

Proceedings during the

INCEPTION MEETING

**COMPETITION REFORMS IN KEY MARKETS FOR
ENHANCING SOCIAL AND ECONOMIC WELFARE
IN DEVELOPING COUNTRIES (CREW PROJECT)**

13-14 March, 2013

ITC Rajputana, Jaipur (India)

Introduction

CUTS Centre for Competition, Investment and Economic Regulation (CUTS CCIER) organised an Inception Meeting to mark the beginning of a project on **Competition Reforms in Key Markets for Enhancing Social and Economic Welfare in Developing Countries** (CREW project) on 13-14 March, 2013 at ITC Rajputana, Jaipur (India). The CREW project is supported by DFID (UK), BMZ (Germany) and facilitated by GIZ (Germany).

The aim of the CREW project is to develop an approach which can be applied in developing countries to assess benefits of competition reforms on consumers and producers in specific product markets.

The CREW project will be implemented over a three year period in four countries and in two (common) sectors across these countries. It will be conducted in three phases. The first is a preliminary diagnostic phase, which includes desk literature review of methodologies used to analyze the impact of competition reform. This phase also includes selection of the four countries and two broad sectors in which CREW will focus on. The second phase will be the design phase, in which a methodology will be developed in detail for analysis in two specific product markets within the broad sectors chosen in Phase I. The final phase will be the validation phase, in which the methodology will be applied and adjusted to finalize a framework for analysis of impact of competition reform in developing countries.

Objectives

The objectives of the inception meeting were:

- to provide a platform for selecting referred four countries and two markets;
- to facilitate interaction between researchers, project and programme administrators;
- to share lessons/experience;
- to devise a model framework for phase-wise implementation of the project; and
- to discuss key issues and concerns.

Summary of Discussions

OPENING SESSION

1. Pradeep S Mehta, CUTS International

- It was pointed out that CREW is the first attempt of CUTS to measure the benefits of having competition reforms in the developing world. The project would involve an assessment of the gains and losses of competition reforms, as well as identifying the best policy mix to promote the highest possible welfare outcome. It would also encompass explaining that competition reforms go beyond the narrow premise of regulatory laws and competition laws. In the developing world, competition policy and law (CPL) should contribute to developmental outcomes as well and not just creating better-performing markets. This is due to various constraints in implementing a competition law in developing countries, which underline the need for a holistic approach to competition reforms.
- The genesis of this project was that CUTS has been working for 30 years as a consumer advocacy group and always take a wider approach to consumer protection rather than just narrowly focusing on consumer education, dispute settlement, etc. CUTS thus aims at promoting consumer welfare as a result of policy works, and competition policy and law is one such area.
- CUTS has been working on competition issues in developing countries for long and experienced the multitude of challenges in adopting and implementing a competition law and policy in the developing world. This is the basis for the conceptualization of this project, which is to highlight the evidences to show policymakers that competition reforms would be beneficial to both producers and consumers.
- A word of caution was given that the meeting was not to discuss the actual benefits that have been measured so far but more about the *process* of measurement.

2. Eiko Kauffman, GIZ (Germany)

- The expectations of GIZ with respect to the project were briefly highlighted. GIZ expects to be able to get some tangible outcomes on the benefits as well as how to measure the benefits of competition policy and law on consumer's and producer's welfare. These benefits are expected to be used as arguments in countries in which GIZ works in order to bring the agenda of competition policy and law forward.
- Caution was also given that the meeting was not an academic conference but an inception meeting for the CREW project, hence the main focus is to get inputs from the participants so as to move the project forward.

3. Geeta Gouri, CCI

- The main objective of competition law implementation in India is to bring about benefits. In the Competition Act 2002 of India, in the preamble, terms such as “economic growth”, and “consumer welfare”, etc are explicitly mentioned, creating the framework for the Commission's enforcement works. Interventions such as those aimed for by CREW, thus, are very much needed.
- In terms of methodology, when measuring impacts, the project should look at both the micro as well as the macro level. Another issue that is relevant for the project is whether to measure consumer surplus or total surplus.

- A possible set of data that could be looked at for this project is the various consumer surveys that have been undertaken so far for the purpose of market definition because this is where the impacts of competition law are felt, for example, price changes, availability of choice, etc. Equity considerations should be a part of competition law and policy enforcement and not just economic efficiency.

