milk	Reduction by 5 percent in real terms, despite the imposition of an 11 cents a litre levy to fund an assistance package for dairy farmers
Source: Australian Productivity Commission, Review of National Competition Policy Reforms, February 2005	

***Action desired:* Decision to adopt and implement National Competition Policy by Central government and facilitate its adoption by States by providing appropriate fiscal incentives.**

2. Adoption and implementation of the Public Procurement Act and the National Public Procurement Policy

Public procurement in India accounts for almost 30 percent of the total GDP worth US$ 536 billion annually. It would also promote good governance by curbing corruption in public procurement, something which the government is keen to do. In spite of its huge significance, there is no legislation to regulate public procurement at the Central government level nor there exists a National Public Procurement Policy. The Public Procurement Bill tabled in the Parliament, is yet to become a law.

An early adoption and implementation of the pending Public Procurement Bill is called for. In addition, a National Public Procurement Policy should also be adopted to address interfaces between public procurement and related macroeconomic policies such as trade policy, competition policy, sustainable procurement policy, fiscal policy and the new manufacturing policy, amongst others, in order to ensure coherence and allowing decision-makers to adapt to changes in specific macroeconomic indicators in a whole-of-government approach. It will also allow governmental bodies to determine their approach to public expenditure after assessing the macroeconomic climate under which such expenditures are to be made and by taking into account their impact on major socio-economic development objectives.

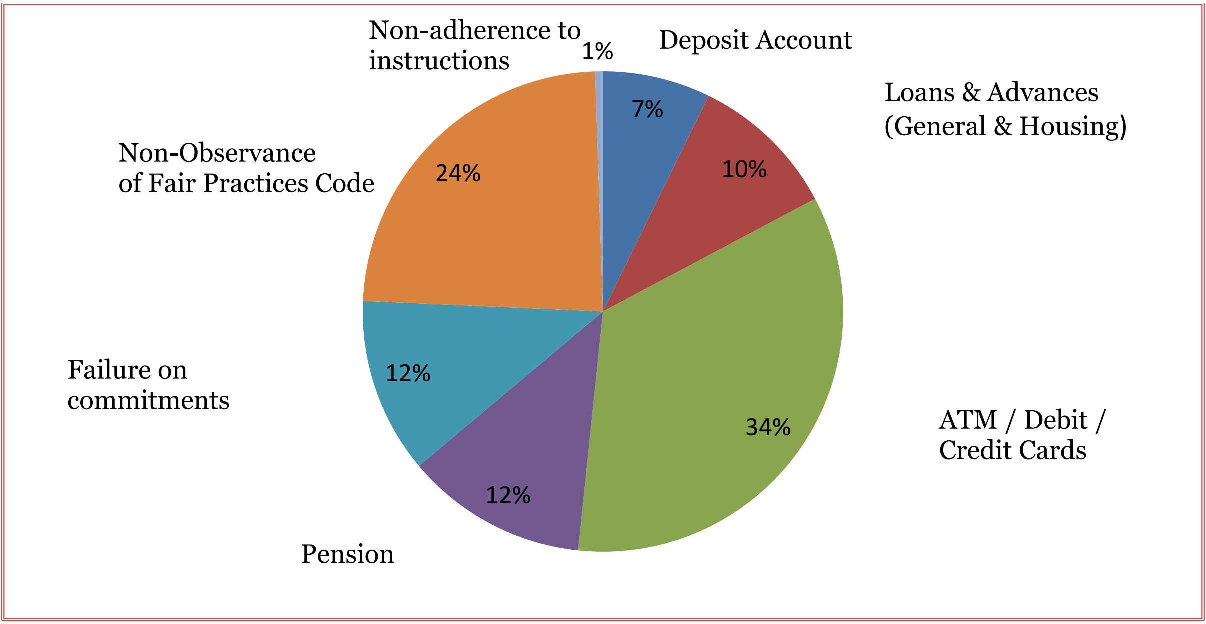
Action desired: **Decision to enact and implement the Public Procurement Act and adoption and implementation of a Public Procurement Policy.**

3. Adoption and implementation of an omnibus Financial Consumer Protection Act

Ponzi schemes are the flavour of the day, which causes immiserisation of the people. Piecemeal approach to deal with them and many other similar distortions needs a holistic approach. While the country has taken long leaps in other areas, including being part of the G-20 agenda, financial consumer protection seems to be subjected to short shrift. Financial consumers have to deal with traditional problems such as hidden and inflated charges or fees; unfair contract terms and conditions; undisclosed levels of financial risk; as well as problems with advancement of technology, such as, unauthorised fund transfers, fraudulent withdrawals from ATMs using duplicate cards, phishing e-mails aimed at extracting personal information, etc.

