

CUTS CCIER ACTIVITIES REPORT



Trade in Primary Product Markets and Competition Policy



CUTS International together with the Centre for Economic Policy Research (CEPR) and with the support of *Agence Française de Développement* (AFD) and European Commission (EC) under its PEGGED programme, organised a Symposium on Trade in Primary Product Markets and Competition Policy at the World Trade Organisation (WTO), in Geneva, on September 22, 2011.

Given the complexity of primary markets, the objective of the Symposium was to enhance understanding about the existing challenges in the functioning of these markets so as to evolve a comprehensive economic governance regime to address anti-competitive behaviour and other related concerns. The following issues were covered in different thematic sessions:

- Understanding how primary product markets work
- Anti-competitive practices and market structures in primary product markets
- Governance and challenges
- Systemic issues and policy options for the future

The Symposium was inaugurated by Alejandro Jara, Deputy Director General, WTO. It witnessed a high-level participation of experts in trade and competition issues in primary products from different parts of the world representing multilateral institutions, governments, academic community and civil society. All the presenters and many of the discussants are highly reputed experts and brought great value to the symposium. The WTO Secretariat thanked CUTS and its associates for the organisation of the symposium which had addressed a very important issue.

The papers presented at the Symposium will be published as an e-book by the CEPR.



Towards an Optimal Business Regulatory Framework of India



Planning Commission
Government of India

सत्यमेव जयते

The Planning Commission of India is in the process of developing the XIIth Five Year Plan (XIIth FYP) for the country. It has formed a Steering Committee on Industry to deliberate upon the ways and means of creating an enabling business ecosystem in the country. For making an in depth enquiry into various subjects, the Steering Committee divided its work into ten cross-cutting and 14 sectoral working groups. One such cross-cutting group has been the Working Group on Business Regulatory Framework (WGBRF).

As Knowledge Partner, CUTS has been facilitating the deliberations of the WGBRF as well as its constituent Task Forces as follows: 1) Task Force on National Competition Policy; 2) Task Force on Business Regulation; 3) Task Force on Simplification of Business Procedures; and 4) Task Force on Business Responsibility. During July-September 2011, CUTS convened the meetings of the WGBRF and the Task Forces, undertook research, drafted the reports and contributed to the proceedings of the Steering Committee on Industry. These findings and recommendations are expected to get incorporated into the XIIth FYP Document and will pave the way towards an optimal business regulatory framework of India.

Demand Side Management & Renewable Energy in India



CUTS with the support of Climate Works Foundation, USA through Shakti Sustainable Energy Foundation (SSEF), India is undertaking an initiative over two years (2011-2012) in 2 states of India (Gujarat and West Bengal). The project focuses on capacity building measures for consumer groups so as to better prepare them to carry out need-based advocacy and participate in associated policy and regulatory processes. There is a need to raise awareness and build capacity of consumer organisations, on issues pertaining to RE/DSM programmes.

The approach that CUTS intends to undertake is to first assess the current scenario through literature review, baseline consumer survey, and identify barriers

that constrain greater consumer participation in the RE/DSM space. CUTS will then devise strategies such as state level training workshops, consumer interface meetings, to overcome the identified barriers. In planning and executing these activities CUTS will engage credible consumer groups through National Seminar, policy advocacy meetings, and other similar interventions.

The overall objective of the project is to increase long-term capacity/awareness of consumer groups to demand for DSM and RE initiatives, and also to understand, document and communicate their specific needs to relevant policy makers.

Studies on Road Transport and Pharmaceuticals

The Ministry of Corporate Affairs (MoCA), Government of India, vide notification F.No.5/15/2005-IGC/CS dated 8th June 2011, has constituted the Committee on National Competition Policy and Related Matters (C-NCP) for framing of a National Competition Policy (NCP). In order to finalise the statement of the NCP and carry out simultaneous review of distortive elements in other policies, the Committee has decided that it would be helpful to get a few sector research studies carried out by experts concurrently.

The sector research studies will provide illustrative examples of those laws, regulations and policies which either exert or have the potential to exert anti-competitive effects, and thus influence the outcomes of the law/regulation/policy concerned. The studies will be managed by Indian Institute of Corporate Affairs (IICA) and CUTS Institute for Regulation & Competition (CIRC) is assisting IICA in this project through specific activities. CUTS International is undertaking research of two sectors, i.e. Road Transport and Pharmaceuticals.



