

CUTS CCIER ACTIVITIES REPORT



Event

Regulatory Reforms in India: Focus on Draft Regulatory Reform Bill



Planning Commission
Government of India

सत्यमेव जयते



CUTS International and CUTS Institute for Regulation & Competition with the support of Planning Commission, Government of India organised a meeting on implementing regulatory reforms in India with a focus on the draft Regulatory Bill in New Delhi, on May 18, 2010. The aim was to promote open exchange and sharing of experiences with a view to provide valuable inputs for implementation of regulatory reforms in India.



Montek Singh Ahluwalia, Deputy Chairman, Planning Commission of India said that the approach to regulation in India is often *ad-hoc*.

Ahluwalia mentioned that there are different approaches to regulation in India, such as is evident from the discrepancy in powers allotted to the regulators. He asked CUTS to prepare a statement to enable regulatory coherence in the country.

Pradeep S Mehta, Secretary General, CUTS mentioned that the bill lays down a cohesive approach to regulation. He clarified that the bill does not suggest setting up of a super-regulator but aims to simplify the process of regulatory reforms, promoting predictability of the regulatory regime in the country.

E M S Natchiappan, Chairman of the Parliamentary Standing Committee on Personnel, Public Grievances, Law & Justice said it is important for the law to be transparent and unambiguous. He hoped that the Bill will be passed soon and facilitate coherence in regulatory actions.

While presenting the Bill, Gajendra Haldea, Adviser to the Deputy Chairman of the Planning Commission of India emphasised that the draft bill is being presented in public domain for eliciting views on the nature and extent of legislative action necessary for reforming the regulation of key infrastructure sectors in India.

Pradip Baijal, Former Chairman, Telecom Regulatory Authority of India spoke about the issue of overlap between sectoral laws and the competition act in the country. He said that in the future perhaps the sectoral regulators will vanish and the competition regulators would take over, but it is important to evolve a congenial relationship at present and to have mandatory consultation with the Competition Commission of India (CCI).

Dhanendra Kumar, Chairman, CCI said that there are certain deficiencies in the present form of the Bill, as it does not reflect some of the principles enunciated in the approach paper. Given that the Regulatory Reform Bill's basic focus is on reforms, it is important to identify the drawbacks that are experienced in implementation of the existing regulations, so that they can be addressed.

Shirish Deshpande, Chairman, Mumbai *Grahak Panchayat* raised an important question about the necessity of the bill. He said that there are existing regulatory laws in place and it is important to have clarity behind the purpose of adoption of this Bill. He emphasised that the need for regulatory reforms is to promote competition but at times, regulatory reforms lead to promotion of competitors.

L Mansingh, Chairperson, Petroleum and Natural Gas Regulatory Board of India emphasised that the objective of the regulatory reform bill is to bring about uniformity among key aspects such as independence and accountability of the regulators. He said there is a need to debate on the approach to regulatory reforms in India.

S L Rao, Former Chairman, Central Electricity Regulatory Commission of India while reacting to the issue of independent regulatory commission said that independence is important not only to regulate the private sector but also cover the state-owned enterprises and bring discipline in key sectors.

T C A Srinivasa Raghavan, Associate Editor, *The Hindu Business Line* (a leading business daily of the country) said the Bill is in form of directive principles. It is essentially a set of guidelines on how regulators should conduct themselves.

Road Ahead for Competition Reforms in West Africa



Ministry of Foreign Affairs
Sweden

CUTS has been implementing a project entitled, ‘Strengthening Constituencies for Effective Competition Regimes in Select West African Countries’ (also referred to as the 7Up4 project) in seven countries of West Africa: **Burkina Faso, The Gambia, Ghana, Mali, Nigeria, Senegal and Togo** since June 2008. The project highlights the relevance and need for an effective competition regime for economic development and poverty reduction in these countries/region, and aims to set in motion the process of reforms.



National Training Workshop

Three-day national training workshops in each of the project countries were held. The main aim of these workshops was to develop the basic understanding of a representative group of key stakeholders on the basic elements of competition policy and law. Experienced competition experts and practitioners from Europe, Asia and other parts of Africa facilitated the sessions in these trainings and familiarised the trainees on theoretical and practical aspects of competition assessment.

National Reference Group Meetings

A third round of consultations with members of the National Reference Group (NRG-III) were also held in all the project countries. One of the main issues discussed was recommendations emerging from the research for national competition reforms in each country. An analysis of the existing competition regime in all countries were done with a view to strengthen/operationalise the same, and identify challenges that need to be addressed in the process. Country-specific ‘Roadmaps for Competition Reforms’ were prepared and disseminated to relevant stakeholders.

