



## Reviewing the Global Experience on Economic Regulation

CUTS in association with CUTS Institute for Regulation & Competition organised an International Conference on 'Reviewing the Global Experience on Economic Regulation' in New Delhi, on April 18-20, 2011. Nearly 100 participants, including experts and scholars from around the world took part in deliberations.

Patrice Coeur-Bizot, UN Resident Coordinator and UNDP Resident Representative, India said that we live in the 21<sup>st</sup> century in a global commons and needs a global regulatory approach to address issues of market failure.

Arun Maira, Member, Planning Commission (Government of India) said that it is important to identify indicators of market failure and initiate necessary readjustment in the system of economic governance.

Frederic Jenny, Judge, Supreme Court of France and Chairman of OECD's Competition Committee raised a fundamental question of whether we are better placed to discern market failures now than before and highlighted the need for greater consistency across various regulatory policies aimed at achieving similar objectives.

Atiur Rahman, Governor, Bangladesh Bank stressed on the need to comply with regulatory requirements as compliance lapses is now being looked at as one of the reasons for the financial crisis.

C Rangarajan, Chairman, Economic Advisory Council of the Prime Minister of India in his inaugural address said that it was critical for governments involved in designing regulatory institutions to be aware of three



L to R: Patrice Coeur-Bizot, Frederic Jenny, Pradeep S Mehta, C Rangarajan, Atiur Rahman and Arun Maira

main objectives of economic regulation which are to promote investment, protect consumers and catalyse efficiency in the production process.

Pradeep S Mehta, Secretary General, CUTS underscored that a purpose of this conference was to stimulate research and thinking among both state and non-state actors on emerging issues in regulatory policy reforms, especially in developing countries.

In the first business session, Dhanendra Kumar, Chairman, Competition Commission of India (CCI) stressed on the need for competition agencies and sector regulators to develop a functioning coordination mechanism for better regulatory efficiency, especially given that the boundaries of their respective jurisdictions are not well segmented in many developing countries, including in India.

[www.cuts-ccier.org/CONF\\_Reviewing\\_Global\\_Experience\\_Economic\\_Regulation.htm](http://www.cuts-ccier.org/CONF_Reviewing_Global_Experience_Economic_Regulation.htm)

### Forthcoming Publication

## Evolution of Competition Laws and their Enforcement A Political Economy Perspective

CUTS has recently concluded a research report under the project 'Why do countries adopt a new competition law?' This report is now being processed by a leading international publisher which would publish it by autumn 2011. It highlights factors that necessitated repeal of old competition laws and development of new legislations in nine countries. A number of countries across the globe have scrapped their old competition laws and adopted a new one in order to better align the legislation with changing times and circumstances.

The nine countries selected for this project (Czech Republic, Hungary, India, Ireland, Poland, Serbia, South Africa, Tanzania and the UK) were at various stages of economic development. Further, they have also had very different political and economic experiences. The report traces the evolution of competition regimes in these countries, and provides lessons for those currently going through this process, and others likely to do so in the near future.

## Collusive Behaviour in Health Delivery: Need for Effective Regulation

CUTS, with the support of Oxfam India, has initiated a project entitled, 'Collusive Behaviour in Health Delivery: Need for Effective Regulation'. The main objective of the project is to identify collusive and deceptive behaviour and advocate for appropriate (policy and regulatory) interventions for enhancing access to affordable and quality healthcare.



After having undertaken the first stage survey in two states (Assam and Chhattisgarh), CUTS is currently undertaking the second stage survey in both the states. The second stage survey is focussed on assessing the prescription patterns of doctors in public hospitals and private clinics. The survey is being conducted in Guwahati, Nagaon and Bongaingaon (Assam); and in Raipur, Bilaspur and Durg (Chhattisgarh).

One of the findings of the first stage survey was that a large number of people visiting public hospitals were still buying medicines from private sources. It should be noted that in both the states, medicines are available for free from the pharmacists in public hospitals. While it is difficult to establish collusion between the public hospitals and private chemists and subsequently with pharma companies, but there is reason to suspect such possibilities in case consumers getting treated in public hospitals are found buying medicines from private chemists.

Apart from advocacy through the print media, posters for public awareness have been developed. A campaign using SMSs is also planned in the two states. A final conference (national policy forum) would be organised in New Delhi, on May 24, 2011 to extract/identify critical policy issues requiring reform actions.

[www.cuts-ccier.org/COHED](http://www.cuts-ccier.org/COHED)

## India Competition and Regulation Report (ICRR III), 2011

The ICRR III (2011) is the 3<sup>rd</sup> in the series of biennial reports published by CUTS entitled, 'India Competition and Regulation Report' (ICRR). The earlier two reports were published in 2007 and 2009.



The report scheduled for a late-2011 release, and supported by the Norwegian Ministry of Foreign Affairs will present research evaluating the quality of regulation and competition in six specific sectors, viz. Microfinance, Natural Gas, Retail, Real Estate, Road Transport and Telecommunications in India. A Perception Survey is currently being conducted to assess the importance and effectiveness of regulatory institutions, awareness among consumers and other stakeholder groups on the need for and status of regulation in these sectors.

