

# **COMPETITION AND REGULATION IN INDIA: EVALUATION OF STATUS & PERCEPTIONS AND ASSOCIATED ADVOCACY**

## **I. EXECUTIVE SUMMARY**

CUTS intend to implement this project in partnership with BI to assess the importance and effectiveness of regulatory institutions, awareness among consumers and other stakeholder groups, groups about the need for and status of regulation, etc. The project undertakes research to evaluate of quality of regulation in four emerging sectors – Retail, Natural Gas, Micro Finance and Telecommunications. The organisations would embark on a process of dialogue and advocacy (based on the research findings) and share outcomes of their research with relevant stakeholders across India.

## **II. PROJECT BENEFICIARIES**

The main direct beneficiaries of the project include:

- In India: Government, Academia, Media, Research Institutions and Business Community
- In Norway: Researchers and academicians

## **III. BACKGROUND**

- 3.1 Since 1991, widespread market oriented economic reforms and liberalisation have been undertaken in India to promote competition and ensure efficient utilisation of resources. Consequently, there has been a paradigm shift in the approach to economic management in the country. These efforts towards ensuring a competitive economy have got a further impetus with the Government of India making ‘competition’ a serious policy issue through the inclusion of “competition policy” in the Eleventh Five Year Plan Document of the Planning Commission of India, Government of India.
- 3.2 Economic reform is an evolving process, which seeks to facilitate the market process to achieve desirable outcomes. India is following a policy of market oriented economic reforms for the past one and a half decades. Given the important role played by market processes, there is a need to periodically review the competition and regulation scenario in the country.
- 3.3 Further, the recent financial meltdown and the global recession have highlighted the inability of markets to function on their own. The important lessons that can be gleaned from the recent meltdown are: it is important to have fair competition, not totally free competition; it is equally important to have appropriate market correcting regulation, not over or under regulation. Given that the regulatory apparatus is a necessary and important component of the system of economic governance in any country including India, it is important to evaluate its features, its adequacy as provided by law, effectiveness after being set up, awareness among consumers and other stakeholder groups about its availability and usefulness and their perceptions about regulatory effectiveness.

- 3.4 It is in these contexts (3.1, 3.2 and 3.3) that a serial biennial report on the Competition and Regulation scenario in India serves an important purpose. The first report in this series, released in 2007 (Competition and Regulation in India, 2007<sup>1</sup>), lays down the rationale for adoption of a holistic competition policy and law regime in India and elaborates on the various anti-competitive practices hampering the functioning of the economy.
- 3.5 The 2007 Report accomplished a lot for a single volume. But uncovered ground still remained. The generic issues of competition policy and law, which were the principal focus of this inaugural report, is only one component of the regulatory structure that provides the oil for the smooth functioning of the economy. Equally important are sector regulators – individual sectors have their own technological characteristics (existence of a natural monopoly, the structure of a network industry, propensity to generate asymmetries of information etc.) which, in turn, determine the nature of regulation. The 2007 report also looked closely at some sectors, such as telecommunication, electricity, healthcare and education.
- 3.6 One of the key recommendations that emerged from the 2007 report was the need for “adoption of National Competition Policy and effective implementation of regulatory reforms”. The economic reforms undertaken by the Indian Government have been generally on a sector-by-sector basis and progress across sectors has not been uniform. Thus, a broad-based, overarching national competition policy will promote coherence in the reforms and establish uniform competition principles across sectors. One of the key outcomes of the project was the acceptance of this recommendation by the Government. Competition Policy has been included in the Eleventh Five Year Plan Document (2007-2012), prepared by the Planning Commission, Government of India<sup>2</sup>.
- 3.7 The second report (Competition and Regulation in India, 2009<sup>3</sup>), released on March 28, 2009<sup>4</sup> focused on the evaluation of quality of regulation in five sectors: power, ports, civil aviation, agricultural markets and higher education. It goes much beyond depicting the state of the economy in sectors and tries to pinpoint the institutional and other root causes of that state. The state of each sector and its regulation is determined by the state of the economy (average level of affluence, income distribution etc.) and polity – in short, political economy issues. Such political economy issues not only determine the content of regulations on paper but also their implementation. Political economy and implementation issues thus formed an important part of the 2009 report.
- 3.8 Findings from the report reveal that the quality of regulation varies from sector to sector. Thus, some sectors such as civil aviation, ports and power have made some headway in modernising regulation while others like higher education and agricultural markets lag behind. Though so called ‘independent regulators’ have been established in all mentioned sectors barring the last. However, in reality functional and financial autonomy in regulation are lacking in all of the mentioned sectors.

