



Need for a National Competition Policy for India



CUTS Centre for Competition, Investment & Economic Regulation (CUTS CCIER) along with CUTS Institute for Regulation & Competition (CIRC) organised a National Seminar on ‘Need for National Competition Policy for India: How to Overcome Challenges?’ at New Delhi on February 18, 2014.

The seminar focussed on broader issues pertaining to the adoption and implementation of National Competition Policy (NCP) in India; and to find a successful approach to overcome those challenges in the perspective of international experiences in the implementation of NCP from Australia and Botswana. It featured parliamentarians, government officials, academicians who deliberated on the need for adoption of NCP for India.

Pradeep S Mehta, Secretary General, CUTS stated that competition policy is required for general economic welfare. To maintain and sustain the economic welfare that competition policy brings in, it is important that there are suitable legislations and institutions in place which are effective in implementing law.

Claire Tynne-Irvine, First Secretary, Economic and Trade Policy, British High Commission,

India said that competition is the driver for economic growth; it brings in equality, efficient resource allocation, reduction in price, increases productivity, investment and rewards innovation.

Ajoy Kumar, MP emphasised three major points, which is engagement with policymakers, getting businesses started quick and easy and do away with subordinate legislations.

Pronab Sen, Chairman, National Statistical Commission stated that policies are not richly debated or discussed amongst the relevant stakeholders therefore the advantages are never tapped into.

An another extended seminar was organised by CUTS CCIER along

with CIRC on ‘Has APMC Regime Hit End of the Road?’ at New Delhi on February 18, 2014. The seminar focused on the evaluation of Agricultural Produce Market Committee (APMC) regime across the country for past several years with a view to suggest constructive reforms in the agriculture sector.

The purpose of the seminar was to assess the relevance of the APMC regime from the findings of the project and the experience of stakeholders. The seminar provided a platform for bringing on board views of parliamentarians, government officials, academics, media representatives etc. on the applicability of the APMC in the agriculture market in India.

The panel included D P Tripathi, Sanjeev Chopra, Pradeep S Mehta, Raj Bhatia, Vijay Paul Sharma, P G Chengappa and Aimee Hampel-Milagrosa. The event also focussed on the key findings of the Agriculture sector study undertaken during the course of the project. The research was based on ‘Tomato’ as the agriculture commodity and highlighted method/issues of its movement across the market value chain.

<http://www.cuts-ccier.org/CoMPEG>



Dignitaries at the seminar on ‘Has APMC Regime Hit End of the Road?’ at New Delhi on February 18, 2014

National Competition Policy and Economic Growth in India



CUTS CCIER organised a seminar on 'Competition Reforms in Pharmaceutical Sector in India' on January 20, 2014 in Mumbai and 'Competition Reforms in Electricity Sector in India' on January 31, 2014 in Chennai, as part of its on-going project entitled 'National Competition Policy & Economic Growth in India (ComPEG)' supported by the British High Commission, India.

The purpose of the seminars was to focus on broader issues pertaining to the adoption and implementation of NCP in India, keeping sectoral competition reforms at periphery. The seminar featured subject experts, academicians, media, business houses etc. to deliberate on the need for adoption of NCP for India.

In the seminar on Pharmaceutical sector in Mumbai, Commissioner, Food and Drug Administration actively participated, whereas, leading pharmaceutical associations, such as Organisation of Pharmaceutical Producers of India and Indian Pharmaceutical Alliance were also present. Similarly, seminar on Electricity issues was supported by Karnataka State Regulatory Commission and Madras School of Economics and two former regulators participated actively during the seminar.

Thus, seminars were successful in bringing together policymakers, regulators, industry players, non-state actors and providing them a platform to debate and discuss key issues to overcome the challenges related to adoption of NCP in India.

<http://www.cuts-ccier.org/CoMPEG>

Business Regulation and Corporate Conduct in India

CUTS along with Ramana Group, under the BRCC project organised Interface Meeting at Ahmedabad on February 16, 2014 for private healthcare sector. The objective of the project was to evolve a policy discourse between business community and policymakers to facilitate a policy environment that promotes development of private healthcare sector in a sustainable manner.

