

# CUTS CCIER ACTIVITIES REPORT



Ongoing Project



## Time for Action

### Foster Competition Reforms in West Africa

Ministry for Foreign Affairs  
Sweden



development and poverty reduction in these countries among key stakeholders, and has been successful in setting in motion the process of evolution and effective implementation of national competition regimes in some of them.

An international conference was organised in Dakar, Senegal on August 06-07, 2010 to mark the culmination of the project. A purpose of this conference was to showcase the project findings, and trace the path for competition reforms in the countries/region. A number of renowned competition

CUTS has been implementing a project entitled, 'Strengthening Constituencies for Effective Competition Regimes in Select West African Countries' (also referred to as 7Up4 project) in seven countries of West Africa: Burkina Faso, The Gambia, Ghana, Mali, Nigeria, Senegal and Togo since June 2008. The project has highlighted the need for an effective competition regime for economic

experts from across the world reviewed the outcome of the project and provided their inputs for evolving effective competition regimes in the region.

A draft research report entitled, *A Time for Action* was discussed and disseminated. CUTS research on competition concerns in agriculture sector in West African countries was also shared.

For more details please visit: [www.cuts-ccier.org/7up/](http://www.cuts-ccier.org/7up/)

## Event

### Why Should Consumers Support Competition Reforms?

The Competition Commission of India (CCI), Department of Consumer Affairs (DoCA) and CUTS jointly organised a conference entitled, 'Competition Regime – Benefiting the Consumer' in New Delhi on October 20, 2010. A CUTS publication, *Why Should Consumers be Interested in a Competition Law & Policy* authored by Pradeep S Mehta, Secretary General, CUTS was released.

Dhanendra Kumar, Chairperson, CCI said that the Competition Act of India is a major instrument of demand-based economic governance and consumer organisations have a significant role to make this law more effective.

Salman Khurshid, Corporate Affairs Minister said that there could not be a better way to look at the concerns of the common man than having and implementing a modern competition law. There is a need to address the issues of overlapping jurisdiction between the CCI and sectoral regulators.

K V Thomas, Minister of State for Consumer Affairs, Food & Public Distribution urged the CCI to institutionalise the process of strengthening the consumer movement in India with respect to the implementation of the Competition Act.

M Veerappa Moily, Law and Justice Minister said that the process of competition has to be inclusive meaning that it



सत्यमेव जयते

Department of  
Consumer Affairs  
Government of India



Competition  
Commission of India



L-R: Pradeep S Mehta, Salman Khurshid, M Veerappa Moily,  
K V Thomas and Dhanendra Kumar

should benefit the marginal consumers and that will be the real test of success of the Competition Act and the CCI.

Pradeep S Mehta underlined the need for a greater political will to take the competition regime forward for the benefit of the common man. More than 30 consumer organisations from different parts of the country and other experts and stakeholders took part in the conference.

## Collective Action to Address Consumer Concerns in Healthcare



Access to affordable healthcare, which is recognised as a basic human need remains a challenge for a vast majority of Indians. It is estimated that more than 50 percent of our population remains beyond the coverage of primary healthcare services and essential medicines because of simple lack of availability or unaffordable prices. Even when there is access, quality is often suspect as poor recipients of health services often get entangled in a vicious cycle involving commercially motivated doctors,



pharmacists, diagnostic clinics and pharmaceutical companies. By default, consumers have little choice when it comes to medicines and healthcare services – they have to depend on the prescription of the doctors.

These imperfections in the market for medical services (especially in the absence of proper regulatory oversight and strict enforcement) often lead to proliferation of market malpractices at various levels resulting in poor market outcomes. Such market failure calls for identification of necessary remedial action, a closer monitoring and regulation of healthcare delivery.

Against this background, with the support of Oxfam India, CUTS has initiated a project entitled, ‘Collusive Behaviour in Health Delivery: Need for Effective Regulation’ since mid-2010. 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. In cooperation with local organisers (and other stakeholders), CUTS intends to document the nature and type of these practices on the ground and their implications for the consumers in the states of Assam and Chhattisgarh of India.

Further, it is envisaged that consumers would be better informed about prevailing collusive practices through this initiative and empowered to seek redressal through collective action. CUTS believes that it is important to bring key actors across the board to recognise that collusive and deceptive practices in healthcare delivery considerably affects the ability of consumers to get healthcare services of good quality and at affordable prices.



Two state level inception meetings were organised with the support of partners of CUTS: Society for Social Uplift Through Rural Action (SUTRA) and The action north east trust (the ant) on September 03 & 15, 2010 respectively in Raipur (Chhattisgarh) and Guwahati (Assam).

