

CUTS CCIER ACTIVITIES REPORT



Strengthening Competition

Regimes in West Africa: The Way Forward



Ministry of Foreign Affairs
Sweden

CUTS Centre for Competition, Investment & Economic Regulation (CUTS CCIER) in collaboration with Pro-Poor Advocacy Group (Pro-PAG), The Gambia organised an interim review meeting under project entitled, 'Strengthening Constituencies for Effective Competition Regimes in Select Countries of Eastern and Southern Africa', (7Up4 project) at Banjul, The Gambia on July 29-30, 2009. The event was also supported by the Gambia Competition Commission.

The meeting was conducted to take stock of the project progress, at the end of the first year and identify shortcomings that would need to be addressed. In terms of the project schedule, the first year of the project is largely concentrated on research activities; hence project partners were expected to showcase the research outputs and raise issues relevant for advocacy herein.

In his keynote address, the Minister of Trade, Employment and Industry, The Gambia, Abdou Kolley said promoting competition culture and awareness in a country requires long and sustained programmes of advocacy and awareness campaign. He said that lack of resources is an obstacle towards the successful implementation of competitive law. This he said is not only finance but also includes institutional capacity particularly skilled human resources among others.

The Acting Director of Pro-PAG John Charles N'jie stated that purpose of the project is to foster a healthy competition culture through evidence-based research, capacity building and advocacy.

Frederic Jenny (Judge, Cour de Cassation of France), a renowned international expert on competition issues and the Chair of Organisation for Economic Cooperation and Development's (OECD) Competition Committee familiarised

the audience with various incidences of anti-competitive practices in Africa, and highlighted how important it is for countries to curb such practices through a well-functioning competition authority. He explained the relationship between competition and poverty; particularly how elements of competition policy are useful for trade expansion, increased gross domestic product (GDP) growth and poverty elimination.

Pradeep S Mehta, Secretary General, CUTS provided a brief background of CUTS and its work on competition policy and law, globally. He also described the '7Up model' in brief (an approach that has been used in this project) – a research based advocacy and capacity building approach aimed at bringing together national stakeholders for discussions on competition law and policy. 7Up was introduced by CUTS into the international competition discourse in the year 2000 through a first of its kind project undertaken in seven Commonwealth countries of Africa and Asia. 7Up1, 7Up2 and 7Up3 have covered 19 countries in Africa and Asia among them. He also explained how the model has received recognition from international organisations such as International Competition Network (ICN), United Nations Conference on Trade and Development (UNCTAD) and OECD.

Partner organisations, competition scholars, practitioners, business representatives, policymakers, regional authority and representatives of the media from the region (and outside) reviewed the outcomes from the first phase of the project and suggested the way forward for finalising the research outcomes and launching the advocacy and the capacity building (including training) activities for the next phase. Resource persons from across the world presented their views on specific aspects of competition policy and law, including the future of competition in the present economic downturn and beyond. <http://www.cuts-ccier.org/7up4/index.htm>



Review of Electricity Reforms in Haryana



CUTS International in association with Mercados-Energy Markets International, has initiated a study to review the impact of regulatory reforms on the electricity consumers in Haryana. The study is being supported by the World Bank. Haryana is one of the pioneering states in the country initiating electricity reforms at the state levels. Apart from unbundling of integrated State Electricity Board (SEB), an independent regulatory agency (Haryana Electricity Regulatory Commission – HERC) was constituted in 1998 to regulate the power sector. Protection of consumers' interest is one of the major objectives of reforms.

In order to improve the overall quality of service, HERC has issued a number of regulations such as conduct of business regulation, standards of performance regulations, etc. Complaint Redressal Forums have been constituted for fast redressal of consumer complaints. However, it has been observed that because of lack of awareness and poor capacity to intervene, overall consumer participation is quite weak.

Given this background, CUTS International intends to undertake the study to assess the overall level of consumer

satisfaction and examine various factors responsible for inadequate consumer participation in Haryana. CUTS would undertake a consumer survey (1000 consumers) with the following objectives:

- review the state of consumer satisfaction and overall quality of service standards;
- identify various barriers to effective participation by consumers/CSOs in the regulatory process;
- suggest measures to promote adequate consumer participation in the sector; and
- assess the awareness of consumers regarding regulatory reforms in the electricity sector through a consumer survey.

Following the consumer survey, a “Consumer Satisfaction Index and a Social Accountability Roadmap” would be prepared on the basis of survey findings. Finally, recommendations would be made to build long term capacity of various stakeholders so that consumers' interest is well represented and protected in the sector.