Unfortunately, these entities have not interacted so much on the agenda of sustainable business development. As also turned out as a survey result, a structured and periodic process of interaction between sectoral associations and relevant state government departments/agencies, pertaining to private healthcare sector is absent. Thus, in order to overcome these limitations creating obstacles in the way of promoting responsible business conduct in the private healthcare sector, CUTS intended to organise interface meeting in the state of Gujarat.

The meeting basically focused at discussing the set of challenges pertaining to specific stakeholders, i.e. state government, state-level regulators, firms, associations and civil society, affecting uptake of responsible business in private healthcare sector at the state level.

Through this meeting, CUTS and key actors tried to comprehend these difficulties/challenges faced by the private healthcare sector in becoming more responsible entities. Understanding these limitations would allow preparation of a roadmap for promotion of better business in the sector at the state level.

<http://www.cuts-ccier.org/BRCC>

Much Ado About The Regulators

Our regulatory architecture is a perfect mess. There is no overarching law to ensure uniformity in qualifications, role or scope of the regulatory commissions. Line ministries design the law pertaining to the regulatory agency the way they please.

In an attempt to bring the regulators in infrastructure sector under a single structure, the Planning Commission has drafted the Regulatory Reform Bill in 2011. The Bill was approved by the government after much back and forth movement between ministries and has now been put up in the public domain as the Regulatory Reform Bill, 2013.

In a nutshell, the Bill states that the Regulators shall have the power to issue licences and be accountable to the Parliament. Further, protection of consumer interest and promotion of competition has been established as the pillars of this Bill.

However, there is a gap between the objectives of the bill, i.e. its subsequent implementation. There is ambiguity in how the objectives are sought to be achieved.

For instance, the Bill mentions that it shall have an overriding effect in the case of conflict with any other laws, except for the Consumer Protection Act, 1986; the Atomic Energy Act, 1962; and the Competition Act, 2002. However, it fails to provide clear mechanism in case of overlap of the aforementioned acts.

In an attempt to attract attention towards the ambiguities of the Bill, CUTS highlighted the contentious provisions and provided comments to the Planning Commission. CUTS has also written an article titled '*Let the Regulators Regulate*' to raise awareness.

Critical Dimensions of Indian Investments in Africa

CUTS with support from Heinrich Boll Stiftung Foundation is implementing a project entitled *Critical Dimensions of Indian Investments in Africa (IIA)* during December 01, 2013-October 31, 2014. The project will attempt to analyse the impact of Indian investments in select African countries (Ethiopia, Kenya, Uganda and Zambia) in agriculture and mining sectors, make use of the nine principles of the National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business (NVGs) as well as other applicable rules and regulations.

This project will seek to analyse the impact (positive) that current Indian investments have had on the sustainability of local communities, as a lesson for future policymaking and implementation at national levels in select mentioned African countries.

Some of the major activities carried out during second phase of the project implementation were finalisation of companies in the selected countries, conducting scoping visits to get preliminary idea regarding the issues pertaining to agriculture and mining sectors, creation of the project webpage, etc.

www.cuts-ccier.org/iiia/index.html

Competition and Regulation in India, 2013

It is the fourth biennial report (2007, 2009 and 2011) that maps status of competition across Indian markets and focusses on four sectors, i.e. Coal, Railways, Private Healthcare and Finance apart from cross-sectoral issues such as Regulatory Independence and Regulatory Conflicts. This study is an important contribution towards enriching the available literature in the public domain and encouraging a dialogue to promote a healthy and competitive environment as evolving an appropriate regulatory culture is always a learning curve.

The first report, published in 2007 lay down the rationale for a holistic competition policy and law regime in India and also looked at some sectors, such as telecom and electricity in the area of infrastructure and in the equally crucial area of social infrastructure like healthcare and education, as case studies.

The second report, published in 2009 is an effort to educate the public and the policy community about the effect of these various facets of public policy on competition and regulation. It focuses on the evaluation of quality of regulation in five sectors: power, ports, civil aviation, agricultural markets and higher education.

