

Ongoing Projects

Competition Policy & Law Helps Poverty Reduction and Economic Growth



Capacity Building on Competition Policy and Law in Select Countries of Eastern and Southern Africa (7Up3 Project)

Regional Conference

The regional conference of the 7Up3 project (“Capacity Building on Competition Policy in Eastern and Southern Africa”) was held in Addis Ababa, capital of Ethiopia, on March 27-28, 2006. With support from the Norwegian Agency for Development Co-operation (NORAD) and the Department for International Development (DFID), the UK, the 7Up3 project is being undertaken in seven countries of the region. The beneficiary countries are Botswana, Ethiopia, Malawi, Mauritius, Mozambique, Namibia, and Uganda. CUTS International in collaboration with Aha – Ethiopian Consumer Protection Association (AHaECOPA) hosted the conference.

As such, experts hailing from policy research institutions, competition and sectoral regulators, civil society and development partners who attended the conference agreed on the adoption of appropriate laws on competition policy and sectoral regulation, as they are vital prerequisites for an economic system that benefits the different stakeholder groups in society.

The opening session witnessed participating experts like Alemu Jotie, President of AhaECOPA; Harka Haroye, Chairman, Trade Practices Investigation Commission, Ethiopia; Karen Ellis, Investment Climate and Enabling Environment Team, DFID, UK, and Pradeep S Mehta, Secretary General, CUTS International. In the session ‘Competition Scenario in Project Countries of Eastern and Southern Africa’, researchers from the seven-project countries presented the findings of the research undertaken on competition in the project countries. S L Rao of the Institute for Social and Economic Change (ISEC), India, chaired the discussion.

The subsequent panel discussion on ‘Key Findings’ from the Research on Competition in Eastern and Southern African Countries was kick-started by a presentation by Nitya Nanda of CUTS International. The panelists were John Preston of DFID, UK; Thulasoni Kaira of Zambia Competition Commission (ZCC), Zambia; Zablon Ngugi Kahura of Monopolies and Prices Commission, Kenya; and David

Ong’olo, Advisor, CUTS Nairobi. Cezley Sampson, National Director, Energy Efficiency, Jamaica, presided as moderator of the session. The second day of the conference saw various experts deliberate on the interface between competition and regulation in key sectors like agriculture, electricity, telecom, and pharmaceuticals. The conference rounded off with a panel discussion on ‘Promoting a Healthy Competition Culture – How to Move Ahead in Africa’, where representatives of different stakeholder groups discussed ways of ensuring civil society participation in developing functional competition regimes in Africa for poverty reduction and achieving economic growth.



(From L-R) Zablon Ngugi Kahura, David Ong’olo, Cezley Sampson, Thulasoni G Kaira, & John Preston at the 7Up3 Regional Conference, Addis Ababa, Ethiopia, March 27-28, 2006

Training Seminar on Competition Policy and Law

Right after the 7Up3 Regional Conference, a training seminar on competition policy and law was organised by CUTS Institute for Regulation and Competition (CIRC) in

collaboration with the Trade Practices Investigation Commission (TPIC), Ethiopia, wherein officials from the TPIC and other government departments participated, along with a couple of consumer activists.

Nitya Nanda, Faculty (CIRC), co-ordinated the programme, and made a presentation on ‘Principles of Competition Policy and Challenges in Implementation’.

The training programme covered several aspects related to competition policy and law, but keeping in mind the structure of the competition law in Ethiopia, the minimum was dealt with in talking about mergers and acquisitions, while an elaborate session was held on unfair trade practices (UTPs).

Resource persons who imparted training were John Preston, Competition Policy Consultant, Private Sector Policy Development, DFID, UK; Zablon Kahura, Deputy Commissioner, Monopolies and Prices Commission, Kenya; Thulasoni Kaira, Director (Mergers & Acquisitions), ZCC, Zambia; and Cezley Sampson, National Director, Energy Efficiency, Jamaica, who made a brief appearance and shared his experiences with the participants.

