

C-CIER ACTIVITIES REPORT



CUTS Centre for Competition, Investment & Economic Regulation (CUTS C-CIER) endeavours to accelerate the process towards a functional competition policy in Bangladesh, India and Nepal in South Asia; and Cambodia, Lao PDR and Vietnam in Southeast Asia, through the 7Up2 Project, and create an enabling environment for the policy and law to be better enforced.

7Up2 Project

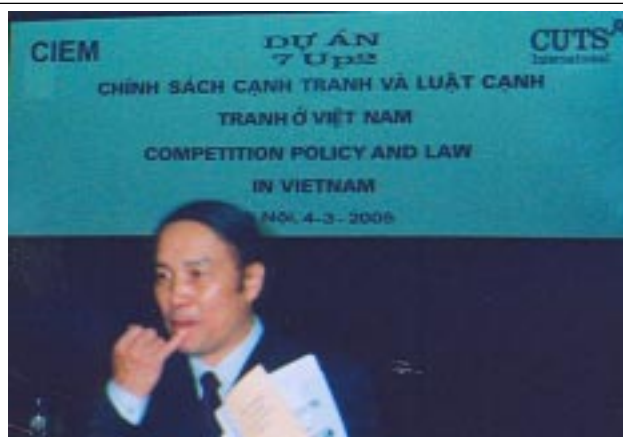
The research and advocacy activities in each project country are shaping up into initially encouraging results. Besides India, four more country reports have been submitted, namely, Vietnam, Lao, Cambodia and Nepal. Bangladesh, being late to join the project, is catching up. These reports are being critically reviewed and commented upon, so that they could be placed before the national consultation.

CUTS has been providing comments and guidance to all the country partners. The major issues that have engaged CUTS are:

- capacity constraints in the project countries on policy and market structure analysis, and clear understanding to identify anti-competitive practices reported;
- scarcity and asymmetry of information;
- low level of responsiveness by the national stakeholders, in each country, and
- language (English vis-à-vis national languages).

Competition policy and law is a new and relatively less explored area in many project countries. For this reason, partners' analysis on socio-economic policies and market structure in the context of competition were weak at places. The researchers are yet to develop a clear understanding to discern the anti-competitive aspects in recent economic reporting as these are usually subtle and 'between-the-lines.' These shortcomings have improved with substantial assistance from CUTS.

Besides, scarcity and asymmetry of information in many project countries impeded assessment of the market structure in many industries. Information was available with comparative ease for the services and utility sectors, but not so in the manufacturing sectors, where sales volumes and the annual turnover were almost impossible to procure. Also, there is an absence of a reliable database. On the suggestion of the Project Advisory Committee (PAC) and CUTS, the researchers had to resort to information on registered production volume, installed capacity, turnover tax and labour force. In industries with a large number of firms, various concentration ratios were used, in order to simplify the process for writing reports.



Le Xuan Ba, Vice President of Central Institute of Economic Management (CIEM) speaking at the NRG meeting in Hanoi

The low level of awareness and responsiveness of the stakeholders in many countries also created difficulty in data collection and analysis. It was reported by many country researchers that perception surveys were troublesome since the interviewees viewed all the anti-competitive practices to be normal. Nevertheless, substantial awareness has been achieved during the interview process.

Language was (and is) a major problem for Lao, Cambodia and Vietnam. At places, it is difficult to understand what the authors intend to say. Considering that competition policy and law is a completely new area for these countries, considerable effort had to be expended by the CUTS team.

With these 'bumps' dealt with, all the reports have been revised for the first round of validation and consultation, at the first National Reference Group (NRG) meetings to be held in the project countries. Dates for the meetings have been decided and the agenda for discussions suggested to the partners at a fringe meeting on the project held on February 1, 2005. Terms of reference (ToR) for other main outputs, such as the country Advocacy Documents and the Project Synthesis Report have also been drafted and discussed.



Towards a Functional Competition Policy for India



Prof Kirit Parikh, Member, Planning Commission releasing the FunComp report. He is flanked by CUTS Secretary General, Mehta on his right, and V K Dhall, Member, Competition Commission of India (CCI) on his left.

'Towards a Functional Competition Policy for India' (FunComp Project), is the Indian component of the 7Up2 project.

The project will delve into systemic as well as sectoral issues and endeavour to assist the Government of India to come up with a Competition Policy that is 'implementable'. Other objectives of the project include:

- evolving a better understanding of the competition scenario in India;
- assisting the competition authority to set priorities, and
- sensitising other stakeholders to understand the situation and make appropriate interventions.

