

CUTS CCIER ACTIVITIES REPORT



Making Economic Progress Efficient & Inclusive in India

CUTS through its various interventions aspire to make economic progress in India, efficient, inclusive and responsible. It is our endeavour to create an environment and capacity in India to foster growth that is hurdle-less and well integrates elements of sustainable development. It is with this goal in mind that CUTS has designed a project on 'Business Regulation and Corporate Conduct'.

The project would simultaneously attempt to identify key benchmarks pertaining to responsible business behaviour in select sectors defined in terms of the commitment of businesses to corporate governance and corporate social responsibility (CSR) in the Indian economy, and explore how effective rules/regulations/institutional reforms can promote responsible business conduct among firms in addition to catalysing consistent sectoral growth.

The project was formally launched in New Delhi, on April 21, 2011. Two regional dialogues were organised in Jaipur on July 12, 2011 and in Bangalore on July 15, 2011 respectively. The aim of these dialogues was to invite representation from the government, industry, academia, CSOs and various other stakeholders to refine the research methodology of the project. After sharing the aspects of business regulation and corporate conduct, an overview of the project was presented.



A Strategy Dialogue was organised in New Delhi on November 30, 2011. The rationale behind organising gathering was to for soliciting inputs into the approach and comments over the choice of sectors and states. The methodology for the dialogue was such that there were presentations followed by focused discussions. The themes covered during the dialogue were: BRCC Project – Overview and Progress, Dimensions of Corporate Social Responsibility, Concept of Business Regulation and Corporate Conduct, BRCC Project Strategy and Methodology, Healthcare and Pharmaceutical Sector, and Multi-Brand Retail Sector.

A major take away from the dialogue was that the BRCC Project should not be focusing on Multi-Brand Retail Sector and should restrict itself to Healthcare and Pharma Sectors that, on their own, are quite broad and should be further narrowed down. The exchanges made during the dialogue were followed up with debriefing sessions and additional rounds of discussions among the BRCC Project team members, advisers and partners and resulted into evolution of the revised research methodology.

www.cuts-ccier.org/BRCC/



Demand Side Management & Renewable Energy in India

CUTS with support of Shakti Sustainable Energy Foundation (SSEF), India is undertaking an initiative over two years (2011-2012) in two 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.



As part of the initiative, CUTS with support of its partners (CUTS Calcutta Resource Centre, West Bengal and VIKSAT, Gujarat) implemented a baseline consumer survey for mapping the status of awareness and understanding among key stakeholders (commercial, industrial, farmers, CSOs, households, etc.) regarding issues related to demand side management (energy efficiency) and renewable energy.

In total 1000 respondents were covered in the survey which was administered based on a structured questionnaire with the support of 10 local CSOs spread across four districts in West Bengal and Gujarat. On the basis of the research and survey findings, CUTS will implement activities such as state-level training workshops, consumer interface meetings, etc. to build capacity of CSOs and increase awareness about benefits of renewable energy/demand side management among relevant stakeholders.

www.cuts-ccier.org/DREC/

India Competition and Regulation Report (ICRR III), 2011

Two decades of economic reforms towards ensuring a competitive economy have got a further impetus with the Government of India making 'competition' a serious policy issue through the inclusion of 'competition policy' in Eleventh and Draft Twelfth Five Year Plans. Considering the need to do a periodic assessment of competition and regulation scenario in the country, a project entitled, 'Competition and Regulation in India: Evaluation of Status & Perceptions and Associated Advocacy' has been implemented by CUTS in partnership with CUTS Institute for Regulation & Competition and Norwegian School of Management, Norway. The project is supported by the Ministry of Foreign Affairs through the Royal Norwegian Embassy in New Delhi (India). The outcome of the project will be a research report entitled 'India Competition and Regulation Report, 2011'.



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A primary stakeholder/consumer Perception Survey was undertaken under the project to assess the perception and to get feedback from stakeholders on the following four broad issues: awareness/knowledge regarding competition and regulatory issues; assessment of quality of regulation; assessment of the level of competition and nature of practices that prevail in the economy; and opinion about the nature and impact of government policies/measures.

This survey was conducted in association with select regional survey partner organisations by administering structured questionnaires in a stratified random sampling mode, covering 11 states and more than 900 respondents from the country representing the varied geographical regions of India viz. Andhra Pradesh, Karnataka, Tamil Nadu, Bihar, Orissa, West Bengal, NCR of Delhi, Uttar Pradesh, Maharashtra, Gujarat, and Madhya Pradesh.

The thematic chapters, six sectoral chapters and an analysis based on the perception survey for the ICRR III 2011 Report have been received from respective authors and the report is due for release in India by April 2012.

www.cuts-ccier.org/icrr2011/

Defining Role of Competition Authority and Sectoral Regulators

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. One of the main causes of such conflict is legislative ambiguity and the lack of clarity about the separation of powers vested in the competition authorities as well as sector regulatory bodies. Furthermore, in case of an overlapping jurisdictional conflict, which regulator has the overriding jurisdiction is also not clear from the relevant enactments.