Developing Public Understanding and Support to Complement Competition Enforcement (7Up2)

CUTS C-CIER organised two training workshops and a conference in each of the CLV (Cambodia, Laos, Vietnam) countries, as part of the capacity building activities for the 7Up2 Project. The workshops and conference reinstated the importance of taking into consideration socio-economic factors while enforcing a competition regime.

Training Workshop on Competition Policy and Law Implementation in Lao PDR

The training workshop on competition policy and law implementation for the competition authority officials of Lao PDR was held on March 7-8, 2006, in Vientiane, capital of Lao PDR. The workshop focused on generic issues related to competition policy and law implementation.

The workshop, designed as a blend of theoretical analysis and hypothetical case study, drew upon the rich and varied experiences of several competition experts.

Dr S Chakravarthy, currently Advisor/Consultant on Competition Policy and Law, Hyderabad, India, Dr Deunden Nikomborirak of the Thailand Development Research Institute and Tzu-Shun Hu, senior specialist at the Taiwan Fair Trade Commission (TFTC), were among the experts who stated and shared their views on competition implementation issues.

Workshop on Competition Policy and Law in Cambodia

A training workshop on competition policy and law was held for Cambodian law and economics students on March 10, 2006, at Phnom Penh, Cambodia.

Among the issues discussed in the workshop were 'The Need and Rationale for a Competition Law and Policy in Cambodia' delivered by Dr Nikomborirak and Ly Chan Tola; Tzu-Shun Hu delivered on 'Main Hurdles on Fair Competition'; and Dr S Charavarthy delivered on 'Main Hurdles to Fair Competition and Competition Law Implementation in Developing Countries'.



National Seminar on Competition and Consumer Protection, Hanoi, Vietnam, March 20, 2006

National Seminar on Competition and Consumer Protection in Vietnam

In collaboration with the Competition Administration Department, Ministry of Trade of Vietnam, CUTS C-CIER organised a national conference on competition and consumer protection issues on March 20, 2006, at Hanoi, Vietnam.

The National Seminar drew the participation of more than 100 delegates from various government agencies, consumer associations, civil society organisations and the media from cities and provinces across Vietnam.

A panel of experts including Le Danh Vinh, Dinh Thi My Loan, Surendra Kanstiya, and Imelda Gani addressed concerns specific to consumer protection.

Comparative Study of Regulatory Framework in Infrastructure Sector: Lessons for India



The Planning Commission, which is the apex think-tank of the Government of India, has recently commissioned a study to CUTS for carrying out a multi-country research – the study and analysis of regulatory frameworks in infrastructure services to come out with learnings relevant for India.

The present Indian government confers top priority to development of infrastructure services as a strategy to facilitate and sustain economic growth of high order. To that effect, private investment is invited in most of the infrastructure sectors. However, the quantum of investment actually taking place is far below the expectations. It had been realised that having an enabling and robust regulatory framework in place was critical to attract investments.

Consequently, the government had entrusted the Planning Commission with the responsibility to analyse experiences elsewhere and suggest a world-class regulatory framework for infrastructure sectors in India.

Against this backdrop, CUTS would carry out the research to compare and analyse governance and institutional aspects of regulatory framework prevailing in infrastructure services in seven countries.

Besides India, other selected economies in the project are Australia, Brazil, Canada, South Africa, Philippines, UK, and Sri Lanka.

The selected economies represent various regions and they are at different stages of economic development. The regulatory frameworks in infrastructure sectors there are also diverse.

Evolving a New Competition Regime in India

CUTS Centre for Competition, Investment and Economic Regulation has been actively involved in the process of evolving an appropriate competition regime in India by undertaking specific research and advocacy activities

A. Bill Blowup

CUTS C-CIER, as part of its activities on competition and economic regulation, has been regularly printing Bill Blowups. The most recent Bill Blowup is on the Competition (Amendment) Bill, 2006. The Blowup essentially analyses the intrinsic scope and merit of this particular Bill with a focus on its highlights as well as its lowlights.