The inception meeting of the ICRR III project was held in New Delhi, on January 29, 2011. The meeting introduced authors and Reference Group Members and discussed the contours of research for each paper. The preliminary findings of the ongoing research have also been presented for review.

[www.cuts-ccier.org/icrr2011](http://www.cuts-ccier.org/icrr2011)

## Business Regulation and Corporate Conduct in India



It is CUTS endeavour to create an environment and capacity in India to foster growth that is hurdleless and well integrates elements of sustainable development. It is with this goal that CUTS has designed a project entitled, 'Exploring the Interplay between Business Regulation and Corporate Conduct in India' referred to as BRCC project.

This initiative (in India) has been planned to enhance the quality of business regulation by addressing 'key' weaknesses in the enabling business environment in select states of the country. The project would simultaneously attempt to identify key benchmarks pertaining to responsible business behaviour in select sectors, and explore how effective rules/regulations/institutional reforms can promote better conduct among firms in addition to catalysing consistent sectoral growth.

The first activity of this project was to gather inputs from various stakeholders on how business development and corporate conduct can co-exist in India. These aspects were discussed at the launch meeting held in New Delhi on April 21, 2011. Scholars, practitioners and specialists presented their views on various elements of business regulation, corporate governance and responsible business conduct in this event.

[www.cuts-ccier.org/BRCC](http://www.cuts-ccier.org/BRCC)



L to R: Pradeep S Mehta, Arun Maira, Suresh Prabhu and Karl M Rich

## Approach Paper of the 12<sup>th</sup> Five Year Plan

The Planning Commission has started the process of preparing an Approach Paper to the 12<sup>th</sup> Five Year Plan and has adopted a process of consultation with interested stakeholders via the Commission's website. The Planning Commission has identified 12 critical areas around which the 12<sup>th</sup> Plan (2012-2017) will revolve.

CUTS has submitted inputs to the Planning Commission on certain key issues for the Approach Paper. CUTS has covered four sectors, viz. higher education, health, power and agriculture. Some of these suggestions are applicable to various sectors. Further, CUTS has also suggested that policy distortions be gradually removed so that there is better level playing field in various markets, stimulating entrepreneurs.

## Regulatory Reform Bill

The regulatory framework in the infrastructure sectors in India has been developed autonomously with very little co-ordination or cross-fertilisation of ideas across sectors. The existing statutory and institutional framework suggests the absence of a common regulatory philosophy guiding the evolution of regulatory institutions in these infrastructure sectors.

Thus, the Planning Commission of India, realising the importance of adopting a cohesive approach towards economic regulation published a paper titled "Approach to Regulation: Issues and Options". It analyses the current state of economic regulation and suggests an overarching framework with a view to addressing the divergent mandates and practices prevailing in different sectors.

Consequently, a draft Regulatory Reform Bill has also been prepared by the Planning Commission of India incorporating the principles of independence, transparency, accountability, competition and level-playing field. The said draft bill, if implemented effectively, will ensure consistency in the otherwise fragmented and incongruous regulations in the infrastructure sector in India.

Given the importance of the Bill, CUTS took the initiative of reviewing it and in discussion with sector experts, made relevant amendments and submitted the same to Planning Commission of India. While making the amendments, CUTS focussed on maintaining arm-length distance between the regulators and the government. A more active and participatory role for CSOs has been proposed in the Bill, which is important to ensure participatory process in regulatory decision making process. The amendments suggested by CUTS also deal with the contentious issue of overlap between sector regulation and the CCI.

## Competition Distortions in India

The 11<sup>th</sup> edition of these 'Dossier' highlights several trade and non-trade related issues that may run contrary to the spirit of competition and thus adversely impact the overall welfare of a nation. It also educates about some of the welcome initiatives of the government that promote competition.

We have always taken a view that competition is the best restorative force in the market which, eventually, ensures consumer and business welfare. This is highlighted in a recent case study on private bus operators on *Naathdwara-Choti Sadri* Route in Rajasthan that brings to light the existing loopholes in legislative provisions which give rise to anti-competitive outcomes.

The Motor Vehicles Act, 1988 under Section 99 provides for monopoly rights to state transport undertakings to ply on inter city routes. This is contrary to the deregulation and liberalisation policies of the government. Commuters on the above mentioned route were not being serviced by either a private operator or the Rajasthan State Road Transport Corporation (RSRTC), which had multiple outcomes: unsafe travel in illegal means such as overloaded jeeps; loss of revenue to the State by way of taxes, etc. ([http://www.cuts-ccier.org/pdf/Anticompetitive\\_Provisions\\_in\\_the\\_Motor\\_Vehicles\\_2011.pdf](http://www.cuts-ccier.org/pdf/Anticompetitive_Provisions_in_the_Motor_Vehicles_2011.pdf)).

Given that private bus operators are unscrupulous, there is a need to deregulate the services like the airline sector and have an effective road transport regulator to oversee all bus operators, public or private.