4. Fred Jenny, OECD Competition Committee

- The unique thing about the CREW project is that it looks at issues in order to increase the advocacy functions of CSOs vis-à-vis CPL as against the current focus on the advocacy mandate by competition authorities.
- The project, as per its conceptual design, takes a very wide and integrated approach to competition: it looks at competition regimes/reforms (competition law enforcement + many other factors) and not just competition law enforcement *per se*.
- There are currently several attempts to evaluate what competition regimes have been able to deliver or not deliver. In the developed world, it is now a requirement to evaluate the delivery of competition regimes because of the financial crisis (which has metamorphosed into an economic crisis), e.g. how competition policy promotes innovation; meaning how the competition regimes justify themselves. For the past two years, the OECD has been looking at different techniques which utilized such evaluations. The works to be carried out within the framework of CREW would complement the works of the OECD at best, especially from the perspective of developing economies.
- CREW takes a global welfare approach to competition. Generally competition authorities only look at consumer surplus but not producer surplus. At a recent OECD forum, for the first time the topic of competition policy and poverty reduction is officially discussed, and thus producer surplus was included.
- A point for caution is that the biggest challenge is not about the measurement, but how to segregate the impacts of competition reforms from the impacts of other social and economic reform policies.

SESSION 1

Methods and Approaches for Assessing Benefits of Competition and Regulatory Reforms

1: Owen Gabbitas, Australia Productivity Commission

- The presentation showcased the experiences of the Australian Productivity Commission (APC) in measuring the benefits of reforms which had been undertaken in the past in Australia, using the Review of the National Competition Policy of Australia in 2005 as a case study. The main objective of the APC's work is to measure the impacts and effectiveness of past reforms, so as to help strengthen the case for future reforms, as well as design adjustments and compensation to relevant parties if required. This is mostly an *ex post* assessment.
- The APC does a combined assessment of (i) direct impacts on prices, productivity, employment (micro-level); and (ii) economy-wide impacts (macro-level) of the reforms. The methodology comprises of various methods and techniques such as case studies, cost-benefit analysis, econometrics and Computable General Equilibrium (CGE) models, as well as qualitative analysis (for those measurables not suited to

quantification). Not all impacts are suited for quantification and sometimes qualitative analysis of the reforms has to be done, which also includes case studies and value judgment used. Measured benefits can also not be done in terms of monetary benefits in other instances, e.g. availability of choice and quality vs. price reductions. It is extremely important for CREW to note these, especially given that the project is being implemented in markets characterised by lack of data or information asymmetry.

- It was also reiterated that it is often difficult to separate the effect of reforms from other changes. During the measurement process, one should look further to the whole economy than just sectoral impacts.

Floor Discussion

- During the floor discussion on the presentation, it was mentioned that it would be difficult to extract the benefits that go straight to the consumers from those that go to other stakeholder groups like producers. In order to segregate the impacts on productivity from those on prices, for example, one might have to rely on whichever data is available like household income and consumption and then use modelling to complete the assessment. In the context of developing countries, where even such data is not available, then a survey is another method that could be used. For example, surveys could be undertaken with business to gauge what they feel as the potential/actual benefits of the subject reforms. On the other hand, household consumption statistics could be used to measure consumer welfare.
- Political economy factors, for example political maturity, political differences between the federal and the state governments should also be taken into consideration while designing any adjustments. Besides, one should always take a pragmatic approach to political economy issues and be ready to compromise. The local consideration should always be factored in the analysis.
- In view of the lack of data in CREW project countries, a possible approach is to do a preliminary (qualitative) assessment first and then get data for further refinement. Case studies could also be used to highlight impacts but one should always recognize that case studies might not be representative.
- In view of Australia being a federal state, some thought it might be difficult to define the national interests and integrate that with the notions of different stakeholder groups. In these cases, the underlying principle of “achieving higher living standards for all Australians” was reiterated.
- In view of the reality in developing countries and the complexity of competition reforms (which might encompass various different areas), some thought that no CGE model could handle this. The solution then is to set up a good institutional model: introducing competition where possible but also putting in place structures to safeguard and promote the competitive process.
- It is also important to clearly define outcomes that could be expected and delineate the markets in which the impacts of reforms are going to be measured. Political economy factors should be considered during the advocacy phase.

