



## Enhancing Social and Economic Welfare through Competition Reforms



CUTS along with the country partners of Ghana, India, The Philippines and Zambia organised the first National Reference Group (NRG) meetings under the project entitled, 'Competition Reforms in Key Markets for Enhancing Social and Economic Welfare in Developing Countries' in each country. The National Reference Group (NRG) is designed to act as a platform for project implementers to seek views and guidance from members on key aspects of the project.



Dignitaries at the NRG Meeting at New Delhi on July 24, 2013

The objective of the 1<sup>st</sup> NRG Meeting in each country was to orient NRG members about the project and its progress, and discuss and gather inputs about the research methodology of Diagnostic Country Report (DCR).

In **Ghana**, the meeting was jointly organised with ISSER (University of Ghana) on August 06, 2013. Frederic Jenny, Chair, OECD Competition Committee stated the competition was analogous to the force of gravity in the economic sphere. Just like ignorance of the force of gravity can lead to accidents, ignorance of the force of competition can unsettle the economy/markets.

In **India**, the meeting was jointly organised with CUTS Institute for Regulation & Competition (CIRC) July 24, 2013. R S Khemani, Principal, MICRA and Senior Adviser to the project expressed that though the CREW project focuses on staple food and passenger bus transport sector but it acts as a 'window' of providing the scope of venturing competition reforms

in other sectors as well to enhance social and economic welfare in developing countries.

In **The Philippines**, the meeting was organised jointly with Philippines Institute for Development Studies and Action for Economic Reforms July 30, 2013. Ruth U Tan, State Counsel II, Department of Justice stated that there is a need to promote and protect competition in the Philippines and CREW project is one such initiative, which would initiate the momentum of competition reforms in developing countries.

In **Zambia**, the meeting was held on August 09, 2013. Ambassador Albert Muchanga, Director, Domestic Trade, Ministry of Commerce, Trade & Industry, Government of Zambia expressed support for this project. He was pleased that CUTS and Zambia Institute for Policy Analysis and Research have jointly undertaken a study in two key sectors of the economy – passenger transport and staple food. He stated that not only are these sectors important for the economy but also form a key part of the 'essential goods and services basket' of a consumer on a day-to-day basis.

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

### Compendium on Competition Regimes

'Competition Regimes in the World: A Civil Society Report' ([www.competitionregimes.com](http://www.competitionregimes.com)) was an attempt to map out competition regimes around the world and covers 120 countries. Most of the countries covered in this volume had competition legislation, while some in the process of adopting one. It contained essays on the countries by a large number of activists, scholars, experts and practitioners, whose names appear as authors in the corresponding chapters.

The final version of this report was released by CUTS in June 2006, and was an improvement over the advance copy that was released at the UN Conference on Competition Policy in Antalya (Turkey) in November, 2005.

Since 2006, there have been various developments in the competition legislations across the world, therefore CUTS plans to revisit and update the report both in content and also in scope. The target is to cover 148 countries and publish the volume by early 2014.

## Exploring the Interplay between Business Regulation and Corporate Conduct in India



Consumer Unity & Trust Society (CUTS) under the project entitled, 'Exploring the Interplay between Business Regulation and Corporate Conduct in India' (BRCC) organised Interface Meetings 'Evolving Responsible Private Healthcare & Pharmaceutical Sector through Multi-Stakeholder Discussion' for pharmaceutical sector in Shimla and Hyderabad, on August 24 & July 06, 2013 respectively.

The meetings were organised in order to examine existing challenges facing uptake of responsible business practices in the pharmaceutical sector in four BRCC project states: Andhra Pradesh, Gujarat, Himachal Pradesh and West Bengal and initiate a discussion to address them. Through these meetings CUTS and key actors in each of these states

would try to comprehend difficulties faced by the pharmaceutical firms 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.

The participants representing various stakeholder groups such as state regulators, pharma association, medical association, pharma firms, doctors, civil society etc. provided their inputs for mitigating the challenges creating obstacle in the way of adoption of responsible conduct and outcomes it would ultimately lead to.

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



Kuldeep Singh Pathania, Chairman, Pollution Control Board, Himachal Pradesh addressing the participants

### India Competition and Regulation Report, 2013

While India has embraced market-oriented economic reforms, there is, as yet, no periodic review to assess functioning of markets in the country. Considering the important role of market forces in a liberalised economic regime, there is a need to do periodic assessment of competition

and regulation scenario in the country.



The Report on Competition and Regulation in India (ICRR), a serial biennial project, is an attempt to fill this vacuum. The ICRR project is being undertaken with support from the Ministry of Foreign Affairs through the Royal Norwegian Embassy in New Delhi.