The project has involved top experts of the country, who have a good understanding on competition issues, to undertake

intensive research activities. The outputs are integrated into a comprehensive report entitled 'Towards a Functional Competition Policy for India', which is expected to serve as a curtain raiser and as a road map for future more in-depth work. A brief version of the report has been published in February 2005, in association with the Academic Foundation, New Delhi, and released during a two-day international conference, also within the framework of the project. The full volume is expected to come out by April 2005.

The international conference, "Moving the Competition Policy Agenda in India", organised at New Delhi on January 31-February 1, 2005, was attended by about a hundred national and international experts and practitioners, working on competition policy issues in various parts of the world. Besides commenting on the presentations made by experts who are involved in the project, the foreign experts also shared relevant experiences of other countries on competition issues raised with respect to India.

The conference was appreciated as a most fruitful event, which provided valuable inputs for the policy making and implementation process *vis-à-vis* competition in India, and got widespread media coverage. A prominent outcome was the Draft National Competition Policy for further debate and completion. The detailed proceedings of the conference will be made available soon in the CUTS website at www.cuts-international.org/funcomp.htm.

A series of one-day outreach seminars in select Indian cities, giving a finishing touch to the intensive research, advocacy and capacity building agenda of the project are being organised. The cities selected were New Delhi, Ahmedabad, Mumbai, Kolkata, Chennai, Bangalore, Hyderabad, Lucknow and Jaipur.

These seminars aimed at maximising outreach through media people who are working on economic policy issues, and target various stakeholders, such as policy makers, politicians, trade unions, civil society organisations, and academia and involve them in the process to have better understanding of the competition scenario.

City	Date	Local Partner
Ahmedabad	Monday, February 7, 2005	Consumer Protection Council (CPC), Ahmedabad
Mumbai	Thursday, February 10, 2005	Indian Merchants' Chamber (IMC), Mumbai
Kolkata	Monday, February 14, 2005	National University of Juridical Sciences (NUJS), and Indian Chamber of Commerce (ICC), Kolkata
Hyderabad	Wednesday, March 2, 2005	Institute of Public Enterprises, Hyderabad
Chennai	Friday, March 4, 2005	Citizen Consumer and Civic Action Group (CAG), Chennai
Bangalore	Saturday - Sunday, March 12-13, 2005	Indian Institute of Management (IIM), Bangalore
Delhi	Monday, March 14, 2005	India Habitat Centre, Delhi
Lucknow	Friday, March 18, 2005	Jaipuria Institute of Management, Lucknow (JIML)
Jaipur	Saturday, April 30, 2005	PHD Chamber of Commerce & Industry, Jaipur

Three seminars in the series have been successfully organised in Ahmedabad (on February 7), Mumbai (on February 10) and Kolkata (on February 14). The other six are expected soon in coming March

Events

Over a decade after India launched economic reforms, poor and inadequate infrastructure continues to remain a major obstacle to achieving high and sustained economic growth. There is a perceived need for the development of an appropriate regulatory framework to ensure effective competition, transparency and fairness in the sector.

Against this backdrop, CUTS C-CIER organised a one-day national seminar on "Regulatory Framework for Infrastructure Sector in India", in collaboration with the Planning Commission of India, in New Delhi, India on January 14, 2005.

The seminar saw a large turnout from across the country, representing different groups of stakeholders that included Planning Commission members, regulators, policy makers, civil society organisations, academia and the media. An interesting aspect of the seminar was a presentation by noted US-based expert on regulatory issues, Scott Jacobs, who shared his experiences from across several developing countries in Asia.

There was a general consensus among the participants that there was a need for a workable framework to enforce regulatory accountability in an institutionalised manner. A detailed report of



Montek S. Ahluwalia, Deputy Chairman, Planning Commission speaking at the seminar, with Scott Jacobs sitting on his left.

the seminar with key recommendations made can be found at CUTS website (<http://www.cuts-international.org/RptRegFrmwork140105.htm>).

Advocacy

PIL against Cable TV Monopoly

CUTS International has filed a Public Interest Litigation (PIL) in the Rajasthan High Court on the abuse of monopoly by the multi-system operator (MSO) in the Jaipur cable TV market.

The first hearing of the PIL took place on January 27, 2005, at which CUTS highlighted the monopolistic behaviour of Bhaskar Multinet Pvt Ltd, the monopolist MSO in Jaipur cable TV market. In its petition, CUTS has asked for the establishment of a local level regulatory agency to check the anti-competitive practices of the MSO and its franchisees, the local cable operators.