2. Natalie Timan, UK Office of Fair Trading

- This presentation was about the regular assessments carried out by the OFT on the impacts of its interventions because of (i) external accountability and (ii) internal management and prioritization. There are basically two types of assessments: the *ex ante* assessments which are undertaken shortly after the OFT’s interventions and only look at direct financial consumer savings (i.e. monetized amounts); and the *ex post*

assessments which usually happen a few years after the OFT's interventions and look at wider impacts.

- The speaker recommended that the *ex ante* method would be more applicable to CREW because of its cost effectiveness, data limitations and time constraints. However, it should be noted that this assessment by the OFT is about the impacts of competition law enforcement (the benefits that could be accrued from actual competition case decisions – presuming that there is no negative effects); whereas the CREW project looks at wider issues than just competition law enforcement and thus is much more complex.
- The *ex post* method presented is actually closer to the CREW project since it also looks at wider benefits (which are usually *unquantifiable*) rather than just direct impacts on the consumers in terms of monetized savings, for example, deterrence, reduced barriers to entry (as a form of producer surplus), enhanced consumer confidence, and boosted innovation & growth. Examples include interventions that help to raise outputs and lift restrictions on land as a natural resource; interventions in markets associated with high labour participation and higher education, or in innovation-intensive sectors such as pharmaceuticals; interventions that tackle public restrictions on competition. Methodologies to measure unquantifiable impacts include the use of consumer and business surveys to compliment desk research on prices and other market data. Simulations and structural models are also used to complement event studies.
- Another interesting feature under the presentation was the framework of associated changes, which might be similar to the CREW approach and could be studied further.

Floor Discussion

- In response to questions, it was pointed out that the measurement is done by the evaluation team which is based within the Chief Economist's office, in cooperation with the case team. Case data held by the case team thus would be transferred to the Chief Economist's office for processing by the evaluation team. There is usually at least one external audit and also a double check for *ex ante* assessment.
- Issues which are important for developing countries such as productivity, employment and labour use, etc are not estimated in the OFT evaluation.
- It is also observed, as a result of this presentation, that the CREW project is broader than just from a competition authority's perspective, since it looks at both producer welfare and consumer welfare and not just consumers' financial savings. However, it is also important to note that the goal of production is consumption, e.g. in many cases, output increases would result in lower prices. If this is not the case, then competition is definitely not working at some stage. A possible methodology for CREW then is to ***look at outcomes first and then go backwards***, rather than going directly to measure the impacts of a particular reform.
- Another observation is that it is easier to measure the impacts of competition from the perspective of those being pushed out of the market than those being stopped from entering the market.
- A point of caution was given, since evaluations done by competition authorities look at that from the perspective of consumer welfare, trying to avoid "protecting competitors" and remaining focused on the 'competitive process'.
- It was suggested that the use of the consumer price index (CPI) or any other social discount rate as a possible set of data for the CREW countries might help, although it was suggested that this should depend on the exact reform policy being looked at.

- It was also noted that particular assumptions may change the result of the assessment. For example, in the case of the OFT evaluation, the assumption is that interventions by the OFT could have only either neutral or positive impact but no negative impacts. Another issue to note is to differentiate between markets (consumer's perspective) and industries/sectors (from the perspective of economic development). This differentiation would have implications on the measurement of the impacts of reforms on consumer and producer welfare.
- Though the impact of non-price competition vis-à-vis welfare (e.g. call quality, service quality in the telecom sector) should be noted, these impacts are non-quantifiable and one might want to opt for measurable proxies, such as prices
- It was also clarified that in the case of Australia, it is the design of the reform policy which go under review and not how the policy has been implemented.
- The CREW project should be clear about what outcomes it aims to achieve, whether it is to build the case for future reforms or to evaluate the impacts of the past reforms. It is also important to differentiate between short-run impacts (which are often case-specific) and long-run impacts (which are for broader reform context).
- A point for caution is that in developing countries, policymakers often look at developmental outcomes, for example instead of increasing productivity, a positive impact on job creation would be more highly appreciated.
- *Ex ante* assessment would be much more difficult for the CREW project. The project has to address very practical concerns, and thus have to use certain default estimates for the impacts of reforms on innovation, non-price competition and job creation.
- For both presentations, the lessons to be drawn are that: 1) any exercise to be done has to have counterfactuals; 2) it is important to always note the very thin line between protecting competition and protecting competitors (i.e. impacts on consumer welfare and impacts on producer welfare); 3) it is equally important to differentiate between short-term and long-term impacts.