For more details please visit: <http://www.cuts-ccier.org/7up/>

Regulating Healthcare Delivery in India



CUTS with the support of Oxfam India is implementing a project entitled, ‘Collusive Behaviour in Health Delivery in India: Need for Effective Regulation’. This initiative attempts to identify collusive and deceptive practices in the health delivery system in India, assess the extent and nature of their impact and come up with recommendations for remedial action. The launch meeting of the project was held in New Delhi, on July 06, 2010.



The objective of the meeting was to gather inputs from key stakeholders about possible ways of addressing collusive behaviour in healthcare delivery in India through appropriate regulatory intervention combined with enhanced consumer action, for subsequently improving affordability and quality of healthcare.

Geeta Gouri, Member, CCI informed that the Commission has powers to take necessary actions if evidence of collusive practices were found over the course of the project shared

to CCI. She, however, indicated that due caution would be exercised in the use of such power especially given the nature of the sector.

Mira Shiva, a veteran healthcare expert urged the government to take immediate action to stall the progressive decline in healthcare delivery in the country, to which collusive behaviour is a major contributing factor.

S Srinivasan, a well known expert on rational drug use illustrated how big players in

the pharmaceutical market have been making supernormal profits through high prices which in turn have contributed significantly to impoverishment. A renowned health sector journalist, Subhadra Menon, asserted the need for effective communication and information to help consumers claim their right to quality healthcare services.

The need to critically examine and analyse the policy and regulatory environment in the health sector in a detailed manner to remedy collusion was stressed by the participants.

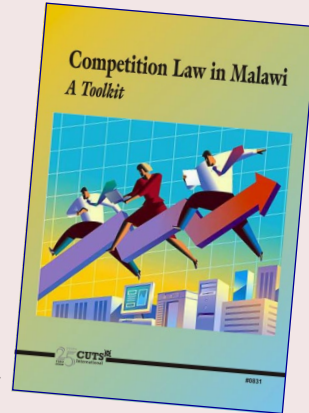
For more details please visit: www.cuts-ccier.org/COHED

Competition Law in Malawi: A Toolkit

This toolkit, researched and compiled by CUTS and customised in the context of Malawi, is meant to provide guidance for the implementation of the Malawi Competition and Fair Trading Act (CFTA), 1998. It provides definitions and characteristics of and ways to deal with trade practices, which are forbidden by the CFTA, 1998, but are prevailing in the Malawian economy. Practical case studies are intended to help the readers understand the issues relating to competition in general and apply them in Malawi, and especially for practitioners – to suggest ways of dealing with competition issues in the economy.

This toolkit can be viewed at:

http://www.cuts-ccier.org/7up3/pdf/Comp_Law_in_Malawi_Toolkit.pdf



FDI in Higher Education in India: Regulatory Bottlenecks and Options

Education and knowledge resources have to be accessible to a large number of people through various means in a seamless way so that the gap between demand and supply, which is especially stark in regard to the availability of quality institutions, is alleviated and some standardisation of quality takes place across all institutions. This paper examines the problem of stimulating adequate but quality enhancing foreign investment in higher education in the context of the overall need for greater access coupled with higher quality.

This Briefing Paper can be viewed at:

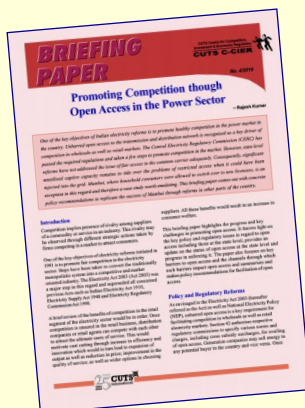
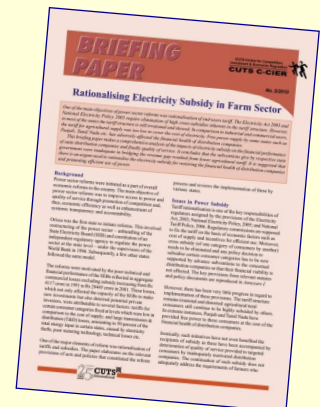
http://www.cuts-ccier.org/pdf/Briefing_Paper10-FDI_in_Higher_Education_in_India.pdf

Rationalising Electricity Subsidy in Farm Sector

This briefing paper makes a comprehensive analysis of the impacts of electricity subsidy on the financial performance of state distribution companies and quality of service. It concludes that the subventions given by respective state government were inadequate in bridging the revenue gap resulting from lower agricultural tariff. It is suggested that there is an urgent need to rationalise the electricity subsidy for restoring the financial health of distribution companies and promoting efficient use of power.