This dossier draws attention to other instances of competition distortions in India from news culled out from newspapers that have direct bearing on consumer welfare.

*This Dossier and earlier ones can be accessed at: [www.cuts-ccier.org/Competition\\_Distortions\\_India.htm](http://www.cuts-ccier.org/Competition_Distortions_India.htm)*

## Representations

**Ashutosh Soni** participated in a Regional Workshop on Consumer Education in Telecommunication organised by the Telecom Regulatory Authority of India (TRAI) in Lucknow (India), on March 10, 2011.

**Pradeep S Mehta** attended the 10th Meeting of the OECD Global Forum on Competition in Paris, on February 17-18, 2011.

**Pradeep S Mehta** made a presentation on 'The Journey of India's Competition Regime' at TEDxDTU, Delhi Technological University on January 31, 2011.

**Udai S Mehta** as a Resource Person delivered a presentation on, 'Challenges in Competition Enforcement: Evidence from Developing Countries of MENA Region' in Small States Network for Economic Development 'Workshop on Competition Law and Policy in the Pacific Small Island States – Small-Size Constraints, Institution Design and Regional Cooperation', organised in Apia (Samoa), on January 17-18, 2011.

## Advocacy through the Press

### CCI Needs to Think Out of the Box

*The Financial Express, India, March 21, 2011*

**Pradeep S Mehta**

**F**inally, the Competition Commission of India (CCI) will become a full competition regulator after the notification of the merger regulations. The CCI's first full judgement on the issue of charges towards the prepayment of home loans to be borne by the consumer borrower, is creating ripples. While the judgement itself was divided, the majority felt that such charges are valid and not anti-competitive. But was the judgement fair and properly reasoned?

[http://www.cuts-ccier.org/article-CCI\\_needs\\_to\\_think\\_out\\_of\\_the\\_box.htm](http://www.cuts-ccier.org/article-CCI_needs_to_think_out_of_the_box.htm)

### Hit Fertiliser Cartels with Alliances

*The Economic Times, March 28, 2011*

**Pradeep S Mehta**

**F**ertilisers contribute a large part of the cost of agriculture and the exchequer's subsidy burden, yet, there is little thought being given to why the prices of imported fertilisers are scrambling up. Especially as India is a very large consumer, the government could bargain for lower prices rather than asking the taxpayer to be a party to more subsidies that end up unjustly enriching foreign companies.

[http://www.cuts-ccier.org/article-Hit\\_fertiliser\\_cartels\\_with\\_alliances.htm](http://www.cuts-ccier.org/article-Hit_fertiliser_cartels_with_alliances.htm)

### Plight of Patients

*Assam Tribune, February 24, 2011*

**W**hat has been speculated for long has now been documented with a degree of certainty in three different urban areas of Assam. Even as the State Health Department reiterates its claims on providing better healthcare, patients in government hospitals are still dependent on private sources to procure medicines, a recent survey conducted by CUTS and Action North-East Trust revealed.

[http://www.cuts-ccier.org/cohed/media-Plight\\_of\\_Patients.htm](http://www.cuts-ccier.org/cohed/media-Plight_of_Patients.htm)

### African Competition Forum launched in Nairobi

*African Trade Hub, March 08, 2011*

**T**he African Competition Forum was launched in Nairobi, Kenya on March 03, 2011. The launch conference was co-hosted by the Kenyan Monopolies and Prices Commission and the IDRC with support also given by the DFID, UK. The launch was attended by representatives of 23 national and regional competition agencies from across Africa, regional and international organisations such as UNCTAD, OECD, the World Bank, EU, SADC and CUTS as well as scholars and experts in the field of competition policy.

[http://www.cuts-ccier.org/media-African\\_Competition\\_Forum\\_launched\\_in\\_Nairobi.htm](http://www.cuts-ccier.org/media-African_Competition_Forum_launched_in_Nairobi.htm)

### Stop Road Transport Cartels, Go Competition

*The Financial Express, India, January 10, 2011*

**Pradeep S Mehta**

**C**urbing cartels in the transport sector is also an opportunity that can work to the advantage of the competition authority. This is one of the best ways for the authority to endear itself to the general public, as the decisions yield immediate results and are easy for all to see. Is the Competition Commission of India listening?

[http://www.cuts-ccier.org/article-Stop\\_road\\_transport\\_cartels\\_go\\_competition.htm](http://www.cuts-ccier.org/article-Stop_road_transport_cartels_go_competition.htm)

### Learning from the Onion Crisis

*The Financial Express, India, February 17, 2011*

**Pradeep S Mehta**

**F**ood price inflation in India is not an isolated conundrum. The same can be witnessed in many other countries as part of a global phenomenon. Without going deeper into this phenomenon, let us review the simple case of the recent onion price rise crisis. It is a sensitive issue as the onion is a staple food item for Indians. In the past, the issue has led to downfall of governments.

[http://www.cuts-ccier.org/article-Learning\\_from\\_the\\_onion\\_crisis.htm](http://www.cuts-ccier.org/article-Learning_from_the_onion_crisis.htm)