सत्यमेव जयते
Ministry of Corporate Affairs
Government of India

Promoting and Preserving Competition Process

A country's competition policy regime comprises mainly of two sets of laws: a competition law and sector regulatory laws and separate institutional arrangements to implement them. Expectedly there are overlaps and thus conflicts between the two as both are required to promote competition and consumer interest. Therefore the issue of resolving such conflicts have been addressed *ad nauseum* in all jurisdictions, and solutions also found.

In this study undertaken by CUTS in collaboration with the MoCA, the purpose is to develop a structured, systematic and sustainable process of interactions/dialogue between the competition authority and sector regulatory bodies and finally, developing a framework for conflict resolution *ex post*. It seeks to take lessons from other jurisdictions to see how such conflicts originated and resolved.

The project countries for the study are Brazil, South Korea, South Africa and Spain. The sectors being focussed on are primarily utility. The main outcome of the study would be to bring about legislative and administrative reforms to enhance inter-agency cooperation and effectiveness in promoting and preserving the competition process.

Representations

Rijit Sengupta and **Pham Thi Que Anh** participated in the second BRICS International Competition Conference in Beijing, on September 21-22, 2011. The theme of the conference was 'Competition Enforcement under Economic Globalisation'.

Pradeep S Mehta made a presentation at the meeting on NCP organised by the (IICA), Ministry of Corporate Affairs, in Mumbai, on September 12, 2011.

Pradeep S Mehta spoke in the session on 'Evolution of Competition Policy and Law: Rationale and Objectives' at the Appreciation course on Competition Law for IAS officers organised by IICA, Ministry of Corporate Affairs, in New Delhi, on September 05, 2011.

Pradeep S Mehta, Rijit Sengupta, Pham Thi Que Anh and **Julien Grollier** attended the Intergovernmental Group of Experts meeting of UNCTAD on Competition Law and Policy in Geneva, on July 18-21, 2011.

Preliminary Information Reports on Facebook & Google

Under Section 19 of the Competition Act 2002, the Competition Commission is obliged to enquire into any contravention of sections 3 & 4 of the Act upon information supplied to in proper manner by any person when provided with accompanying fee. The Commission may also take up cases on its own initiative or *suo moto*.



Similarly, in the US, one such information was supplied to the FTC by Consumer Watchdog regarding Facebook; the latter was accused of anti-competitive practices in the market for virtual goods purchased in social games in the use of

its virtual currency Facebook Credit terms with game developers. Being the most popular social networking site in India and growing rapidly, Facebook may undertake similar activities in India.

In this context CUTS provided some preliminary information to the Commission on Facebook in India and provided without accompanying fee so that the Commission was not obliged to act upon it. It was supplied in the form of a Preliminary Information Report (PIR) so that the Commission could take up the matter if it so wished *suo moto*.

Subsequently, CUTS filed a PIR about the potential anti-competitive activities of Google in India; given the size of the internet market in India, related e-commerce sites and the explosive growth of the internet in India, CUTS thought it was duty bound to provide the Commission with such information to protect the Indian consumer given also the case that Google was being investigated in several competition jurisdictions the world over. On receiving a request from the Commission for further information, CUTS provided additional inputs to it.

Evolving a National Competition Policy for India

Recently, there has been a considerable forward movement on the National Competition Policy agenda both at the Planning Commission level (under the preparatory work of the 12th Five Year Plan), and also the Ministry of Corporate Affairs (Committee on National Competition Policy). Pradeep Mehta is closely involved in the whole process, as Chair of the task force on NCP under the WGBRF, constituted under the Planning Commission and as a member of the Committee on NCP constituted under Ministry of Corporate Affairs. This Committee has finalised a Draft NCP after much deliberations, which is available at http://www.mca.gov.in/Ministry/Draft_Policy.html.

More importantly, the Ministry has launched face to face consultations with various stakeholders during August and September 2011 to take on board wider views. It is expected that the draft Policy will be finalised at the end of these consultations to arrive at a pre-final draft Policy to be placed before the Cabinet for approval.

2nd Call for World Competition Day



International days are observed to focus attention of the society at large on certain specific and relevant aspects of contemporary human development. Increased awareness and informed public opinion have been formed on a number of issues, once public attention on these issues were focused by dedicating a certain date of the calendar year on them. While a number of countries have adopted national competition regimes in the last decade, yet, it seems that the link between competition reforms and economic development and citizen's welfare is not well-understood among most people, including policymakers.

In order to achieve a greater thrust to evolving functional competition regimes as means to achieving socioeconomic developmental objectives, CUTS has been advocating for the need to dedicate **05th December** (United Nations General Assembly approved the United Nations Set of Multilateral Principles and Rules for the Control of Restrictive Business Practices, better known as the UN Set on Competition Policy) as the **World Competition Day (WCD)**.