This Briefing Paper can be viewed at:

http://www.cuts-ccier.org/pdf/Briefing_Paper10-Rationalising_Electricity_Subsidy_in_Farm_Sector.pdf



Promoting Competition through Open Access in the Power Sector

This briefing paper highlights the progress and key challenges in promoting open access. It throws light on the key policy and regulatory issues in regard to open access including those at the state level, provides an update on the status of open access at the state level and progress in enforcing it. The paper also focuses on key barriers to open access and the channels through which such barriers impact open access; and makes policy recommendations for addressing issues related to open access.

This Briefing Paper can be viewed at:

http://www.cuts-ccier.org/pdf/Briefing_Paper10-Promoting_Competition_though_Open_Access.pdf

Representations

Pradeep S Mehta attended the 13th Meeting of the Central Advisory Committee of Central Electricity Regulatory Commission (CERC), in New Delhi, on June 16-2010.

Pradeep S Mehta participated in the 9th Annual Conference of the International Competition Network (ICN), in Istanbul on April 27-28, 2010 and also spoke at the Pre-ICN conference organised by IDRC on 'Consumer Protection and Competition Law'.

Rijit Sengupta participated in a National Conference on 'Enhancing Transparency and Accountability in Corporate India', organised by the Associated Chambers of Commerce and Industry of India in New Delhi, on April 21, 2010.

CUTS on AAI Panel

Pradeep S Mehta, Secretary General, CUTS has been selected as a member of the distinguished Advisory Board of the American Antitrust Institute (AAI), Washington DC, US.

Advocacy through the Press

Cartel on the Wings

The Hindu Business Line, June 23, 2010

Pradeep S Mehta

While the CCI is yet to progress on one alleged case of airline cartelisation — code sharing deal — by Kingfisher and Jet Airlines, our national carrier, Air India, barely escaped being prosecuted by the Korean Fair Trade Commission in a recent case of cartelisation in cargo freight. In May, 2010 the KFTC levied a record fine of more than US\$98mn on 19 airlines in the biggest cartel case that it has handled. Cartelisation is very difficult to detect and investigate for its inherently secretive nature. The fines from cases can be used to promote awareness about competition in developing countries and for capacity building.

http://www.cuts-ccier.org/ArticlesJune10-Cartel_on_the_wings.htm

Competition Enforcement in Bangladesh

The Financial Express, Bangladesh, June 13, 2010

Siddhartha Mitra and Udai S Mehta

The Bangladesh government is considering enacting a 'Competition Act' to help increase competition among businesses so that they offer quality goods and services at fair prices. This is because competition, whether protected by law or promoted by advocacy or policy, is associated with freedom for all firms to enter and exit markets and compete for market shares, and therefore price decreases and quality improvements benefit the common man. Bangladesh will soon join the advanced group of close to over 120 countries across the globe which has enacted a Competition Law. Clearly, such enactment is timely as Bangladesh, similar to other developing countries, is plagued by anti-competitive cartels, hoarding and black marketing of commodities, etc.

http://www.cuts-ccier.org/ArticlesJune10-Competition_enforcement_in_Bangladesh.htm

Overseeing Pharma Mergers through Competition Lens?

The Financial Express, June 20, 2010

Pradeep S Mehta

Health minister Ghulam Nabi Azad is worried about the impact of mergers in the pharmaceutical sector on prices of medicines, while the corporate affairs minister, Salman Khursheed, is yet to decide whether the merger provisions of the Competition Act, 2002, are to be notified. The potential victims of unregulated mergers are the poor consumers, who may end up paying more, while a sound regulatory policy willed by the parliament to protect and promote their welfare is unable to evolve. There is an urgent need for CCI to be empowered to assess and regulate such mergers.

http://www.cuts-ccier.org/ArticlesJune10-Overseeing_pharma_mergers_through_competition_lens.htm

Begin with a Uniform Approach

Financial Express, June 30, 2010

Udai S Mehta

Regulatory reforms in India lack a consistent and coherent approach. There is no uniformity across regulatory commissions that oversee different infrastructure sectors. A common approach to framing regulatory laws and to cross-cutting considerations like independence, selection mechanism and overlap issues are largely absent. Given this, the Planning Commission has taken an important step to introduce a Regulatory Reform Bill, with the aim of evolving a uniform approach to the regulatory architecture across sectors of the economy.

http://www.cuts-ccier.org/ArticlesJune10-Begin_with_a_uniform_approach.htm