Till date, three ICRR reports (2007, 2009, and 2011) have been released and CUTS is in the process of drafting, reviewing and finalising various sections of the ICRR IV report. The sectors dealt with in ICRR IV report are coal, finance, private healthcare, and railways, in addition to the areas of regulatory uncertainty and its impact on investments; and the institution of sinecures.

In addition, perception surveys of the state of completion and regulation in the economy in general and also for the select sectors are being carried on, to support the analysis and findings of the secondary research being conducted to prepare the report.

### Representations

**Vikash Batham** participated in the event on 'Developing an Inclusive CSR Index in India' organised by Business & Community Foundation, New Delhi on September 26, 2013. He spoke in the session on 'Rethinking Business Responsibility in India'.

**Rijit Sengupta** participated in the fifth Annual Conference of the African Consumer Protection Dialogue organised jointly by the Zambian Competition and Consumer Protection Commission and Federal Trade Commission, US at Lusaka, Zambia on September 11-12, 2013.

**Pradeep S Mehta** spoke in the Public Discussion on COMESA Competition Commission (CCC) Regulations organised by the CCC, Competition and Consumer Protection Commission and Law Association of Zambia at Lusaka, Zambia on August 23, 2013. He delivered a presentation on 'Some Bottlenecks to Competition Enforcement in COMESA and Possible Mitigation – CUTS' views'.

## Monopoly/Market Dominance in Cable TV Services

Dominance is not considered bad *per se* but its abuse is. However, it is not dominance in itself that is a cause of concern but when the same is abused. At times, it becomes a very complex issue from the competition policy perspective. Thus, there is a need to address the issue of monopoly/market dominance in the cable TV distribution and if the monopoly/market dominance is established, then possibility of its abuse needs to be explored and investigated. However, dominance without abuse does not have any ill effects which need to be addressed.

Cable TV services might be substitutable with different television services in different states, depending on consumer tastes, preferences and availability of technology. Therefore, it would not be advisable to consider state to be a relevant market for measuring market power in the cable TV sector CUTS suggest that relevant market for cable TV should be determined on a case to case basis, as there cannot be any straight jacket formula for the same.

There is a need to curb dominance and monopolistic trends and put outright restrictions in the relevant cable TV market and the nature thereof. CUTS does not believe that any restrictions should be placed on entities in the cable TV sector.

CUTS opines that the existing filing /reporting requirements imposed by the Management Information Base in terms of the amendments to the Cable Television Act, 1995 and the Cable Television Networks Rules 1994 and the reporting requirements to TRAI in terms of the amendments to the Telecommunication Interconnection Regulations 2004 are sufficient for effective monitoring and determining market share of players in the cable TV sector.

For details, please visit: [www.cuts-ccier.org/pdf](http://www.cuts-ccier.org/pdf)

[CUTS\\_Comments\\_on\\_Consultation\\_Paper\\_on\\_Monopoly\\_Market\\_Dominance\\_in\\_Cable\\_TV\\_Services.pdf](http://www.cuts-ccier.org/pdf/CUTS_Comments_on_Consultation_Paper_on_Monopoly_Market_Dominance_in_Cable_TV_Services.pdf)

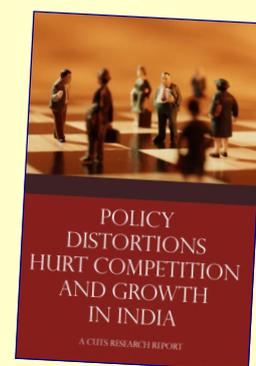
## Publications

### Research Report

## Policy distortions hurt competition and growth in India - A CUTS Research Report

The CUTS research paper brings to light numerous instances of competition distortions induced by government policies in India with a view to devise a framework that would assess the policies on the touchstone of their impact on competition and take steps to minimise their anti-competitive outcomes. It provides suggestions on how to improve upon distortive policies by introducing reforms in various sectors. It also suggests interventions at various levels for harmonisation of government policies and regulations leading to economic benefits for the society at large.

[www.cuts-ccier.org/pdf/Policy\\_distortions\\_hurt\\_competition\\_and\\_growth\\_in\\_India-A\\_CUTS\\_Research\\_report.pdf](http://www.cuts-ccier.org/pdf/Policy_distortions_hurt_competition_and_growth_in_India-A_CUTS_Research_report.pdf)



### Briefing Papers

## Essential Facilities Doctrine

The essential facilities doctrine imposes a legal antitrust/antimonopoly liability on monopolistic/dominant firms to share facilities that may be difficult for rivals to duplicate easily. This Briefing Paper states that notwithstanding relative successes and failures of such interventions, as the Indian economy grows and matures it is inevitable that for wider and more complete encouragement of competition, the EFD will need to flow in from the Competition Commission and competition law which is adequately structured to uphold the doctrine.