In light of what has been mentioned, CUTS has undertaken a study with support from the Ministry of Corporate Affairs, Government of India, which would focus (among other things) on the history behind such conflicts in select jurisdictions of the world and analyse the factors that led to their solution. The study will thus draw lessons for India to adapt and adopt to prevent such conflicts in the future.

The objective of the study is to develop a structured, systematic and sustainable process of interactions/dialogue between the authorities and finally, develop a framework for conflict resolution (ex-post).

The study would focus on an in-depth analysis of the approaches followed in India and four major countries: South Korea, Brazil, South Africa and Spain. The key sectors chosen for detailed analysis are banking and telecommunications. The mentioned country papers were finalised and uploaded on the project webpage. At present the overview chapter is being developed and the project is expected to be completed by end of January 2012.

www.cuts-ccier.org/IICA/



सत्यमेव जयते
Ministry of Corporate Affairs
Government of India

Representations

Pradeep S Mehta presented a paper at the IDRC's International Expert Meeting on "Inclusive Growth: From Policy to Reality", in New Delhi on December 12-13, 2011.

Rijit Sengupta participated in the Istanbul Conference on Needs Assessment of OIC Member States in the field of Competition Law and Policy, organised by the Turkish Competition Authority in cooperation with the Islamic Centre for Development of Trade and the Islamic Development Bank and held on 21-22 November 2011 in Istanbul. He made a presentation on the State of Competition and Consumer Protection in Select MENA Countries

Udai S Mehta participated in an 'International Seminar on Competition Law and Consumer Welfare' organised by the Ministry of Domestic Trade, Cooperatives and Consumerism and Competition Commission of Malaysia on November 03, 2011, Kuala Lumpur, Malaysia. Mehta delivered a presentation on 'Engaging Civil Society to Promote Competitive Reforms in Developing Countries' during the Seminar.

Vikash Batham participated in a consultation meeting on 'Universal Access to Health: Impediments and Solutions' organised by Oxfam India, Prayas and Sama in New Delhi, on October 12-13, 2011.

A Discussion on the Draft National Food Security Bill

CUTS International organised the 11th Parliamentarians' Forum on Economic Policy Issues (PARFORE) meeting at New Delhi, on December 20, 2011, which brought together parliamentarians, regulators, media etc., on a common platform to discuss and provide their views/comments on the draft National Food Security Bill (Draft Bill).

PARFORE is an initiative of CUTS to bring Members of Parliament (MPs), cutting across party lines, on a single platform to deliberate over the core economic policy issues that are relevant for reforms.

Pradeep S Mehta, Secretary General, CUTS emphasised that the present bill ensures right to food instead of food security, as food security is a wider term which includes affordability, accessibility, availability etc. and not only availability. Thus, he suggested renaming the bill as, 'Right to Food'

The meeting was attended by parliamentarians representing both the houses, Lok Sabha as well as Rajya Sabha. Apart from the parliamentarians, select media representatives were also present.

Land Acquisition, Rehabilitation and Resettlement (LARR) Bill, 2011

Under the Indian Constitution, land is a State subject but land acquisition is a Concurrent subject. So far, the basic law governing the land acquisition process has been the Land Acquisition Act, 1894.

Land markets in India are imperfect. There is asymmetry of power (and information) between those wanting to acquire the land and those whose lands are being acquired. That is why there has to be a role for the government to put in place a transparent and flexible set of rules and regulations and to ensure its enforcement. To serve such role, the Ministry of Rural Development, Government of India introduced into public domain a (draft) Land Acquisition, Rehabilitation and Resettlement (LARR) Bill for discussion.

Lok Sabha, through a public notification about the Department-related Parliamentary Standing Committee on Rural Development, chaired by Sumitra Mahajan (Member of Parliament), solicited feedback over the Bill. In response to that CUTS took the responsibility for scrutinising the draft so as to come up with its views on the content and suggest betterments therein.

After reviewing the content of the draft, CUTS team came up with fifteen points relating to different provisions of the Bill and submitted its comments in a tabulated form. Such comments related to the following aspects of the draft: prescription of timelines for intimating about the social impact assessment, publication of preliminary notification, and development of resettlement area; thrust over participatory mechanisms; provisions for 'resettlement councillors; strengthening of reverse communication etc. If the Standing Committee gives the opportunity, CUTS team will make representation for explaining and substantiating the posted comments.

http://cuts-international.org/pdf/CUTS_International_Comments_on_Land_Reform_Bill.pdf

Publication

World Competition Day

Once again on 5th December 2011, many countries celebrated World Competition Day (WCD) with the theme 'Cartels and their harmful effects on the consumer', in an attempt to raise public understanding and opinion on benefits of the competitive markets and harmful effects of anticompetitive behaviours like cartels to citizens.