Competition Act, 2002, was constituted to replace the Monopolies and Restrictive Trade Practices Act, 1969. However, the Act was challenged in the Supreme Court on the grounds that it did not adhere to the doctrine of separation of powers between judiciary and the executive as recognised by the Constitution of India.

Pursuant to the litigation, the government has proposed to amend the Competition Act and split the competition authority into two: the Competition Commission of India and the Competition Appellate Tribunal. Though the overall direction of this Bill is good, certain areas need to be reviewed by the Parliament before giving its consent on the Bill.

The amendments that have been proposed to the Competition (Amendment) Bill, 2006, bear in mind the composition of the CCI, interface with other regulators, establishment of CAT, leniency provision and competition advocacy.

The amendments required stand related to Intellectual Property Rights (IPR) provisions, independence of the CCI, accountability of CCI, exemptions to the Act, and regional offices of CCI.

The conclusion is that the Amendments proposed in the Act seem to have been done to “address solely the concerns that have arisen out of the apex court’s order”. In the context, the Blowup has suggested certain important areas for improvement and has accordingly requested Parliamentarians to bear this in mind in order to have an effective and a modern Competition Act. The final statement is, “The amendments should be considered as an opportunity to set the house right, rather than wait for another crisis or challenge to appear”.

(For viewing other Bill Blowups, please visit our website www.cuts-international.org)

B. Seminar on “Amendments to Competition Act 2002: The Way Forward”

The government should establish a Common Appellate Tribunal for the Competition Commission of India (CCI) and sectoral regulators, instead of establishing another appellate body for the CCI to ensure coherence in the interpretation of regulatory laws and competition law. Such a view emerged from a seminar organised by CUTS International in the capital on ‘Amendments to Competition Act 2002: The Way Forward’.



Seminar on Amendments to Competition Act 2002: The Way Forward, New Delhi, February 25, 2006

The seminar was organised on the eve of the Parliament discussing the Competition (Amendment) Bill in the budget session 2006-07. Among the key amendments proposed by the government is splitting the functions of the CCI, and creating an appellate body to hear appeals against the orders of the CCI and adjudicate compensation claims.

On the issue of interface between the CCI and sector regulators, the emerging view was that the consultations between these market-regulatory agencies should be made mandatory and reciprocal.

On selection rules, another contentious issue that led to the writ petition in the Supreme Court and the amendments proposed therein was a consensus on following a transparent procedure and advertising the posts rather than follow an opaque administrative search mechanism. It is important to have in place clear selection procedures; otherwise quality of persons appointed through an ad-hoc mechanism could be severely compromised.

C. Advisory Committee on National Competition Policy

The Competition Commission has constituted an advisory committee for drafting the National Competition Policy (NCP) for India. Pradeep S Mehta, Secretary General of CUTS is a member of this advisory committee.

The first meeting of the advisory committee was held on January 30, 2006, and was attended by, among others, chairman, Dr Vijay L Kelkar, members Mala Banerjee, Subhashis Gangopadhyay, P G Mankad, Pradeep S Mehta, and Vinod Dhall.

The meeting referred to the benefits of competition and the role of competition law and policy, and highlighted the relevant recommendations of the Organisation for Economic

Co-operation and Development (OECD), Asia-Pacific Economic Co-operation (APEC), and Pacific Economic Co-operation Council (PECC). It drew attention to Article 39 of the Constitution, the recommendations of the Raghavan Committee, 2000 and listed for consideration certain principles and elements of a NCP.

The consensus was that the Committee should endeavour to evolve the ‘principles’ of the Policy and the proposed statement should be kept broad, advocating the principles. This statement may draw upon experiences elsewhere, but will bear in mind the situation in the country.

Simplify Tax Structures: CUTS

Hindustan Times, Jaipur, on March 06, 2006

A leading consumer rights awareness body has called for further simplification of tax structures and rationalising rules and regulations, and a stronger role for the government as an enabling force to enhance competitiveness and efficiencies of the economy.