Quality of Regulation: An Analytical Case Study Approach

Regulation or the control of production/consumption for the sake of augmenting social welfare is undertaken by various sectoral agencies with different aims and objectives. Thus, it is very difficult to develop an integrated and holistic framework for assessing the quality of regulation. Good quality of regulation is very important for the success of regulatory interventions in meeting their objectives. Given this, CUTS International has undertaken a project, “Quality of Regulation: An Analytical Case Study Approach” to demonstrate the use of a general model for assessing the quality of regulation which can be put to use by developing/developed countries in the near future.

The theoretical framework will involve an investigation into whether regulation is needed at all and use of a quantitative assessment technique and qualitative assessment methods which will look at regulatory inputs or outcomes or both. There is enough flexibility in this approach for operating within the constraints imposed by the availability of data and information. This framework involves research under specific sectors of economy.

Three country papers each in Asia (India), Africa (Kenya) and Latin America (Brazil) will provide a comprehensive picture of the state of regulation in these regions. These papers will assess the quality of regulation in specific sectors and the findings from these three country papers and the methodological work will be collated and the major lessons from these will be presented by an eminent researcher in a synthesis report.

Thus, given this CUTS International recently organised a meeting in New Delhi wherein representatives from the select project countries were present alongwith few other local participants. The main purpose of the meeting was to discuss the strategy of implementation of the project, discuss the country papers outline, etc. The meeting proved to be extremely useful and respective country contributors have started the assignment.

Regulatory Management and Reform in India

The Organisation for Economic Cooperation and Development (OECD) has identified CUTS International as partner to establish cooperation with the Indian government in the area of regulatory management and reform. To facilitate this, OECD is planning a big conference in New Delhi for which CUTS has developed a background paper mapping India's regulatory management framework and identifying challenges and existing good practices.

The paper starts with the conceptual definition of regulation and its rationale, examines the institutional landscape for regulatory governance and business in India and reviews the typology of regulations embedded in this institutional landscape. It also discusses the drivers of change in

regulation and the underlying institutional landscape, factors affecting the regulatory environment, status of interaction between policy makers and regulators, and participation of stakeholders in the regulatory process. Further, it studies the actual regulatory practices prevailing in the Indian economy: practices of sector regulators for tackling market failure and anti-competitive practices and management practices in regulation.

After studying the details of sector regulatory processes through selective illustration, the paper examines the management of the overall regulatory environment and mechanisms for ensuring regulatory coherence. At last, the paper elaborates the government's plans for the future and examines the gaps in the literature on regulation in India.

Publications

The Relationship between Competition and Investment

One area that has generated debate is whether a market in which firms are subjected to conditions of competition would result in more investment compared to a market under a monopoly. The debate has also found its way into the realm of competition law reforms, which are generally intended to instil competition into the markets. This viewpoint paper summarises the two main arguments that are put forward in supporting either competition or monopoly characteristics as tools for attracting investment. It also makes an attempt at reconciling these arguments.

http://www.cuts-ccier.org/pdf/Viewpoint-The_Relationship_between_Competition_and_Investment.pdf

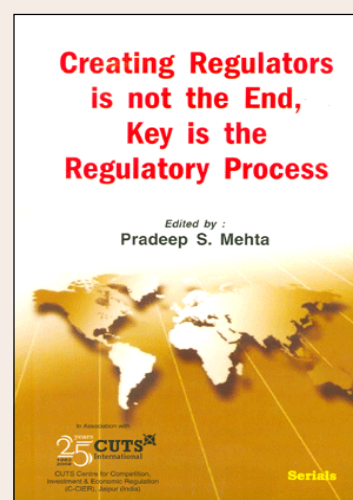
Linkages between Informality, Competition and Economic Growth

The large informal economy continues to exist in many developing countries. A problem may exist with inadequacy of capturing different channels of growth stemming from this sector. Though evidence of a direct positive relationship between informality and growth may be largely absent in the literature, the informal sector may have growth implications through indirect channels such as the level of competition in the economy. This viewpoint paper presents an argument as to how the informal sector may impact economic growth by altering the degree of competition.

http://www.cuts-ccier.org/pdf/Viewpoint-Linkages_between_Informality_Competition_and_Economic_Growth.pdf

Creating Regulators is not the End, Key is the Regulatory Process

This report focuses on the regulatory process and examines how regulation actually works in a cross-section of developing countries that have taken significant step towards liberalisation and commercialisation. There is a commendably wide range of seven countries from Asia and Africa, and regulated sectors including telecoms, energy, water, transport and financial services. It encompasses many aspects of the regulatory framework: extent of industry restructuring; nature of the regulatory mandate; appointment and governance; regulatory resources; the decision-making process and the networks and network access; accountability and appeals; and enforcement and government intervention.



