



Competition and Regulation in India, 2011

A Panel discussion on ‘The Political Economy of Regulation in India: Impact on Investments and Economic Growth’ was organised by CUTS International in association with CUTS Institute for Regulation & Competition (CIRC), at New Delhi on December 26, 2012 with an objective of analysing the impact of economic regulation on investments and economic growth.

The panel discussion was chaired by Ashok Chawla, Chairman, Competition Commission of India and moderated by Pradeep S Mehta, Secretary General, CUTS International. This discussion marked the release of CUTS and CIRC report by Chawla entitled, ‘**Competition and Regulation in India, 2011**’ supported by the Royal Norwegian Embassy, New Delhi. The first report in the series of biennial reports on Competition and Regulation in India was released in 2007 while the second report was released in 2009.

Pradeep S Mehta presented the highlights of the mentioned report elaborating on the need to analyse the importance and effectiveness of regulatory institutions/processes, awareness among consumers and other stakeholder groups in all the studied sectors – Micro Finance Institutions, Natural Gas, Real Estate Sector, Retail Distribution, Passenger Road Transport and Telecommunications apart from cross-sectoral issues such as Political Economy of Regulation and Essential Facilities Doctrine.

Dhanendra Kumar, former Chairman, Competition Commission of India (CCI) said that there is a need to build human capital for dealing with regulatory issues as well as generate awareness among the common man regarding the benefits of competition and regulation. He congratulated CUTS and CIRC for taking path

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L-R: Pronab Sen, Dhanendra Kumar, Pradeep S Mehta, Ashok Chawla, Ashok Lavasa and Rajat Kathuria

breaking initiatives in these field and making appropriate policy recommendations.

Ashok Lavasa, Additional Secretary, Ministry of Power, felt that regulators were created as a result of demands by the polity because of inherent contradictions in the tasks of governance and regulation. Expressing his views regarding the need for a coal regulator, he mentioned that there is no need for a regulator, if we are able to break the monopoly of one supplier of coal in the country.

Pronab Sen, Country Director, International Growth Centre stressed on the importance of mapping of social objectives while establishing regulators in the country and that the regulatory regime should be adopted given the socio-political situation in India.

Rajat Kathuria, Director and Chief Executive, ICRIER laid emphasis on undertaking sound research to map empirical evidence regarding the impact of regulatory decisions in terms of costs and benefits on the consumers and the economy.

www.cuts-ccier.org/icrr2011/Panel_Discussion_and_Book_Release_Competition_and_Regulation_in_India_2011.htm

Meeting with Bruno Lasserre, President, French Competition Authority

CUTS organised a meeting with Bruno Lasserre, President of the *Conseil de la Concurrence* (French Competition Authority), on December 19, 2012 to interact, share experience and shed light on the work done by CUTS in the competition sphere.

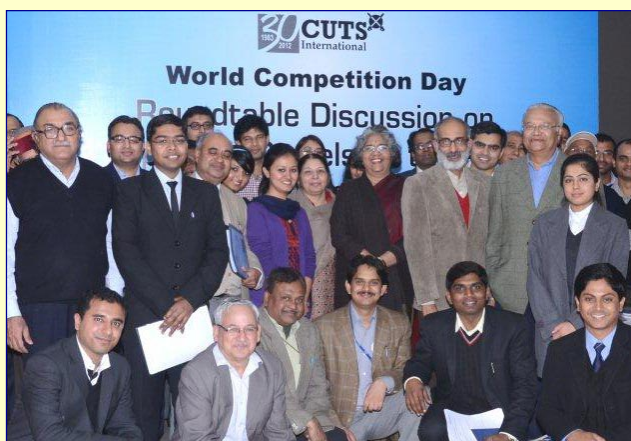
Lasserre provided a brief overview of the French Competition Authority and the functionality of the Commission. He shared details of select important cases handled by the Competition Authority. He mentioned about the European Competition Network (ECN) of which the French Competition Authority is a member. He spoke in detail about the underlying model of the ECN and how it is instrumental in providing consistency in implementing competition principles and conducting competition impact assessments pan Europe.