The third report, published in 2011 maps status of competition across Indian markets and focusses on six emerging sectors, i.e. Microfinance, Natural Gas, Retail, Real Estate (residential), Road Transport (passenger transport) and Telecommunications. Further, it also covers certain general issues, such as political economy of regulation and essential facilities doctrine etc.



The new Land Acquisition Act comes into force

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act), came in force from January 01, 2014, pursuant to a Gazette notification by the Ministry of Rural Development, Government of India. Draft rules under the Act were published on December 31, 2013, and comments were invited within one month. The rules include provisions for social impact assessment and consent requirements. CUTS has been tracking the development of the Act since its inception and has kept the stakeholders updated through its various online publications. This Policy Options Note offers brief critique of key provisions of the Act and suggests possible alternatives.

This Policy Options Note can be viewed at:
www.cuts-ccier.org/pdf/

[The_New_Land_Acquisition_Act_Comes_into_Force.pdf](#)

Rethinking the Role of Planning Commission of India

The Planning Commission of India (Commission), India's central plan body, has been in the eye of storm for quite some time now. It has been accused of ignoring the concerns of states while formulating plans, functioning sans accountability, and proving to be a roadblock in the path of federalism. This Policy Options Note attempts to track growth of the Commission, since its conception, and probe into some such concerns. It concludes with providing ideas to revamp the Commission to suit the needs of modern Indian economy, while taking into account institutional knowledge accumulated by the Commission, over a considerable period of time.

This Policy Options Note can be viewed at:
www.cuts-ccier.org/pdf/

[Rethinking_the_Role_of_Planning_Commission_of_India.pdf](#)

Pradeep S Mehta, Rijit Sengupta and **Julien Grollier** participated in the OECD Global Forum on Competition at Paris, France, on February 27-28, 2014.

Rudra Shankar attended a training on 'Understanding Social Impact Assessment' at New Delhi, on January 20-24, 2014.

Advocacy through Media

Resolving patent wars through competition law

Financial Express, March 31, 2014
Pradeep S Mehta

The recent orders of the Competition Commission of India (CCI) asking its Director General to investigate Ericsson's alleged anticompetitive conduct raises issues lying at the crossroads of Intellectual Property Rights (IPR) and competition. The order also raises the issue of third-party access on fair and reasonable terms, which our judiciary is yet to comprehend.

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

Competition Commission imposes ₹1 crore fine on Google

Press Information Bureau, March 27, 2014

The Competition Commission has imposed a ₹1-crore penalty on Google for failing to provide information related to an investigation into the Internet major's alleged unfair trade practices in India. A Google spokesperson said the company was "disappointed by this development." The DG, the investigation arm of the regulator, is probing a complaint filed by matrimony.com Pvt Ltd and CUTS against Google, alleging that it was abusing market power in the online search and advertising markets.

www.cuts-ccier.org/Media-Competition_Commission_imposes_Rs_1crore_fine_on_Google.htm

Tailoring competition laws for state-owned enterprises

Financial Express, February 17, 2014
Pradeep S Mehta

The Competition Commission of India (CCI) levied a fine of ₹1,773 crore on Coal India Ltd, a state-owned enterprise (SoE), for abuse of dominance in the fuel-supply services market, and also recommended that it should be broken up. Although CCI has slapped heavy fines on other firms since it started operating, this was its first major penalty on an SoE...Whilst the competition law should indeed apply to SoEs, there might be need for the law to apply with some narrow derogation when it comes to SoEs. It is, therefore, not surprising that the central theme for the International Competition Network's annual conference in April 2014 would be to debate on the application of competition laws to SoEs.

www.cuts-ccier.org/Article-Tailoring_competition_laws_for_state-owned_enterprises.htm

Expediting National Competition Policy

Financial Express, January 27, 2014
Pradeep S Mehta

Investment and competition are the two sides of a coin. The government is promoting investment seriously and is also addressing bottlenecks through the Cabinet Committee on Investment and a Project Monitoring Group. Many of the investment bottlenecks are due to entry barriers and thus promoting competition reforms can enable investment flows and immersion better and easier. Fortunately, the government is also considering competition reforms seriously and to oversee it by establishing a Cabinet Committee on Competition to be headed by the Prime Minister.

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