3. Rapporteur's Summary: Eberherd Feess

- The Australian experiences are considered as highly relevant for the core of CREW (identifying and quantifying impacts on sectors). However, this approach has its own disadvantages including being methodologically prohibitive (being too advanced and requiring a lot of data). The timing issue should also be duly noted by CREW. In order to isolate the impacts of competition reforms as well as measure economy-wide impacts, 'soft' analysis such as surveys and qualitative assessment may be required.
- The UK OFT's experiences are not so relevant for CREW, since it focuses on competition law enforcement, but are methodologically interesting. For example, a question posed for CREW is that whether the project wants to look at consumer welfare and producer welfare in totality or wants to look at different factors such as prices, quality, productivity, job creation, etc; to be more pragmatic.
- The rapporteur also questioned the differentiation between *ex ante* and *ex post* analysis on ground of simplicity, asking whether it is a matter of setting the right scope and methodology of assessment.
- The lessons for CREW from both presentations is to take whatever data is possible, then adjust methodologies to data availability. Before-after comparison should also be a part of CREW and not pure *ex ante* or *ex post*. In terms of methodologies, not just over-simplified econometrics is to be employed but also other methods such as

surveys and qualitative assessment. The methodologies could also be different between various project countries.

SESSION 2

Benefits of competition reforms for producers and consumers-Country experience and evidence

1. Scott Davenport, Trade and Investment, NSW, Australia

The presentation was a report of the findings from a study entitled “Facilitating Efficient Agricultural Markets in India: An Assessment of Competition and Regulatory Reform Requirements”, which had been undertaken by NSW in Australia. The following are some of the key points that emerged from the presentation.

- Just like the CREW project, a strategic approach to competition policy reviews of regulation should involve a series of steps which include the following:
 - Step 1 - Assess whether the stated objectives of regulation align with accepted forms of market failure - i.e. public goods, externalities, information asymmetry, anti-competitive behaviour.
 - Step 2 – Assess whether the current regulatory approach is the most efficient means of achieving the objective.
 - Step 3 – Assess on *prima facie* grounds whether the regulatory restriction on competition is likely to be a source of significant resource - use distortion i.e.: – are there significant concerns at Steps 1 and 2; or - is the competition restriction likely to have a significant sectoral effect?
 - Step 4 - If “yes” to Step 3, undertake quantitative social benefit cost analysis, if “no” to Step 3; undertake qualitative social benefit cost analysis.
- CREW can learn some lessons from previous projects that used the above steps, which include the study on ‘Price and Competition Issues in the Indian Onion Market’, which was aimed at the identification of impediments to supply chain competition & efficiency and established that a more competitive onion supply chain with more participants would reduce consumer prices by 44 - 58 percent and increase the farm gate price by 15 -19 percent.
- The presentation also outlined the key ‘methodology’ lessons that could be relevant to the CREW Project. Firstly, there is need to define the ‘methodology’ for the project broadly in the first instance. This could include adopting a ‘Case study balance’ approach that looks at both regulatory reform & competition law issues. This can also involve framing the problem in a market failure public policy context, as the project is not promoting just another form of regulation, but a different approach to the overall regulatory framework. The project could also strategically pick case studies that are relevant to government by pre-empting and targeting current and prospective problems that are confronting government.
- The project should also clearly define and identify the benefits to be measured. This would entail the promotion and consistent understanding of key concepts such as societal welfare, consumer surplus benefits and producer surplus benefits as these are what need to be measured.

- There is also need to lift the ‘conversation’ about benefits above vested interests since reform always involves rent redistribution. The focus should be on a specific reform issue or case study which would promote a complimentary broader public conversation about sectoral productivity, growth and innovation (or lack thereof).

2. Karen Ellis, Overseas Development Institute, UK

- This was a presentation entitled ‘Assessing impacts of competition – experience from ODI research’, which showcased some findings from some studies ODI had conducted across countries. In particular, findings from a project assessing economic impact of competition and related policy that was undertaken in 2010 in five countries, namely Bangladesh, Vietnam, Ghana, Kenya and Zambia which assessed four markets (Sugar, Cement, Mobile phones and Beer) were given.
- The study employed a before and after approach, where changes could be observed and analysed. In addition to competition law, the impacts of other policies that have an influence on competition were also looked at. The study assessed the number of players, concentration as well as competition concerns raised. The impact on prices as well as on market outcomes was the basis for the assessment.
- It was however cautioned that some data requirements might be difficult to obtain in developing countries for the purpose of CREW.