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<sup>1</sup> <http://www.cuts-ccier.org/icrr/icrr.htm>

<sup>2</sup> [http://planningcommission.gov.in/plans/planrel/fiveyr/11th/11\\_v1/11v1\\_ch11.pdf](http://planningcommission.gov.in/plans/planrel/fiveyr/11th/11_v1/11v1_ch11.pdf)

<sup>3</sup> <http://www.cuts-ccier.org/icrr09/pdf/Competition-Regulation-India-CurtainRaiser09.pdf>

<sup>4</sup> <http://www.cuts-ccier.org/icrr09/pdf/Report-Competition and Regulation in India 2009.pdf>

- 3.9 Taking a step forward, CUTS International plans to bring out the third issue of the mentioned series on “Competition and Regulation in India, 2011”. The report will focus on evaluation of quality of regulation in four emerging sectors -- Retail, Natural Gas, Micro Finance and Telecommunications. In addition, continuing with the unique exercise, a perception survey would be conducted on the state of competition and regulation in the economy in general and also the sectors being covered in the report.

#### **IV. GOALS/OBJECTIVES**

##### **Goals**

To improve the quality of regulation and enhance the level of competition in select sectors of the economy through research, networking and advocacy based on research findings.

##### **Purpose**

To stimulate action by governments and their agencies on regulatory reform

##### **Objectives**

- To review the state of regulation and competition in retail, natural gas, microfinance and telecommunications
- To garner perceptions of a cross section of stakeholders regarding the state and also the general competition and regulatory climate in the economy
- To develop recommendations for improvement in the regulatory framework in India
- To publicise these recommendations through advocacy so as to elicit a positive and significant response from government and regulatory agencies and get a public buy in.

#### **V. INPUTS**

- People (staff/researchers that will be associated with the project)
- Travel costs and incidentals
- Material Support
- Data collection and compilation
- Workshops, symposium and seminars
- Monitoring and Evaluation

#### **VI. OUTPUTS**

- A volume (Competition and Regulation in India, 2011) consisting of an introductory chapter which would outline the research methodology for the sector studies and motivate these; individual chapters analysing the status of competition and regulation in each of the four sectors selected for study and providing recommendations; a chapter on the methodology and findings of the mentioned perception survey; and a concluding chapter which would try and define a road map for immersion of the policy recommendations.
- An international symposium for stakeholder deliberations on the draft volume before it is finalised
- An official release of the report in India and another in Norway

- Four briefing papers, one each on the competition and regulatory scenario in each of the studied sectors; and one policy brief summarising all the policy recommendations of the study
- Four regional advocacy seminars in key Indian metro cities: Mumbai, New Delhi, Kolkata and Chennai to disseminate the findings of the report.

## VII. METHODOLOGY

- 7.1 CUTS and BI would evolve the mechanism for implementation of this project [including finalisation of the partnership agreement specific to the project, preparation of the Operational Strategy Note (OSN), etc.].
- 7.2 Once the scheme for implementation of the project and the project teams of CUTS and BI are finalised, the project would be officially initiated through a project launch meeting to be held in India. In addition to representatives of CUTS and BI, a number of national stakeholders would be invited to this meeting, including policymakers, government representatives, regulators, academia, etc. This launch meeting would help in announcing the project to a wide range of diverse stakeholders who would subsequently be involved in various projects.
- 7.3 A Reference Group (RG) will be formed which will ensure quality in project execution as per stipulated plan. Subject experts, academicians and practitioners, government officials, civil society representatives, etc will constitute the RG. The RG would provide guidance for overall implementation of the project. One-two experts from BI would be included in the RG. The first meeting of the RG would be organised to deliberate on structure/contents of the report, methodology for undertaking perception survey and identification of writers/reviewers, etc.
- 7.4 Literature review, based on analysis of existing policy documents, would be undertaken to develop a better understanding of the state of competition and regulation in each of the selected five sectors. This would be supplemented by interviews with a few key sectoral experts and practitioners based in India, relevant international experience (with emphasis on Norwegian experience) etc.
- 7.5 Next, a perception survey (based on a structured questionnaire) would be undertaken to gauge the understanding of ‘informed’ stakeholders (500 respondents) on the state of competition and regulation prevailing in the country. This survey would be targeted towards five broad stakeholder groups: government officials, business representatives, civil society, academia, and media.