Lasserre appreciated CUTS’ efforts and the work done by its various departments. He suggested that CUTS should be involved in the peer review of countries’ competition policy & law. He hoped to interact with CUTS in future endeavours in order to take the agenda of Competition Policy & Law forward.

World Competition Day



CUTS organised a roundtable discussion on 'Impacts of Cartels on the Poor' in New Delhi, on December 05, 2012 on the occasion of World Competition Day, a campaign running by CUTS to observe the day on 5th December since 2010.



Participants gathered to celebrate World Competition Day

Pradeep S Mehta, Secretary General, CUTS speaking on the reason behind celebrating World Competition Day on 5th December every year flagged off the discussion. He mentioned that on 5th of December 1980, the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (UN Set)

was approved by the UN Conference on Restrictive Business Practices.

Therefore, CUTS has been running the campaign for adoption of 5th of December every year as the World Competition Day. In order to sharpen measures for protecting consumers from cartels, this year on the World Competition Day the dedicated theme was "Impact of Cartel on the Poor", as mentioned by Mehta.

Ashok S Ganguly, MP, Rajya Sabha defining cartelisation as a process "which benefits who cartelise but hampers against whom they cartelise" discussed cartelisation from business as well as national perspective and said that apart from business cartelisation there are few other cartelisation which are inter-linked or have equally cascading impact on the poor, i.e. political and non-state cartelisation. He stated that the discussion on World Competition Day cannot be complete until these peripheral issues are not unfolded.

Geeta Gouri, Member, CCI mentioned that cartels are most vicious anticompetitive practices. She suggested that a topic that needs to be further studied is the agriculture market and the primary level *mandi* which are cartels controlled by a particular class of traders all over the country.

www.incsoc.net/pdf/Proceedings_Roundtable_Discussion_Impact_of_Cartels_on_the_Poor.pdf

National Competition Policy and Economic Growth in India



With the objective of carrying forward the 'advocacy agenda' for effective adoption of the National Competition Policy, CUTS International, with support from the British High Commission, New Delhi is implementing a project entitled "National Competition Policy and Economic Growth in India". This project will be implemented in two phases. In the first phase (up to March 2013), specific studies will be undertaken covering select sectors, such as Pharmaceuticals, Electricity, and Food & Agricultural Marketing Sector.

The Research Design meeting was held in New Delhi on November 09, 2012 to address the following objectives:

- Review the progress of the research in the three select sectors and map the direction of the research progress with the project objectives
- Discuss and fine-tune the research methodology and facilitate discussion amongst participants
- Introduce the newly developed **Competition Impact Assessment Toolkit** for undertaking legal and policy analysis in select three sectors

The researchers associated with three sector studies presented their literature review, proposed methodology, sources of data and challenges of the study. The discussion that took place during their presentations provided valuable inputs and comments regarding their study to proceed further.



L-R: Dhanendra Kumar, Andrew Jackson, Arun Maira, Nitin Desai, M Veerappa Moily, Pradeep S Mehta, Ajay Chhibber and B 'Jay' Panda

www.cuts-ccier.org/Compeg/Event-ComPEG_Research_Design_Meeting.htm

Preliminary Information Report on Air Cargo Cartels

The aim of this report is to provide relevant information regarding the anticompetitive activity of cartelisation, indulged into by the cargo airlines in India and worldwide, having an adverse impact on the Indian consumer, in conduct of their business, in order to elucidate the need for the CCI to suo moto undertake a detailed investigation into their actions. The basic concern in this report is the overcharging of cargo freight, in the garb of fuel surcharge, by the air cargo transport cartels formed by domestic airlines and also international airlines which adversely affect Indian consumers and hamper economic development of the country.

Cartels are one of the most harmful yet most prevalent forms of anticompetitive practices around the world. One of the examples of such harmful cartels in India and globally is the air cargo transport cartel formed by the domestic as well as international airlines to rig cargo prices under the pretext of fuel surcharge on cargo by not applying a rational pricing mechanism for the same. Recently in India, there have been such instances of steep rise in the cargo prices.