3. Godius Kahyarara, Department of Economics, University of Dar-es-Salaam

- This was a presentation entitled ‘Methodologies for Measuring Benefits from Competition and Lessons: A case of Market Competition and Firm Level Performance in Tanzania’. The study presented findings from the study, which had mixed findings between OLS regression and fixed effects models on impact of competition on productivity. The analysis focused on assessing the impact of Competition on firm level performance in Tanzania manufacturing firms, with specific focus being on product market competition triggered by economic liberalization. The performance of firms was measured using profit and productivity as variables.
- The conceptual framework for the study was to assess the relationship between competition and productivity via three possible ways; increased internal efficiency (x-efficiency); stimulating innovation and reduced administrative barriers to entry, increased consumers welfare through increased choices. Thus ex-post and ex-ante data on legal reforms, policy reforms, pricing, sales, profit, cost, exit etc, were used.
- The major conclusion from the study is that there are broad ranges of micro level characteristics that influence firm performance that are not entirely addressed by macro level reforms including competition. In some cases competition has macro and micro level effects that cannot be adequately addressed using a single approach. Detailed historical data is required. Thus for research in competition, a case by case consideration of methodology is recommended.

4. Floor discussion

- It was mentioned that, as reflected from the situation in the sugar market in the countries, there should also be an incentives accruing to government for government to open up markets.

- It was also cautioned that in carrying out price for price comparison across countries, it is necessary to make several adjustments, including using PPP adjusted variables as well as other socio-economic variables which could matter in determining a country's pricing structure
- It was also pointed out that distinguishing the benefits from competition from other issues still remains challenging as there could be other variables that might have resulted in the changes;
- It was pointed out that the impact of imports could easily be missed, such that a monopoly might not necessarily lead to higher prices due to import competition. Non-tariff barriers and other distortions could also be at play in the market and they should also be captured
- CREW can also look at market failures and how to deal with them, given that competition can lead to innovation while more competition would also remove the incentive to innovate.
- It was pointed out that a methodology using a Cobb-Douglas production function might not capture the issues well as it might not capture how competition enters the production function.
- It was mentioned that case studies should also be used extensively under CREW as they are easier to sell to politicians.

5. Rapporteur's Summary (Eiko Kauffman, GIZ, Germany)

The rapporteur presented the important messages from the three presentations as follows:

(i) Methodology

- It is important to define 'methodology' broadly at the first instance
- Efforts should be made to ensure that the problems the project seeks to address are properly identified first. If the problems are framed properly in the first place, it becomes easier to come up with the methodology for research
- There are several ways of measuring consumer benefits. Consumer benefits measured in terms of 'price' could be 'easy' proxy indicator compared to other consumer welfare measures
- The study should blend quantitative and qualitative methods in the measurement of benefits
- No one size fits all methodology recommendable, but rather a case by methodology could work well for each country.

(ii) Country and sector selection

- For each country, it is important to strategically pick sectors in line with relevance for government.
- It would be important to select countries based on differences in functioning of market to capture all dynamics
- In measuring the benefits, the definition of market is the key, as a narrow focus might be the way to go to capture the specific issues
- In the interpretation of results, it is important to know the market background to be able to understand what the results would imply
- While some of the studies were mostly confined to measuring consumer benefits, it is also critical to factor in strategies for measuring producer welfare

- Since advocacy is a critical step under the project, it is important to strategise carefully on how to sell the project to the respective governments to enhance buy-in