Urging the government to introduce VAT regime CUTS International said that the new system would go a long way in bringing in tax rationalisation and revenue generation for the state. Given that most of the neighboring states have adopted VAT, Rajasthan cannot let its businesses in a disadvantageous position, said Pradeep S. Mehta, Secretary General, CUTS.

The forthcoming state budget should also announce constitution of State Competition and Regulatory Agency (SCORA) as an autonomous agency to promote efficiency and effectiveness of services in the state.

CUTS International also called for setting up a Consumer Directorate under which all departments related to consumer welfare is brought in.

Redistribute Air Sahara Rights Equitably

The Hindu Business Line on February 10, 2006

CUTS International has urged the Directorate General of Civil Aviation (DGCA) to redistribute Air Sahara's rights to all airlines to prevent Jet Airways from attaining a dominant position in slots, as this would restrain growth of competition.

In a representation to the DGCA, CUTS International has called for imposing conditions similar to what had been imposed by the European Commission while approving the alliance of British Airways and American Airlines. The European Commission had mandated that the alliance give up some of their slots to competitors.

CERC Appointment

The Hindu Business Line on March 21, 2006

The Central Electricity Regulatory Commission (CERC) has appointed Mr Pradeep S. Mehta, Secretary General, Consumer Unity and Trust Society (CUTS), as Member of the Central Advisory Committee (CAC). He would advise the Commission on the issues related to policy, quality, continuity and extent of services provided by licensees, protection of consumer interests and overall standard of performance by utilities, said a release.

Internships at C-CIER

C-CIER hosted the internships of four foreign nationals, in the course of the last three months

Mosadeq Sahebodin, Institute for Consumer Protection, Mauritius

Mosadeq is spokesperson of the Institute for Consumer Protection (ICP), Mauritius. He was in C-CIER for a period of one month. During his stay, he prepared a Policy Brief on 'Competition Concerns in the Pharmaceutical Sector in Mauritius'. He made a presentation on the paper at the 7Up3 regional conference in Addis Ababa.

The ICP spokesperson also helped finalise Vol.V of the 7Up3 E-newsletter and prepared a draft-training module on competition issues for media representatives, trade unions, and women's associations. Mosadeq also helped translate a paper on the competition scenario in Burkina Faso from French to English.

Ly Chan Tola, Royal University of Law and Economics, Cambodia

Ly Chan Tola is Professor of Law at the Royal University of Law and Economics in Phnom Penh. Tola worked on a briefing paper 'Parallel Imports' during his stint as an intern in CUTS C-CIER.

Vu Dinh Trung, Competition Administration Department of the Ministry of Trade of Vietnam

Vu Dinh Trung, an official in the Competition Administration Department of the Ministry of Trade of Vietnam (VCAD), Vietnam worked to develop a concept paper on 'Consumer Impact Assessment', for the three weeks he spent at CUTS C-CIER as an intern.

Stephanie Mardell, American University of Washington DC, US

Stephanie is currently pursuing studies in International Development after completing her Masters in International Affairs from the American University of Washington DC. Stephanie was an intern in CUTS for a period of one month.

In this period she worked for C-CIER by writing a Foreign Direct Investment (FDI) Framework Paper, entitled "Outlining the FDI Framework and Opportunities for Investment within the Existing Framework". Stephanie also assisted in the making of ReguLetter – C-CIER's flagship newsletter.

Representation

- Pradeep S Mehta and Manish Agarwal attended a workshop organised by the Competition Commission of India (CCI), the World Bank (WB) and the Department for International Development (DFID) on March 17-18, 2006.
- Vinayak R Pandey participated in the workshop jointly organised by the South Asian Forum of Infrastructure Regulators (SAFIR) and Lahore Institute of Management Sciences, on March 25-26, 2006, in Lahore. The workshop was titled 'Challenges in Implementation of Economic Regulation in Infrastructure Services-Consumer Interest in Competitive Markets'. Vinayak presented a paper on 'Overlap between Jurisdictions of Competition Authority and Economic Regulators'.