<http://www.serialspublications.com/bookdetails.asp?bookid=447&title=Creating+Regulators+is+not+the+End,+Key+is+the+Regulatory+Process>

Representations

Rijit Sengupta participated in the Brazil, Russia, India and China (BRIC) Competition Conference organised by the Federal Antimonopoly Service of the Russian Federation, together with the Brazilian Competition Policy System, Competition Commission of India and State Administration for Industry and Commerce of the People's Republic of China, in Kazan, Russia, on September 01-03, 2009.

Pradeep S. Mehta participated in the Third Annual Conference and Ten Year Celebration of the South African Competition Commission and Competition Tribunal in Pretoria, on September 03-04, 2009. He made a presentation and spoke in the session on 'Dimensions of Competition Policy and Law in Emerging Economies'.

Rajesh Kumar attended the meeting of the Central Advisory Committee, Central Electricity Regulatory Commission (CERC), in New Delhi, on July 06, 2009.

Advocacy through the Press

A Competition Policy for Growth

Economic Times, September 29, 2009

By Pradeep S Mehta

The Planning Commission will soon be conducting a mid-term review of the 11th five year plan (2007-2012). It will also take a look at the issue of a national competition policy, one of its recommendations in its policy document "Inclusive Growth" that was adopted by the National Development Council in December 2007. The new government should revisit the same to ensure that inclusive growth is promoted and poverty reduced.

http://www.cuts-ccier.org/ArticlesSep09-A_competition_policy_for_growth.htm

Cartelisation: Blue Collar Corruption

Space for Transparency, September 24, 2009

By Pradeep S Mehta

In common parlance, the cartel of oil producing nations (OPEC) is something which is well known, but it is not illegal as it is operated by governments. Albeit, drug cartels are illegal as these are run by criminal elements to market illegal drugs and narcotics. In the competition law lexicon, a cartel is a collusive agreement between firms not to compete with each other, which is illegal and prosecutable. It is considered as the most egregious form of anti-competitive practice.

http://www.cuts-ccier.org/ArticlesSep09-Cartelisation-blue_Collar_Corruption.htm

Abuse of Dominance and Monopolisation

Financial Express, September 22, 2009

By Cornelius Dube and Pradeep S Mehta

The essence of the new Competition Act, 2002, is to curb abuse of dominance and other anti-competitive practices, rather than frown upon size. On May 20, 2009, the Competition Commission of India became ready to begin operations after the notification of sections 3 and 4 of the Act. The sections contain provisions relating to anticompetitive agreements and abuse of dominance, respectively. CCI becomes operational at a time when countries such as the US have expressed renewed determination to pursue abuse of dominance cases under the Obama administration.

http://www.cuts-ccier.org/ArticlesSep09-Abuse_of_dominance_and_monopolisation.htm

BRIC Calls for Honest Competition

Financial Express, September 23, 2009

By Rijit Sengupta

In line with focus conferences on current topics, the competition authorities from Brazil, Russia, India and China met in September 2009 to deliberate on competition reforms and how they could cooperate to deal with the expanding basket of competition distortions arising from the recent global economic downturn. The Conference would add a new dimension to international cooperation on competition – especially by focusing attention on the challenges and requirements for competition reforms in the developing countries.

http://www.cuts-ccier.org/ArticlesSep09-Bric_calls_for_honest_competition.htm

Fuelling Competition in Oil & Gas retail

Financial Express, August 25, 2009

By Rajesh Kumar

The prime objective of constituting the Petroleum and Natural Gas Regulatory Board (PNGRB) was to promote fair competition in the oil & gas market so as to benefit both consumers and producers. However, in the absence of strong political will and focused policy initiatives, the Board has not been given the powers to bite. As a result of this lacuna, competition could not be facilitated in the market and it has adversely affected the level of private investment in the sector.

http://www.cuts-ccier.org/ArticlesAug09-Fuelling_competition_in_oil_&_gas_retail.htm

Is UPA Committed to Competition?

The Economic Times, July 28, 2009

By Pradeep S Mehta

With the budget capturing headlines everywhere, worries about a distinct reduction in commitment to the promotion of competition observed in the transition from UPA-I to UPA-II have escaped articulation. This is surprising because competition reforms are essential for inclusive growth which continues to be one of UPA's major objectives, and probably results from a poor understanding of the positive synergies between the two.

http://www.cuts-ccier.org/ArticlesJuly09-Is_UPA_committed_to_competition.htm