SESSION 3

Convincing Policymakers and Garnering Greater Support for Competition Reforms

1. Mr. Frederic Jenny, Chair, OECD Competition Committee

- Mr. Jenny's presentation focussed on the evaluation as a competition advocacy tool for convincing policy makers and garnering greater support for competition reforms. The presentation highlighted different tools of evaluation as well as methodological difficulties of evaluations.
- It was highlighted that on the one hand there is an increase in external demands for the measurement of competition policy systems and the quality of operations of individual competition agencies. On the other hand, it is becoming increasingly evident that legislators will not be satisfied with general undocumented evidence that the enactment and implementation of competition laws deliver good results for the society.
- Benchmarking competition enforcement of one authority, evaluating the quality of individual decisions or decisions in general and studying the impact of regulatory interventions on the functioning of the market were identified as the different tools of evaluation. Two strategies were outlined: A Top-Down strategy which looks at the economy as a whole and then try to infer the benefits which accrue from competition as a whole, and the Bottom-Up Strategy which would look at the individual decisions of the competition authorities and then estimating the effect of all the decisions. The significance of sectoral studies was brought to light in as much as they provide informative perspectives on how competition policy affects economic performance.
- Mr Jenny asserted that methodological issues arise with all the data procurement methods and hence appropriate methodology needs to be identified on a case by case basis, though survey methods, hearing and workshops seemed important means. Mr. Jenny was confident and quick to point out that even a well intended evaluation study might not get political buy-in due to vested. The prime reasons for this include focus on short term goals as against long term holistic goals by politicians, or the politicians may not simply understand or trust economic analysis.
- The CREW Project should demonstrate sound deliverables by competition reforms to both consumers and producers, equally and one should not be too bothered about the data procurement issues as there always exist opportunities to discern more economic alternatives of finding reliable data.

2. Chilufya Sampa, Executive Director, CCPC, Zambia

- The presentation brought to surface the essential nexus between policymakers and competition reforms as well as drawing generic lessons from ways of engaging policymakers in Zambia. Specific instances like price fixing in bus fares being sanctioned by government agency, restrictions on number of players in mobile telephony in certain markets revealed that there was need to alter the mind-set of the policymakers. Although advisory opinions were generally issued highlighting these

concerns, these had not succeeded much, as the mindset of government at the moment would be the effect on jobs. If a policy is demonstrated to have an impact on jobs, it stands a better chance of being adopted. Nevertheless, engaging policy makers is always an important and effecting part of carrying out completion reforms in a progressive way.

- Citing past decisions of the Zambian competition authority, Mr. Sampa expressed confidence that they do have the teeth and the capacity to implement the law. He underscored the importance of coming up with a National Competition policy and sectoral-market studies in every jurisdiction. Further, disseminating benefits of competition reforms in increasing or creating jobs to policymakers is also important.

3. Ms. Rafaelita M. Aldaba, PIDS

- The presentation also focused upon methodologies of engaging policymakers, especially in developing countries and the possible limitations involved therein. With respect to Philippines, despite trade liberalization, deregulation and privatisation to some extent, robust institutional framework for an anti-trust law is lacking, except an Office for Competition having been established under the Department of Justice. Vested interests of the political parties and business groups remain prime constraints. A recent publication published by PIDS, ‘Towards a National competition Policy for Philippines’ is an example of advocacy for competition reforms in the country.
- In data gathering, both qualitative and quantitative methods can be employed. Emphasis was made on the need for presenting the framework in a user friendly and simple manner. She stated that although political leadership at the highest level in a developing country like Phillipines is lacking, deliberations can be initiated by providing judicious policy advice to the policy makers at the relevant times. This can be complemented by engaging policy makers in regular dialogues and discussions.
- Lessons which can be drawn from the Philippines experience for the CREW Project include that evidence-based research with robust findings in a user-friendly-language should remain the key for the success for the project, lest it would be otherwise difficult to reach out to the policy makers.

4. Ms Tania Begazo, Competition Policy Team, IFC (World Bank)

- The presentation highlighted the two approaches employed by World Bank in measuring competition reforms. This includes identifying benefits of competition in key sectors to government and facilitating efforts in removing varied restrictions to free competition and trade barriers. Second, this includes improving effectiveness of competition legislations and regulations. The methodologies of measuring benefits of competition reforms can commence with identifying competition bottlenecks in a particular jurisdiction based in techniques such as research or interviews with various stakeholders. This would help classify reforms which are more feasible than others. Assessing the impact of reforms and thereafter, depending on the data, advocating for additional reforms for promoting competitive markets would also be an important step. Draft policy memos, discussion papers and organising dissemination events are constructive means for advocacy.

- The use of different quantitative techniques for analysing the reforms is used by the World Bank. The Market Regularisation Index, an indicator used by OECD to measure how restrictive the regulations are in encouraging private participation is an example.