The objective of these meetings was to gather inputs from key stakeholders in Assam and Chhattisgarh, about existing collusive and deceptive behaviour in healthcare delivery in the state, and brainstorm about possible ways of addressing such behaviour through appropriate regulatory interventions and consumer education.

Following these meetings, a survey to collect information from consumers and healthcare providers from select towns across the two states would be initiated by each of the two partners – SUTRA and the ant.

Participants included representatives from civil society organisations from across the state, state government representatives, media and other key stakeholders. The need for regulation of collusive activities in the health sector was underlined by the participants who believed that it was the patient who had to bear an unnecessary burden for no fault of his or her. It was also agreed that the public has to be sensitised about the manner in which unholy alliances were being formed at the cost of patients who were oblivious of the happenings.

For more details please visit; [www.cuts-ccier.org/COHED](http://www.cuts-ccier.org/COHED)



## Whither the Regulatory Reform Bill in India?

CUTS organised the 9<sup>th</sup> Parliamentarians' Forum on Economic Policy Issues (PARFORE) meeting at New Delhi on August 03, 2010 to discuss the Draft Regulatory Reform Bill prepared by the Planning Commission of India.

PARFORE is an initiative of CUTS to bring Members of Parliament (MPs), cutting across party lines, on a single platform to mull over the core economic policy issues that come up for discussion in and out of the Parliament.

Rajeev Chandrasekhar, MP (Rajya Sabha) said that the purpose of the draft regulatory reform Bill is to bring in uniformity in various approaches to regulatory reforms in India. In order to ensure effective adoption of the regulatory reform bill, some key building bloc issues should be clarified.

Pradeep S Mehta, Secretary General of CUTS mentioned that the Bill lays down a cohesive approach to regulation. The Bill does not suggest setting up of a super regulator, neither that it undermines the role of the existing regulators but it aims to simplify the process of regulatory reforms in India.

While presenting the Bill before the meeting, Gajendra Haldea, Adviser to the Deputy Chairman of the Planning Commission emphasised that the draft Bill is being presented in the public domain for eliciting views on the nature and extent of legislative action necessary for reforming the regulation of key infrastructure sectors in India. He requested all the stakeholders to submit detailed comments on the provisions of the Bill, which will be considered while revising it.



L-R: Pradeep S Mehta, Ashok Ganguly, E M S Natchiappan and K N Singh Deo

E M S Natchiappan, MP (Rajya Sabha) suggested that the Bill should be looked as a procedural law, which should specify various parameters on issues such as appointments, independence, accountability in order to bring in harmony across the regulatory regime in India.

K N Singh Deo, MP (Lok Sabha) argued that the proposed Bill should not undermine the role of the states in delivering its assigned functions. Yashwant Bhawe, Chairman, Airports Economic Regulatory Authority (AERA) of India suggested that 'one-size-does-not-fit-all' approach to reform the regulatory regimes in India will not succeed as issues and challenges differ from sector to sector.

Other MPs present were Ashok Ganguly, Bhatruhari Mahtab, and Anup Kumar Saha. Among others, Dhanendra Kumar, Chairman, Competition Commission of India, Pramod Deo, Chairman, Central Electricity Regulatory Commission, Ravi Mital, Adviser (Infrastructure) of the Planning Commission, and Ashish Khanna of the World Bank were present and provided their inputs on the subject.

### Publications

#### Why Should Consumers be Interested in a Competition Law & Policy?

Competition is a process of economic rivalry between market players to attract customers. Fair competition benefits consumers and the economy. Consumers' purchasing power increases as a result of lower prices. This paper aims at generating awareness that could be helpful for a common person to identify anti-competitive practices in the market place and seek action to rectify the same. It describes various facets of competition, deals with certain common myths about competition in the market and describes various types of hurdles to competition. The paper also carries several examples of competition action on commonly consumed goods and services in the form of real cases from across the world.

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

[Why\\_should\\_consumers\\_be\\_interested\\_in\\_a\\_competition\\_law\\_and\\_policy.pdf](http://www.cuts-ccier.org/pdf/Why_should_consumers_be_interested_in_a_competition_law_and_policy.pdf)

### Forthcoming Report

#### A Time for Action

*A Time for Action* is the research report that summarises the findings of the two year competition policy and law project implemented by CUTS in seven countries of West Africa (7Up4 project, [www.cuts-ccier.org/7Up4](http://www.cuts-ccier.org/7Up4)). It provides an idea about the challenges for competition reforms in these countries and chalks the way forward. A must read for scholars, experts and international development partners with an interest in the region.

