Coal Sector Reforms in India
Analysing from the Lens of Competition & Regulatory Architecture

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CUTS International
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Introduction

Why Coal is so important??

- Meets 30% Global Energy Needs
- Generates 40% World’s Electricity
- Meets 55% of India’s Energy Needs
- Per capita Energy consumption in India – 350kgoe/yr
- Per capita energy consumption increased by 700%
- Dominant Baseload Power Source
Introduction

Coal to be India's energy mainstay for next 30 years - NITI Aayog report

Percentage Share of Different Sources

Source: NITI Aayog and IEEJ Japan, 2017 (Reuters)

50GW of Coal based power plants are under different stages of construction
Demand Outstripped Coal Supply

Coal Production in India (Million Tonne)

Demand & Supply of Coal in India (Million Tonne)

Source: Provisional Coal Statistics of India 2016, CCO

* Coal Supply includes both domestic coal and imported coal
Demand Outstripped Coal Supply

Why??

- 80% of coal reserves are under government controlled mining companies
- Monopoly of government controlled mining companies in the sector
- Demand for coal $>>$ Production capacity of mining companies
- Under production of coal from captive coal mines
- Lack of Infrastructure
Competition and Regulatory Issues WITHIN the Sector

This section focuses on

- Dominant Position’ by the Government Controlled Mining Companies
- Allocation of Coal Blocks
CCI found CIL and its subsidiaries to be in contravention of the provisions of Section 4(2)(a)(i) of the Competition Act, 2002 for imposing unfair/discriminatory conditions in FSAs with the power producers for supply of non-coking coal (Press Release GOI)

Refusal to supply the contracted quality of coal. (Case No. – W.P. No.1718 of 2006, Eastern Coalfields Ltd. Vs. Deepak Fuel Pvt. Ltd. and ors.)

SECL (CIL Subsidiary) was neither willing to negotiate the terms of coal supply agreement nor ensuring the supply obligations. (Case No. 05 of 2013, Madhya Pradesh Power Generating Company Limited vs. South Eastern Coalfields Ltd)
Allocation of Coal Blocks

In 1993, private power generating companies allowed to own captive coal blocks.

Coal block allocation for captive coal blocks can be seen in three (two) phases:

<table>
<thead>
<tr>
<th>Allocation Process</th>
<th>Issues/ concerns in allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Through inter-ministerial Screening Committee</td>
<td>▪ Illegalities in allocation of coal blocks</td>
</tr>
<tr>
<td></td>
<td>▪ Non-uniformity in the process followed to allocate coal blocks</td>
</tr>
<tr>
<td>Allocation through Auctions (MMDRA, 2010)</td>
<td>No blocks were allotted</td>
</tr>
<tr>
<td>Allocation through reverse bidding</td>
<td>▪ Legal Concerns</td>
</tr>
<tr>
<td></td>
<td>▪ Regulatory Complexity</td>
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<td></td>
<td>▪ Information Asymmetry</td>
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<td></td>
<td>▪ Lack of Competitive Neutrality</td>
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<td></td>
<td>▪ Auction design needs improvement</td>
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<td></td>
<td>▪ Aggressive Bidding</td>
</tr>
</tbody>
</table>
### Competition and Regulatory Issues ‘WITHIN’ the Sector

**Allocation through reverse bidding under Coal Mines Special Provisions Act, 2015 (CMSPA)**

<table>
<thead>
<tr>
<th>Legal Concerns</th>
<th>Conflict between CMSPA and Coal Bearing Areas Act (CBAA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory Complexity</td>
<td>Central Government directives were not followed by SERC</td>
</tr>
<tr>
<td>Information Asymmetry</td>
<td>Many critical details remain unpublished</td>
</tr>
<tr>
<td>Lack of Competitive Neutrality</td>
<td>Different Criteria of Allocation for Public Sector and Private Sector</td>
</tr>
<tr>
<td>Auction design needs improvement</td>
<td>Allows multiple technical bids from different captive power plants of the same company</td>
</tr>
<tr>
<td>Aggressive Bidding</td>
<td>Bidding for the first two rounds were extremely aggressive and coal blocks may become unviable in future</td>
</tr>
</tbody>
</table>
Competition and Regulatory Issues WITHIN the Sector

In the nutshell…..