Media Outreach

In view of the low-level of awareness in various quarters, including the government machinery on competition policy, law and regulation, CUTS C-CIER has been contributing articles in popular economic dailies of the country on a regular basis. The following are some of the articles that featured in the leading business newspapers of the country.

- *'Do Telesales Spam Telecom Users?'* by Manish Agarwal was published in *The Economic Times* on December 6, 2004. The article quoted the Telecom Regulatory Authority of India's (TRAI's) consultation paper on "Issues Pertaining to Publishing of Telephone Directory and Directory Enquiry Services" which acknowledged that there are complaints that marketing companies use mobile numbers for sales promotion and subscribers are disturbed by these invasive, unwarranted calls. It pointed to the need to put in place a law to regulate, prescribe and implement procedures for not only protecting privacy rights, but also to pre-empt fraudulent designs of the telephone hucksters without charging the subscribers. CUTS has taken up this matter with TRAI and the Department of Telecommunication (DoT), Government of India, to enact a telemarketing law to regulate such practices.
- *"Local problems need local solutions"* was published in *The Economic Times* on December 10, 2004. Pradeep S Mehta, Secretary General, CUTS, International, ponders about the anti-competitive business practices, that are rampant at the state level in India, and they need to be tackled by state-level competition agencies, backed by appropriate laws. It quoted various lively examples of anti-competitive business practices, which were detected and collected at the local level throughout India and their harmful effects on economic justice and growth. It is one of an exclusive series of articles written

CUTS' Pre-budget Memorandum to the Chief Minister of Rajasthan

CUTS raised demands that in the 2005-2006 Budget, private investors be allowed to compete for efficient service delivery, public money is selectively invested to create social capital and jobs, and a state competition and regulatory agency is established to promote competitiveness and efficiency *et al.*

The Memorandum was addressed to the Chief Minister of Rajasthan, India. As a result of this advocacy the Government of Rajasthan has agreed to set up a Committee to explore the issue of enacting a State Competition and Regulatory Act, with members of CUTS in the Committee.

on the research findings in the FunComp project, in an effort to use the media outreach to awaken and generate mass awareness on competition issues, towards building a functional competition policy for India.

- *"Why a steel regulator makes little sense?"* also of the above series, published in *The Hindu Business Line* on December 17, 2005.

Independent regulation is usually the form adopted only for the services sector, for several reasons, which are not akin to the goods sector. The only exception is perhaps coal, which has to be treated under the rubric of energy. Market distortions in any goods sector are best pre-empted or regulated by a combination of trade and industrial policy instruments to be used by the government branch administering the sector or through action by a competition

authority. In this context, "the proposal by the Union Minister of Steel, Ram Vilas Paswan, to set up a steel regulator is ludicrous".

- The latest in the series was about *"Big agenda ahead for a fair regime"*, published in *The Financial Express* on January 28, 2005. This article was written in the background of the Supreme Court of India's disposal of the writ petitions challenging the validity of the appointments to the new Competition Commission under the Competition Act, 2002, of the country; and deciding

that the Government of India will amend the Act to provide substance to its pleadings before the apex court. The article reiterated the need for the law to take care of many issues to meet international standards so that the law doesn't face another challenge, and India will finally get an implementable act.

All these articles, and more, are available in the CUTS website at: www.cuts-international.org/articles2004.htm

7Up3 Project – the first pages of a new chapter

CUTS C-CIER is launching a two-year project “Capacity Building on Competition Policy in Select Countries of Eastern and Southern Africa”, popularly referred to as 7Up3 Project, in seven countries: Botswana, Ethiopia, Malawi, Mauritius, Mozambique, Namibia and Uganda, with support from the Norwegian Agency for Development Cooperation (NORAD), Norway, and the Department for International Development (DFID), United Kingdom.

The project is a sequel to the 7Up Project, implemented earlier by CUTS C-CIER in seven developing countries of the Commonwealth, viz, India, Kenya, Pakistan, South Africa, Sri Lanka, Tanzania and Zambia; and the 7Up2 Project, marking another milestone in CUTS’ odyssey to further a Southern Agenda of competition policy and law in the world.