This publication is also available in French as: *Un Temps pour Agir*



## Representations

**Pradeep S Mehta** attended the Australian and New Zealand School of Government Annual Conference 2010, on 'Delivering Policy Reform: Making it happen, making it stick' in Melbourne, on August 11-12, 2010. He made a presentation on 'Competition Policy Rationale and Scope in Modern Developing Economies'.

**Pradeep S Mehta** and **Bipul Chatterjee** attended a Seminar on 'Institutions for Asian Integration: Towards an Asian Economic Community' organised by the Indian Council of Research in International Economic Relations and Asian Development Bank, in New Delhi, on July 28, 2010.

**Cornelius Dube** participated as a Resource Person in Small States Network for Economic Development (SSNED) Workshop on 'Competition Law and Policy in African Small States' organised in Windhoek, on July 26-27, 2010.

## Advocacy through the Press

### When Doctors Go Downhill

*The Financial Express, September 16, 2010*

**Pradeep S Mehta**

The delivery of health services is marked by decisions taken by the physician treating a consumer, and not the consumer himself. While a consumer can choose the brand of soap he wants, he cannot do so for the medicine that the doctor has prescribed. This unique phenomenon can encourage deception by doctors, pharmacists and hospitals to profit at the expense of the consumer. We hope that Competition Commission of India would be effective in dealing with perpetrators of collusive practices in the Indian healthcare sector and ensure that the Indian consumer is not ripped off.

[www.cuts-ccier.org/cohed/media-When\\_doctors\\_go\\_downhill.htm](http://www.cuts-ccier.org/cohed/media-When_doctors_go_downhill.htm)

### CCI Free to Order Probe in Case of Prima Facie Breach

*The Financial Express, September 10, 2010*

In a ruling that will decisively impact the evolution of competition law in the country, the Supreme Court held that the CCI is well within its rights to direct investigation into suspected anti-competitive behaviour by market players without giving any prior hearing to the affected party. Pradeep S Mehta said the COMPAT should not have overstepped its brief in the first place. No doubt the judgment was important in the context of the evolving competition law in the country. But he is surprised why the COMPAT issued a stay order in this case.

[www.cuts-ccier.org/MediaSep10\\_CCI\\_free\\_to\\_order\\_probe\\_in\\_case\\_of\\_prima\\_facie\\_breach.htm](http://www.cuts-ccier.org/MediaSep10_CCI_free_to_order_probe_in_case_of_prima_facie_breach.htm)

### It's Time to Rethink Regulation

*Hindustan Times, September 04, 2010*

On one side is the Indian consumer, riding and driving the Indian economy that is growing at an unprecedented pace, making it the world's second-fastest growing economy. On the other side are companies that aspire to serve that demand and profit from it. An important area that is crying out for a regulator is being smothered at the inception by builders. But it is not just the regulated against whom voices of neglect are being raised. Between allegations of vested interests, technical incompetence and growing complexity, India's regulatory space is facing its biggest challenge. There are three main charges against regulators. Pradeep S Mehta said the age limit should be reduced to 60 to prevent these important posts from becoming sinecures.

[www.cuts-ccier.org/MediaSep10\\_Its\\_time\\_to\\_rethink\\_regulation.htm](http://www.cuts-ccier.org/MediaSep10_Its_time_to_rethink_regulation.htm)

### Bust a Cartel, Gain a Friend

*The Financial Express, August 31, 2010*

**Pradeep S Mehta**

Following prioritisation, competition authorities have gained confidence and support through busting cartels on critical services, which constitute a big proportion of the poor's budget, such as for food and medicines. Successfully prosecuting a cartel would also go a long way in convincing sceptics, particularly those doubting the expertise of the competition authority to the extent of lobbying against notification of the merger provisions of the Competition Act, 2002.

[www.cuts-ccier.org/ArticlesAug10-Bust\\_a\\_cartel\\_gain\\_a\\_friend.htm](http://www.cuts-ccier.org/ArticlesAug10-Bust_a_cartel_gain_a_friend.htm)

### Competition Policy: Costly Neglect

*The Economic Times, August 23, 2010*

**Pradeep S Mehta**

Cartelisation or other types of anti-competitive practices can be tackled under the Competition Act, 2002. But in such cases, if the same has emerged due to a government policy or praxis, action can hardly be taken, or if taken, chances of success are remote. A policy measure with vast implications for competition is the imposition of an antidumping duty. When imposed correctly, such duty helps prevent predatory or below-cost pricing by a powerful foreign competitor to eliminate competition from domestic or other suppliers and gain monopoly control of the market.

[www.cuts-ccier.org/ArticlesAug10-Competition\\_policy-Costly\\_neglect.htm](http://www.cuts-ccier.org/ArticlesAug10-Competition_policy-Costly_neglect.htm)