5. Heidi Sada Correa, CFC Mexico

- It was pointed out that there exists ample academic literature on Monopoly's effect on economic efficiency and how lack of competition significantly leads to increase in prices. An OECD Report which suggested that prices of goods and services rise by as much as 20% as a result of concentration in markets. Again, although there is sound evidence to prove that more competition begets innovation, distributive effects of competition have been hitherto less explored.
- Mexico has many monopolising markets. A study conducted in 2005 supported by OECD revealed that the negative impact of monopoly power increased as households have less purchasing power. Mexican Competition Commission has carried out competition analysis in several markets and sectors. A sound competition policy could help reduce social image of a state and hence Commission periodically issues guidelines to the Government favouring competitive production, distribution of goods and services and convincing policymakers to eliminate provisions which hinder expansions or entry of new participants into the market.

6. Floor Discussion

- During the floor discussion, it was mentioned that although with effective interventions by competition regulator, prices of goods do come down; it is observed that prices of the same good might differ in different parts of the same city. This was due to lack of information mobility within the city. Thus the role of competition authorities in disseminating relevant information becomes important.
- The need to translate studies into user friendly texts for policymakers and parliamentarians was emphasised. CREW Project should measure both consumer welfare and producer welfare though in simple terms. Effective advocacy initiatives inculcate convincing businessmen- the most populist lobby opposing competition reforms. In jurisdictions like Sri Lanka, Thailand and Indonesia, there simultaneously exist sections both favouring and opposing emergence of competition reforms. Thus analytical studies are crucial in breaking opposition.

7. Rapporteur's summary: Mr. David Ong'olo, Kenya

- The rapporteur emphasised that the presenters stressed on the need to engage policymakers by way of constant communication and dialogue and also get the feel of what they perceive of existing competition policies and the need to review them. The jurisdiction of Zambia was cited to illustrate how the policy recommendations contain relevant ground level examples of how competition reforms can reduce poverty and increase jobs in order to inspire more acceptability and implementation of the project recommendations. Then, Mr. Jenny's presentation highlighted the prime reason as to

why politicians may not support an effective competition regime. It is when they only focus at the global picture that they tend to bypass some competition reforms. Some issues for reflection include whether people at all economic fora need to be convinced that the policy recommendations would be in their interest. Further, the proposed reform wouldn't be a one institution activity but mandates coordination amongst research institutions and advocacy groups.

SESSION 4

Extracting Key Elements for CREW Project

1. Mr. Rijit Sengupta, CUTS International.

- It was mentioned that competition *per se* is not the end but the means to achieve the larger goals for development. The prime reason to look at competition reforms broadly and not from a narrow perspective is that it is likely to achieve developmental goals. That the CREW Project will address the challenges so that the nations enjoy the fruits of competition reforms *vis-à-vis* developmental goals.
- Competition reforms, which would be measured under the CREW project, comprise of three elements namely A) Enabling government policies, B) Appropriate regulatory framework, institutions and actions and C) well defined competition legislation and enforcement mechanisms.
- Factors which motivated CUTS to take up the CREW Project include the need to demonstrate to policymakers that the real impact of competition reforms can be visibly felt and seen by the community in developing countries. In other words, the goal will be to measure demonstrable benefits from competition reforms.
- Highlighting the outcomes and output of the CREW project, creating demand for such competition reforms by documenting evidence of benefits in key markets was an important outcome to be achieved. Providing competition reforms in key developing country markets by building essential capacity among policymakers and competition authorities is again a crucial outcome of the project.
- The CREW project will be implemented in 2 sectors in 4 countries (2 Asian and 2 African) with high impact on poor. There would be three phases of implementation. The first phase would be to identify the environment in which competition reforms operate. This would be followed by designing and gathering information from diagnostic reports and putting it in a well-framed framework which would then be applied in the 4 project countries.
- A background paper for the project drafted by Nathan Associates is already in place, with the aid of which requisite set of counties and sectors would be finalized. This would be followed by first National Reference Group (NRG) Meetings. Once the meeting is undertaken, Country Diagnostic Reports (CDRs) would be outlined laying down the checklist of competition concerns and identification of consumer and producer benefits. The CDRs would be finalised and revised in the 2nd NRG Meeting. This would be followed by distilling commonalities in each sector and drafting of discussion paper.
- The project is not just concerned with competition enforcement but was more comprehensive in scope. The idea would be to develop an approach through consensual process and validate it accordingly.