The focus of this questionnaire would be to gauge:

- stakeholder awareness and knowledge of regulatory and competition issues;
- stakeholder perceptions regarding the level of competition and nature of anti-competitive practices prevailing in the market; and
- stakeholder perceptions of the impact of government policies/measures on competition.

- 7.6 On the basis of the literature review, structured Terms of Reference (ToR) would be prepared and shared with the identified writers of sectoral chapters (hereafter referred to as “Chapters”).

- 7.7 The writers would be asked to submit first drafts of the chapters within a stipulated deadline. These drafts would be sent to experts based in India and Norway for review. An international symposium will be organised to share the draft report with a larger audience comprising of CSOs, media persons, regulators, representatives of partner organisations, etc and select stakeholders from other countries, including Norway and receive their comments.
- 7.8 The second meeting of the RG would be organised to collate all these comments. Writers would be asked to revise and finalise the chapters on the basis of these collated comments.
- 7.9 The respective chapters, along with the chapter on the perception survey would be combined to form the final report i.e. Competition and Regulation in India, 2011. The synthesis chapter of the report would be drafted by BI and finalised by CUTS. The final report will be officially released at a function organised in New Delhi.
- 7.10 Further, on the basis of the report, four briefing papers (one would be prepared by experts from BI) and one policy brief would be prepared. All these outputs would then be disseminated through four advocacy seminars in key Indian cities: Mumbai, New Delhi, Kolkata and Chennai with the purpose of generating greater awareness on competition and regulatory issues.
- 7.11 Subsequently, the report would also be showcased in Norway. The project would come to a close with the holding of the Final Project Meeting which would deliberate on the future agenda and generate recommendations for a) policy advocacy and b) the 4<sup>th</sup> report to be done in 2013.

## **VIII. OUTCOMES**

- Enhanced competition and contestability in markets leading to higher efficiency and productivity, especially in the five covered sectors, and thereby high and sustained economic growth
- Creation of an environment which would provide favourable conditions for entrepreneurial skills to flourish, generate employment opportunities and thereby enhance the inclusiveness of growth

## IX. TIMEFRAME

Activities	Months																							
	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Project Launch Meeting																								
Formation of a Reference Group																								
1 <sup>st</sup> meeting of the RG to deliberate on structure/contents of the report, methodology for undertaking perception survey; identification of writers/reviewers																								
Literature review and interviews of key experts and practitioners, etc																								
Preparation and finalisation of the questionnaire for undertaking perception survey; identification of local partners to carry out the survey; undertaking the survey;																								
Compilation and computation of data																								
Submission of first draft of the chapters by writers																								
Obtaining comments from experts and through the international symposium from varied stakeholders																								
2 <sup>nd</sup> meeting of the RG to collate all these comments for review of 1 <sup>st</sup> drafts of chapters																								
Finalisation of the report based on comments																								
Release of final report																								
Preparation of Policy Brief and Briefing Papers																								
Dissemination of report and other outputs (Advocacy Seminars in India)																								
Release of report in Norway & Final Project Meeting																								

## **X. SUSTAINABILITY OF THE PROJECT**

**The following benefits generated by the project would contribute to the sustainability of project agenda and outcomes:**

- Development and consolidation of a network of organisations and individuals for dealing with relevant competition and regulatory issues
- Generation of awareness on the importance of well regulated markets in achieving various policy objectives.
- Capacity building of key stakeholders to make informed interventions in the policy space

## **XI. JUSTIFICATION OF SUPPORT**

As India undergoes rapid transformation -- from being a government dominated economy to a market oriented one integrated with the rest of the world -- the public understanding of market forces and needed regulatory checks on market failures must keep pace. There could not be a more appropriate time for launching of this project, given that the recent financial crisis has shown that regulations play an important role in optimising benefits generated through markets. Thus, the project objective of creating awareness and building capacity of key stakeholders in understanding competition and regulatory issues assumes great significance.