We need to adopt and implement an omnibus Financial Consumer Protection Act. Such law must take into account successful and not-so-successful practices implemented by various States and comparable jurisdictions. It should establish a new national single financial consumer protection mechanism (regulator), having state units, thus covering the entire country. This has also been recommended by the FSLRC.

Complaints received in the offices of Banking Ombudsmen: 2013-2014



Source: Statistical tables relating to banks in India, issued by RBI on 29 December, 2014

The Financial Consumer Protection Act must address the behavioural issues in financial sector, and the problems of incentive misalignment, which lead to governance failures and high non-performing assets, that we are witnessing today. This ultimately results in financial consumers ending up at the losing side. A myopic vision to deal with financial consumer protection would be self-defeating.

Financial inclusion is the first step towards financial consumer protection. Bank account penetration in India is only around 40 percent. The situation is worse amongst the poor and the females. Further, more than 90 percent of micro and small enterprises do not have access to formal finance. While the ambitious Jan Dhan Scheme intends to address this issue, it must be ensured that it does not remains a merely account opening exercise but achieves effective financial inclusion.

Action desired: **Decision to adopt and implement an omnibus Financial Consumer Protection Act. Such law must take into account successful and not-so-successful practices implemented by various States and comparable jurisdictions. It should establish a new national single financial consumer protection mechanism (regulator), having state units, thus covering the entire country.**

4. Fixing of fiscal management practices

The fiscal deficit for the last financial year was limited to 4.5 percent of the GDP. This was achieved through a massive cut in the planned expenditure (around 20 percent), while the non-planned expenditure recorded an increase. Social services and rural development took the maximum hit.

Over-budgeting (*In Rs. cr, unless stated otherwise*)								
	2013-14				**2012-13**			
Expenditure	**Budgeted**	**Actual**	**Change**	**% change**	**Budgeted**	**Actual**	**Change**	**% change**
Planned	5,55,322	4,53,085	(-)1,02,237	(-)18.41	5,21,025	4,13,625	(-)1,07,400	(-) 20.61
Non-planned	11,09,975	11,10,400	425	0.04	969,900	996,742	26,842	2.77

Source: Controller General of Accounts

This indicates to the unhealthy practice of over-budgeting of planned expenditure. However, there have also been practices of under-budgeting of expenditure. The total expenditure for fiscal 2008-09 was increased from Rs. 7,50,884 cr (budgeted) to Rs. 8,83,956 cr (actuals), an increase of Rs. 1,33,072 cr, (18 percent). This was on account of additional expenditure for pay revision, food and fertiliser subsidies, etc. In addition, the government has been ever ready to sacrifice social sector and rural development expenditure, which should be priority for the country, at the altar of fiscal deficit, but shies away from avoiding unproductive populist expenditure on subsidies, pay revisions etc., even at the cost of overshooting the fiscal deficit target.

The government has set for itself an ambitious target of limiting fiscal deficit to 4.1 percent of the GDP. Net tax revenue receipts were estimated at Rs. 11.89 lakh crore in reflecting a growth of 17.2 per cent over provisional actuals for 2013-14. Receipts up to June 2014 stood merely Rs. 1.14 lakh crore. With over Rs. 8 lakh crores pending in direct tax recoveries, the government has resorted to broad sweeping budgetary cuts which is not healthy. The government must not repeat past mistakes.

We need a comprehensive review of government planning and budgetary practices, and the long-term strategy to contain fiscal deficit. A possible start could be establishment of Parliamentary

Budget Office, an independent fiscal watchdog to provide research and review support for budget, and adoption of 'balanced budget' principle. States could be given greater role in planning and implementation of the welfare schemes, as has been envisaged in the agenda for the new NITI Aayog. In addition, a clear distinction must be made between merit and non-merit subsidies and the latter should be gradually reduced. One also hopes that the Expenditure Management Commission will address these issues and the government will bite the bullet.

Action desired: **Fixing of fiscal management practices by establishment of Parliamentary Budget Office, adoption of international best practices in budgetary planning, and reduction of non-merit subsidies.**

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