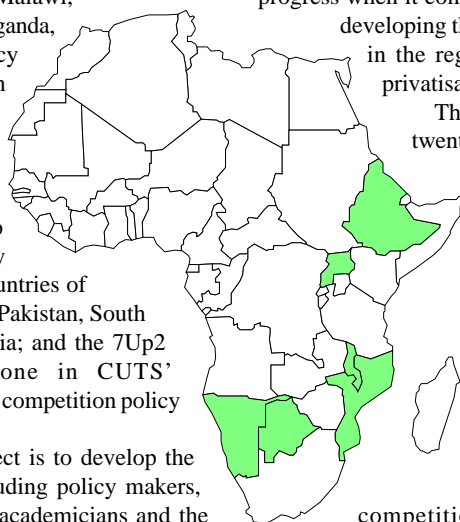
One of the aims of the 7Up3 project is to develop the capacity of national stakeholders, including policy makers, regulators, civil society organisations, academicians and the media, in each of the project countries, through a participatory process to understand and appreciate the prevailing competition concerns from national, regional and international perspectives, and enable them to respond appropriately.

The national markets in eastern and southern Africa are integrating through three regional bodies: The Common Market for Eastern and Southern Africa (COMESA), Southern African

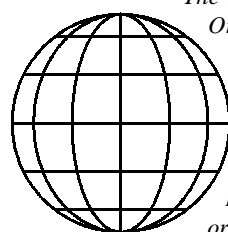
Development Community (SADC) and East African Community (EAC) – with considerable overlap. Though some countries of the region have framed competition laws, there has been little or no progress when it comes to implementation. Therefore, the need for developing the capacity of the stakeholders of the countries in the region was felt, especially in the wake of the privatisation and globalisation climate prevailing there.

The project will be implemented over a period of twenty-four months, with eighteen months dedicated to intensive research, as a base for the next six months of capacity building. With most of the ground work on the verge of completion (see <http://www.cuts-international.org/7up3.htm>), the Launch Meeting of the project, which is being organised in Entebbe, Uganda on March 22-23, 2005, will kick-start a new chapter in the centre’s activities.

Participants from the project countries would share the experiences of their respective countries in addressing competition related issues with experts, including competition authority representatives from other countries in the region; international specialists on the topic; regional authority officials; representatives of intergovernmental organisations and development assistance providers. The discourse is expected to focus on the relationship between competition policy and economic development, interface between competition and sectoral regulation and the dimensions of competition from the regional perspective.



Citizens’ Report on the State of Competition Law in the World



The International Network of Civil Society Organisations on Competition (INCSOC, www.incso.net) is a unique initiative of CUTS C-CIER, aimed to build a dynamic coalition of organisations working on competition and regulation issues throughout the world. Members of the INCSOC, representing civil society organisations from 53 countries, along with some external experts, were engaged to contribute brief (5-10 pages) country papers, elucidating the competition scenario of their respective countries. CUTS C-CIER intends to publish these papers in a voluminous compilation: ‘Citizens’ Report on the State of Competition Laws in the World (CiRComp)’.

The report would consist of an introductory chapter detailing the evolution of competition policy and law in the world; chapters dedicated to the competition regimes of various countries of the world (segregated into three categories: those with a law, without a law and in the process of enacting a law); an assessment of existing and proposed frameworks of regional and other international arrangements on competition policy; and a concluding chapter enumerating suggestions from the civil society’s perspective to strengthen competition regimes around the world.

The aim is to cover about 130-odd countries in this report. Fairly good progress has been made so far. Nearly one hundred papers have been received till end of February 2005, and the rest are currently being finalised by the contributors.

The report is expected to come out by June 2005.

Representation

Regional Conference on Universality of Infrastructure Services: funding, delivery, legal, and regulatory issues, December 6-7, 2004

Vinayak Pandey, Assistant Policy Analyst at the CUTS Centre for Competition, Investment & Economic Regulation (CUTS C-CIER), attended a two-day regional conference on issues related to infrastructure services during December 6-7, 2004, in New Delhi, India. The conference was organised by The Energy and Resource Institute (TERI), India, to serve as a platform for sharing experiences of other countries and means by which such learning could be suitably applied in the countries under consideration.

The Fifth OECD Global Forum on Competition, February 17-18, 2005

Manish Agarwal, Policy Analyst at CUTS C-CIER, participated in the 5th Global Forum on Competition, hosted by the Organisation for Economic Cooperation and Development (OECD), in Paris on February 17-18, 2005, as a member of the Consumers International delegation.

The theme of this year’s forum was on Competition Issues in Regulated Sectors, including interface with Competition Authorities. Agarwal made two interventions. In the first one, he mentioned the cable TV sector in India where there are natural monopolies at the consumers’ end and informed the efforts being made by the Telecom Regulatory Authority of India (TRAI) to promote alternate delivery platforms to ensure competition. In the second contribution to the Forum, he presented the interface problems in India as well as the recommendations that have emerged during national consultation rounds to resolve them.