2. Floor Discussions

- The relevance of three elements as part of competition reforms, *viz.* government policies, regulatory framework and competition legislation, when it is the competition legislation only which is gaining momentum among various jurisdictions to achieve competition reforms was questioned. However, it was mentioned that the project has just broadly defined the scope of the project and will do the diagnostic study first to gain the deeper understanding of the issues and if there is any indication that there is one approach which will have a greater impact than other, it will be accordingly adjusted to suit the needs best.
- It was mentioned that while it might be easier to measure static producer surplus, the project team should also go ahead with analysing as to how policy interventions can affect dynamic producer surplus. There hasn't been much research on difference on the impact of competition reforms in different jurisdictions- an area CREW might explore. Impact estimation should be simple and less expensive. It would be difficult to analyse all parameters. It would be best and wise to go for a mixed approach, involving both ex-ante and ex post measurement tools.
- It is crucial to highlight certain issues which are salient to the research. Studies should look at the degree of competition on both good and the services sectors. If impact of sectoral studies in a particular jurisdiction may be replicated to other sectors of the same jurisdiction as well as other jurisdictions, the project would generate more value. However various country and sector specific variables would have to be factored in to send out an accurate message.
- While rigorous and advanced research is convenient and good for academic purposes, such an approach might not be suitable for framing out policy recommendations as there is a tendency to get lost in model specification issues. Appropriate research, which should neither be shallow nor too advanced to raise any apprehensions, could be ideal. Effective communication to policymakers is to determine their absorption capacity of the research. The need to engage local institutions to instill ownership in research, as part of inclusive methodology was also emphasised. Since competition authorities are the custodians of competition reforms, they should also be actively involved in the project.

SESSION 5

Closing Panel: Emerging Lessons & Way Forward for Competition Reforms in Developing Countries

1. Mr. Pierre Jacquet, GDN

- In his summary of emerging issues from the discussion, it was pointed out that consumer surplus shouldn't only be the focus of the study as producer surplus should also form an integral part. Competition law has its technical nature and there is a need for dialogue between policymakers and researchers to address the issue of repeated regulatory failures.
- That there has been opposition against competition reforms, in both developing as well as developed jurisdictions is a fact, hence, CREW Project does not simply undertake qualitative and/ or quantitative economic studies of measuring competition

reforms but also a study of institutional framework, with positive correlation with components of competition policy, such as trade policy, labour policy, etc. Although simplicity is important, there is no substitute for rigorous research, for the same can yet be simple, analytical and user friendly without using sophisticated terminologies.

2. Mr. George K Lipimile, COMESA Competition Commission

- There is need for an understanding and research on what constitutes competition law, for whom it is meant and its implementation methodology. There is a saturation of projects in developing countries focussing on policy formulations but CREW project is unique and different. Currently there is no good methodology to take up the policy recommendations to the doorsteps of the legislators and policy makers and that is what CREW project would attempt to achieve.
- NRG meetings should be inclusive and not just be limited to the people in trade. Competition policy is about facilitating the business and not frustrating the business and since competition is a cross cultural phenomenon, endeavour should be made to make the policy formulation simple. It is significant to formulate clear strategies and identifiers for progress for the policymakers.

3. Mr. Subir Gokarn, Former deputy Governor, RBI, India

- The project has to go through some of the dilemmas and challenges in moving swiftly and progressively. The foremost and important task would be to manage expectations. The goal should be to formulate and implement the series of steps towards welfare enhancement. Time is ripe for recognition to set in amongst the policy makers that competition policy does not just comprise of competition legislation but was inclusive of trade policy, labour policy, etc.
- The Human Development Index was just one of the defining matrixes of welfare enhancement but the Consumer Price Index (CPI) stands on an equal footing. While there is a need to select the welfare matrix, it was equally important to discern as to whose welfare is to be looked at and measured.
- A point to ponder is whether there is a possibility to formulate a competition policy at the macro level or an exercise of exploring competition concerns must be undertaken on a sector by sector basis.

4. Floor discussions

- The methodology and scope of advocacy should rest on good communication strategies. It would be an illusion to see competition law and policy as the panacea for all the ills. Since competition law is at a very primitive stage in developing jurisdictions like Nepal where people are unable to understand complex empirical studies, there is need for 'distinctive and simple' research so that the policy makers of such jurisdictions can take benefit from.
- Devising an instrument which targets at overall-macro-level-welfare should be an integral component of the project. Defining the scope of the market is essential, since many policy recommendations have been made, but few taken. The focus on advocacy under the project is thus commendable.
- Managing expectations under the project is a cross-thematic issue which should constitute a crucial part of the CREW project. Expectations can be managed at two levels; the research stage and the communication stage.