[www.cuts-ccier.org/pdf/Essential\\_Facilities\\_Doctrine.pdf](http://www.cuts-ccier.org/pdf/Essential_Facilities_Doctrine.pdf)

## International Trade and Competition – Siamese Twins: Need for a Multilateral Framework on Competition?

This Briefing Paper studies arguments for and against multilateral competition framework with a focus on agriculture and commodity markets sector and discovers that chief losers from absence of a multilateral competition framework are consumers around the world. It further attempts to suggest a workable way forward by taking into account concerns of differing parties and stresses the need to re-start negotiations on competition issues at international forums, before it is too late.

[www.cuts-ccier.org/pdf/International\\_Trade\\_and\\_Competition-Siamese\\_Twins-Need\\_for\\_a\\_Multilateral\\_Framework\\_on\\_Competition.pdf](http://www.cuts-ccier.org/pdf/International_Trade_and_Competition-Siamese_Twins-Need_for_a_Multilateral_Framework_on_Competition.pdf)

## 3<sup>rd</sup> Biennial International Conference

### ‘Competition Reforms: Emerging Challenges in a Globalising World’

CUTS have considerable rich experience spanning over two decade in nearly 30 developing and least developing countries of Asia and Africa in advocating competition reforms. It strongly believes that competition reforms should be pursued to level the playing field and prevent interest groups and individuals from controlling the market.

Against this background, one of the key initiatives that CUTS and CUTS Institute for Regulation and Competition (CIRC) have taken in last few years is to provide a platform to deliberate and discuss key economic and governance challenges to competition and economic regulation at an international level and had organised two previous conferences in New Delhi, India.

The idea for this biennial series was conceived in the backdrop of developing countries concerns of frequent regulatory failures that undermine the capacity to achieve policies important to citizens and consumers. Such failures are due to persistent and common patterns of over-regulation, under-regulation, poorly designed regulation and implementation, and weak institutional capacities.

The third, in the series, on ‘Competition Reforms: Emerging Challenges in a Globalising World’ to be held in New Delhi, on November 18-19, 2013 would be another attempt to forge convergence by putting on display different approaches for rationalising, formulating and evaluating economic regulation as well as defining stakeholder participation in such regulation.

[www.cuts-ccier.org/BiennialConference/index.htm](http://www.cuts-ccier.org/BiennialConference/index.htm)

#### Advocacy through Media

##### Proscribe pay-for-delay

*Financial Express, September 16, 2013*

**Pradeep S Mehta**

In the pharma company Actavis case, the Federal Trade Commission observed that reverse payment settlements should be declared unlawful as a general rule because they are anti-competitive and harmful to consumers by directly restricting output and raising prices. Although no concrete action has been taken against such deals as yet in India, nothing prevents Competition Commission of India to carry out investigations to uncover such shady deals and take action. Banning such deals, in India as well as globally, will not only save consumers extra money, it will also help prevent patients from discontinuing their necessary medication because of high cost of brand-name drugs. It is yet to be seen how quick the world’s largest market for generic drugs realises the need to do the same.

[www.cuts-ccier.org/Article-Proscribe\\_pay\\_for\\_delay.htm](http://www.cuts-ccier.org/Article-Proscribe_pay_for_delay.htm)

##### Flying in the face of the free market

*Business Standard, July 30, 2013*

**Pradeep S Mehta**

The proposal by the Ministry of Civil Aviation to create a cell to keep a watch on airfares and report unusual patterns to the Competition Commission of India (CCI) is anathematical to free market principles. Airlines follow a dynamic pricing strategy of charging passenger fares depending on when a flight is booked or on the simple principle of supply and demand on a particular route at a point of time. Nowhere in the world do governments regulate airfares, but they do expect their competition agencies to take deterrent action against the colluders. The government’s role is to promote competition in the marketplace so that players do not exploit the market.

[www.cuts-ccier.org/Article-Flying\\_in\\_the\\_face\\_of\\_the\\_free\\_market.htm](http://www.cuts-ccier.org/Article-Flying_in_the_face_of_the_free_market.htm)

##### Why is business afraid of a more efficient competition law?

*Financial Express, July 05, 2013*

**Pradeep S Mehta**

Traditionally, business opposes any competition law around the world, because they fear that its application will bite into their bottom lines, which is an extremely misplaced fear. Perhaps, they are ignorant of the fact that a competition law actually builds up their balance sheets, as many studies have shown, by making them more efficient and regulating the anti-competitive practices of their competitors, input suppliers and distributors... Any law anywhere in the world is not static and changes are made depending upon the experience that is gained, so what’s wrong with the proposed amendment bill?.

[www.cuts-ccier.org/Article-Why\\_is\\_business\\_afraid\\_of\\_a\\_more\\_efficient\\_competition\\_law.htm](http://www.cuts-ccier.org/Article-Why_is_business_afraid_of_a_more_efficient_competition_law.htm)