The 1st call for WCD focussed on 'International Air transport Cartels and its Impact on Developing Countries'. The suggested theme for this year is "**Cartels and its harmful effects on the Consumers**".

CUTS reckon that an agenda to discipline cartels would provide multiple benefits both to the agency/government and consumers. Cartels steal billions of dollars from businesses, taxpayers and ultimately from consumers. Consumers benefit from competition through lower prices and better choice and quality products and services. It is important for the agencies to engage in education and outreach programmes to raise awareness about the harmful effects of cartels, and to generate leads about cartel activities which may be a source for the initiation of investigation. Thus, one of the aims of the present Call is to educate and create awareness among the stakeholders about the harmful effects of cartels and the need to support Competition Agencies to crack them down.



Understanding the State of Domestic Competition and Consumer Policies in Select MENA Countries

In order to develop a deeper idea, CUTS jointly with the Arab Network for Environment and Development undertook a needs assessment mission in seven countries of the Middle East and North Africa (MENA) region (namely Algeria, Egypt, Morocco, Tunisia, Jordan, Lebanon and Syria). The report highlights both challenges and opportunities that exist in terms of promoting competition reforms and protecting the interest of the consumers in the countries. The report would be discussed in a regional conference, so that a discourse on competition and consumer protection can emerge in some of these countries and the region.

www.cuts-ccier.org/7up4/pdf/Competition_Concerns_in_the_Agriculture_Sector_in_Select_Countries_of_West_Africa.pdf

Competition Concerns in the Agriculture Sector in Select Countries of West Africa

Under the 7Up4 project, the country partners in each country produced a detailed country specific report, covering nine research themes, one of which was competition in the agriculture sector. The complete report has been published as: "A Time for Action". The objective of this paper is to examine the nature of competition along different markets in the supply chain and identify possible competition concerns as well as draw welfare implications of these concerns for the different stakeholder of this chain, i.e. farmers, processors, traders and consumers.

www.cuts-ccier.org/7up4/pdf/Competition_Concerns_in_the_Agriculture_Sector_in_Select_Countries_of_West_Africa.pdf

Unholy Alliances in Healthcare Services

This report is an outcome of a research project entitled, 'Collusive Practices in Healthcare Delivery: Need for Effective Regulation' that aims to identify collusive practices among the healthcare providers and its impact on consumers and provide feasible solutions and strategies for addressing concerns emanating from such deceptive and collusive practices. On the basis of review and the field work undertaken, certain conclusions have been derived and recommendations made to ensure that a more people-friendly healthcare system is evolved.

www.cuts-ccier.org/cohed/pdf/Research_Report-Unholy_Alliances_in_Healthcare_Services-COHED.pdf

Making of India's Regulators

Business Standard, September 13, 2011

Yet, the regulatory environment which has developed over a period of time is not coherent across sectors, says Pradeep Mehta, Secretary General, CUTS. A careful analysis of the existing legal, policy and institutional framework in India reveals a somewhat haphazard and uneven approach to the evolution of regulation across and within different sectors of the economy, resulting in inadequate and expensive reform.

www.cuts-ccier.org/Media-Making_of_Indias_regulators.htm

Highway Robbery by State Transport Companies

Financial Express, September 12, 2011

Pradeep S Mehta

While there is a general acceptance that anticompetitive practices should not be tolerated, a look at the situation across many countries would reveal that there is a general tolerance of anticompetitive practices in the bus transport sector, particularly the long-distance market. These anti-competitive practices exist mostly in the form of cartelisation and abuse of dominance.

www.cuts-ccier.org/Article-Highway_robbery_by_state_transport_companies.htm

Market Dynamism & Productivity Growth

Financial Express, September 03, 2011

Aradhna Aggarwal

It is widely acknowledged that economic liberalisation has changed the incentives of the corporate sector and unleashed new investment and growth forces. But the behaviour and achievements of Indian companies remain controversial. There are two competing views: pro-market and pro-business.

www.cuts-ccier.org/Article-Market_dynamism_and_productivity_growth.htm

Competitive Neutrality in Public Policy

Business Standard, August 22, 2011

Pradeep S Mehta

The Government of India has launched discussions on a draft national competition policy. Such a policy is needed to promote healthy competition in the Indian economy, so that growth is assured, inflation is controlled and more jobs are created. As it is, a number of competition distortions or impediments arise owing to our policy framework in different areas of economic governance.

www.cuts-ccier.org/Article-Competitive_neutrality_in_public_policy.htm