## **XII. IMPLEMENTATION PROCEDURES, MONITORING & EVALUATION**

Once the partnership agreement is completed, appropriate personnel from CUTS and BI would be identified for implementing the project. The project implementation procedure is enumerated in the section on methodology; however, implementation and quality of outputs will be monitored and evaluated effectively by the Reference Group (RG). As mentioned above, finalisation of outputs would have to be preceded by approval from the RG. The project team will also submit mid-term and final narrative and financial reports. These reports will be considered as public information.

### XIII. Logical Framework Analysis

Project Description	Measurable Indicators	Means of Verification	Assumptions
<p><b>Goal</b> To improve the quality of regulation and enhance the level of competition in selected sectors of the economy through research and networking and advocacy based on research findings</p>	<ul style="list-style-type: none"> <li>• Positive regulatory changes</li> </ul>	<ul style="list-style-type: none"> <li>• Announcements by regulators and government</li> </ul>	
<p><b>Purpose</b> To stimulate action by regulators and governments in regard to regulatory reform</p>	<ul style="list-style-type: none"> <li>• Media announcements by regulators and government</li> <li>• Setting up of committees and task forces by government</li> </ul>	<ul style="list-style-type: none"> <li>• Reports in the media</li> </ul>	<ul style="list-style-type: none"> <li>• Media reports are accurate</li> <li>• Intentions announced are genuine</li> </ul>
<p><b>Intermediate Objectives</b></p> <ul style="list-style-type: none"> <li>• To review the state of regulation and competition in retail, gas, NBFC, roads and telecommunications</li> <li>• To seek perceptions regarding these states and also the general competition and regulatory climate in the economy</li> <li>• To thus arrive at recommendations for improvement in the regulatory framework</li> <li>• To publicise these recommendations through advocacy so as to elicit a positive and significant response from government and regulatory agencies</li> </ul>	<ul style="list-style-type: none"> <li>• Research volume carrying out the review</li> <li>• Filled up perception survey questionnaires</li> <li>• Project documents providing these recommendations</li> <li>• Stakeholder awareness regarding emerging policy recommendations</li> </ul>	<ul style="list-style-type: none"> <li>• Enumeration of citations of project research documents providing specific policy recommendations</li> <li>• Surveys to measure mentioned awareness both before and after project activities</li> </ul>	<ul style="list-style-type: none"> <li>• Research is well designed and carried out in time</li> <li>• Samples are representative of stakeholder population and measures of awareness are accurate</li> </ul>
<p><b>Outputs</b></p> <ul style="list-style-type: none"> <li>• A volume (Competition and Regulation in India, 2011)</li> <li>• An international symposium for stakeholder deliberations on the draft volume before it is finalised</li> <li>• An official release of the report in India and another in Norway</li> <li>• Five briefing papers, one each on the competition and regulatory scenario in each of the studied sectors; and one policy brief summarising all the policy recommendations of the study</li> <li>• Four advocacy seminars in key Indian states (West Bengal, Maharashtra, New Delhi and Chennai) to disseminate the findings of the report.</li> </ul>	<ul style="list-style-type: none"> <li>• Quality and dissemination of research reports and other related documents</li> <li>• Attendance at events</li> </ul>	<ul style="list-style-type: none"> <li>• Dissemination records for research documents and other project outputs</li> <li>• Evaluation by experts of the Reference Group</li> <li>• Survey to obtain feedback from participants in advocacy seminars</li> </ul>	<ul style="list-style-type: none"> <li>• Outputs are produced on time</li> <li>• Evaluators are competent</li> <li>• Staff and consultants are competent and adhere to timelines</li> </ul>