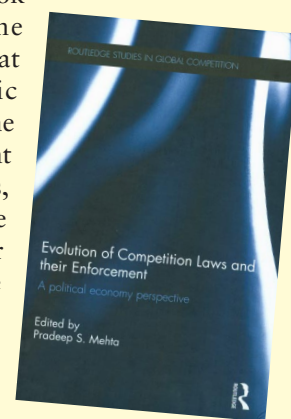
Many countries (competition agencies, Institution, CSOs and other stakeholders) from various part of the world observed the World Competition Day and sensitise the importance of the day through events, articles, press releases, media briefings, and a lot many other activities around the world.

Many competition agencies (viz. Fiji, Kazakhstan, Namibia, Pakistan, Russia, The Gambia, UK, Zambia and Zimbabwe) have also made a clarion call to UNCTAD in a form of a letter towards formal adoption of the Day.

To know more about the day, please visit:
www.incsoc.net/World_Competition_Day.htm
and/or follow us on facebook page at:
www.facebook.com/WorldCompetitionDay

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

This volume identifies the various country specific factors that warrant changes in the design and implementation of competition laws. The book covers case studies of nine countries of differing sizes and at varying stages of economic development that have at one stage or another repealed extant competition laws for new ones, and seeks to examine the motivations and contexts under which this was done. The countries examined include the Czech Republic, Hungary, India, Ireland, Poland, Serbia, South Africa, Tanzania and the UK.



This book can be purchased at: www.routledge.com/books/details/9780415672139/

Cartelisation in Water Transport Sector

Financial Express, December 29, 2011

Pradeep S Mehta

Cartelisation in the sector would have bad consequences on the economy as well as on the public using the transport services, which would have an impact on poverty. Although Competition Commission of India (CCI) has over the years attempted to understand the nature of competition in several potentially vulnerable markets, the nature of competition prevailing in this sector is yet to be explored. This calls for a more detailed focus from CCI.

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

Set Regulators Free

Economic Times, December 26, 2011

Pradeep S Mehta

The demand to house the Central Bureau of Investigation (CBI) under the proposed constitutional authority of the *Lokpal* is indeed sensible in more ways than one. This will ensure its independence. Though the CBI is a credible institution...On the other hand, it is fortunate that the Lokpal will be a constitutional authority, otherwise the body would have also met the fate of several of our institutions...Hopefully, the debate should spur a larger discourse on ensuring independence of our regulatory institutions for better governance and growth.

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

MCA to Examine 10 amendments to Competition Act

Money Control, December 14, 2011

The Ministry of Corporate Affairs is examining 10 key amendments to the Competition Act 2002, and this is likely to have an impact on the merger and acquisition norms of the CCI...Pradeep Mehta of CUTS International...has also recommended that all sectoral regulators like TRAI, DGCA should consult the CCI before finalisation of norms. It has also recommended that a similar amendment be made in the act of all the regulators so that everybody is on the same page on this issue.

www.moneycontrol.com/news/cnb-tv18-comments/mca-to-examine-10-amendments-to-competition-act_633674.html

Draft Real Estate Bill 'Essential and Overdue'

The Hindu Business Line, November 14, 2011

The draft real estate Bill seems to have touched a chord with the home buyers and consumer forums, even though builders have labelled its provisions as being 'too harsh'. Pradeep S Mehta feels that the Bill will strengthen the hands of consumers, who are not in a bargaining position while entering into a sales agreement with builders. But he felt that imprisonment is warranted only where there is a clear case of fraud or cheating.

www.thehindubusinessline.com/industry-and-economy/government-and-policy/article2624729.ece?ref=wl_industry-and-economy

Searching Google without a warrant?

Indian Express, October 04, 2011

CUTS has filed a "preliminary information report" with the Commission with regard to numerous operations of Google. The information provided in this report appears to be based purely upon the fact that Google is being investigated by authorities in the EU and the US for potential anti-competitive practices as a result of its dominance in those markets. In fact, the preliminary information report virtually concedes, by implication, that there is no cause for investigation in India.

www.indianexpress.com/news/searching-google-without-a-warrant/855357/

Against Abuse of Pharma FDI

Financial Express, October 31, 2011

Pradeep S Mehta

The debate on pharma takeovers has been hitting headlines, with the Prime Minister too getting involved in it. The worry is whether the takeovers will lead to an increase in prices and affect the affordability of medicines for the *aam aadmi*. The high level committee headed by Arun Maira has rightly prescribed that CCI is the body to keep a watch on brownfield investments in the pharma sector, in order to avoid any dominance and other anticompetitive behaviour, but that the FDI policy should maintain *status quo*.

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