- Lack of transparent and participatory process which allows all stakeholders, citizens and businesses to interact

- There are no comprehensive frameworks that govern the licensing and operational setups of coal mining/trading companies

- Lack of accountability from the government controlled mining companies

Weak regulatory architecture
### Regulatory Architecture

#### Existing Regulatory Architecture

<table>
<thead>
<tr>
<th>Centre Level</th>
<th>State Level</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Regulator</strong></td>
<td><strong>Regulatee</strong></td>
</tr>
<tr>
<td>- Ministry of Coal</td>
<td>- Coal India Limited (CIL)</td>
</tr>
<tr>
<td>- Central Mine Planning &amp; Design Institute</td>
<td>- Singareni Collieries Company Limited</td>
</tr>
<tr>
<td>- Coal Controller</td>
<td>- Singareni Collieries Company Limited (JV between State &amp; Centre)</td>
</tr>
<tr>
<td>- Other Ministries</td>
<td>- Neyvell Lignite Corporation Joint Ventures</td>
</tr>
<tr>
<td>- Other Ministries</td>
<td>- Gujarat Mineral Development Cooperation</td>
</tr>
<tr>
<td>- Other Ministries</td>
<td>- Captive Producers in Power, Steel, Cement etc. industries</td>
</tr>
</tbody>
</table>

Coal Controllers Organisation (CCO), an agency operating under the Ministry of Coal acts a technical regulatory body in the sector, overseeing coal production and mine closure.
Regulatory Architecture

Problems Within Existing Regulatory Architecture

- Arbitrary increase in prices levels which affects coal dependent industries

- There are no comprehensive frameworks which regulates the operational setups and production of coal mining/trading companies

- No check on quality of coal supply to consumers

- CCO is understaffed and ill-equipped

Need to Re-visit Regulatory Architecture
Considering these issues, T L Shankar Committee report, 2007 in the Integrated Energy Policy Report of Experts recommends establishment of a Regulator for the Coal sector which can perform the following functions:

- Approve coal price revisions as an interim measure
- Ensure supply of coal to power sector under commercially driven long-term FSA
- Facilitate the development of formulae/indices for resetting coal prices under long term FSAs
- Monitor the functioning of e-auctions and ensure that the price discovery through e-auctions is free of distortions
- Develop a mechanism for adequate quantities of coal imports under long term contracts to bridge the gap between supply and demand
- Create an environment for competitive coal market to operate
- Regulator to ensure that mines are planned, designed and developed in a scientific manner, giving due importance to conservation of coal
Need for a Coal Regulator

- Do we need an Independent Regulator?

Or

- Should we empower the existing regulators to regulate multiple sectors?

For example: The mandate of CERC could be expanded to govern the portion of coal sector, which is closely related to power generation.
Multiple Sector Regulator??

- Enhance capacity and expertise
- Promote consistent and participatory approach
- More productive and cost effective
- Enhance inter-institutional communication

### Multiple Sector Regulator

#### International Experiences:

<table>
<thead>
<tr>
<th>Country</th>
<th>Regulators</th>
<th>Sectors Covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Department of mines and minerals</td>
<td>Mines and Petroleum</td>
</tr>
<tr>
<td>China</td>
<td>National Energy Administration</td>
<td>Electricity, natural gas and other energy enterprises</td>
</tr>
<tr>
<td>UK, Australia, Belgium, Austria, and Malaysia</td>
<td>Energy Regulators</td>
<td>Electricity and Gas sector</td>
</tr>
<tr>
<td>USA</td>
<td>Federal Energy Regulatory Commission</td>
<td>Electricity and interstate oil pipelines</td>
</tr>
</tbody>
</table>
Recommendations

- Unbundling of CIL and introducing more number of players in coal production
- Monitoring and evaluation of captive coal mines periodically
- Establish a coal regulatory body – IRA or Multiple sector regulator should be decided after conducting an impact assessment study
- Streamline process, procedure and framework to incentivise and expedite coal production
- Enhance sustainability in the sector and promote investment through coal block banking mechanism
Further Question which needs special considerations:

- Can the existing agencies, such as COO be strengthened and their mandate be expanded to look at pricing and allocation issues?

- Can the mandate of agencies like CERC be expanded to regulate power and coal both?

- Is the reverse bidding mechanism, introduced through CMSP, a sustainable measure for the sector?

- Can unbundling of CIL address concerns related to the sector’s competitiveness?
About CUTS

- Established in 1983
- Economic policy research, outreach and capacity building organisation
- Working towards improving quality of regulation, competition and governance with objective of achieving consumer sovereignty
- Presence within and outside India
- Significant work in Regulation & Competition
- Competition and Interoperability: http://goo.gl/7QPzGG and http://goo.gl/AsQHP0
- Regulatory engagement: https://goo.gl/Zy21yE
- Consumer risks: https://goo.gl/6mZfGp and http://goo.gl/LCWFot
Thank you!!

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