The basic purpose of levying the fuel surcharge on the cargo by the airlines is to mitigate the volatility of fuel prices and it was first introduced in India on May 2008. Recently in November, 2012 the fuel surcharge by the domestic airlines was increased by 15 percent without any justification from the airlines, when in fact there was a clear reduction of fuel price from September, 2012 when the fuel surcharge was last updated.

In India in past the Ministry of Civil Aviation and the Director General of Civil Aviation have both issued warnings to such Indian carriers asking them to desist from increasing fares in tandem. The regulator in 2012 also has made it mandatory for the airlines to disclose price bands. However, no strict action has been taken against the cartelisation activities involved into by such domestic airlines.

It is important to highlight that it is not only the domestic airlines whose cartelisation activities will have an impact on the country. The victims of cartels formed by the international airlines are also from all over the world.

Strict steps have been taken against such air cargo transport cartels in several countries. Hence, it is clear that the various countries around the world have taken action against the air cargo cartels, especially the developed countries which have a well-developed legal system to check and prevent such cartels. However, most of the developing countries, because of lack of resources and inexperience lag behind in this area.

In light of the above, CUTS request CCI to investigate into the air cargo transport cartels formed by the domestic airlines as well as the international airlines carrying cargo to and from India. It is important for the growth of the market that these cartels be broken and more transparency be brought in price fixing by the airlines by taking firm steps in this direction.

www.cuts-ccier.org/pdf/Preliminary_Information_Report_on_Air_Cargo_Cartels.pdf

New Project

Competition Reforms for Enhancing Social & Economic Welfare in Developing Countries



CUTS with support from DFID, UK and BMZ through GIZ, Germany has initiated a project entitled 'Competition Reforms in Key Markets for Enhancing Social & Economic Welfare in Developing Countries – CREW', to be implemented over a period of three years in four countries.

The project aims to develop an approach, which would help assessing the impact of competition reforms on consumers and producers in select two sectors. One of the main goals of this project is to demonstrate the benefits of competition reforms for consumers and producers, so that greater attention and support can be provided to this issue by policymakers based in developing countries.

The planning meeting of the project was held in Bonn, Germany on November 08-09, 2012 to plan the preparatory phase of the project. The meeting discussed the overall programmatic and implementation related issues.

An Inception Meeting and First Project Advisory Committee Meeting is scheduled to be held in Jaipur, India on March 13-14, 2013. The purpose of the meeting is to evolve the project methodology and provide clarity on selection of the project countries and sectors.

www.cuts-ccier.org/CREW

Representations

Rijit Sengupta attended the second meeting of the Indian Institute of Corporate Affairs and *Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH* Expert Group for Operationalising the National Voluntary Guidelines in India at New Delhi, on October 26, 2012.

Pradeep S Mehta attended the Infrastructure Conclave 2012: Opportunities and Challenges in India's Infrastructure Growth organised by PHD Chamber at New Delhi, on October 01, 2012.

Why regulation of organised retail is important

Financial Express, December 18, 2012

Pradeep S Mehta

The winter session of Parliament witnessed another chaotic period on several issues, including foreign direct investment in the multi-brand retail sector. What is surprising is that the main opposition party, when in power in 2002, wanted to allow FDI in retail and the incumbent ruling party labelled it as anti-national. Now the tables have been turned around, quite funnily. The large retail sector has its own peculiarities and needs to be regulated in a sui generis fashion, as many countries have also done. Better late, than never.

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

Why_regulation_of_organised_retail_is_important.htm

India's uneven playing fields

Business Standard, December 14, 2012

Pradeep S Mehta

Competitive neutrality is a minimum condition for effective mixed markets, for which the government needs to adopt and implement the National Competition Policy quickly. Despite being an essential ingredient for a successful competition regime, India is seeing several instances of distortion of this principle across its various sectors. In the recent past, there have been many such cases. For this to happen soon, the government needs to adopt the National Competition Policy and implement it.

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

Policies to allocate natural resources should be dynamic and transparent

Economic Times, November 26, 2012

Pradeep S Mehta

The Supreme Court is rightly peeved that the government did not auction the entire spectrum vacated as a consequence of the cancellation of the dirty licences in February, and so are the people of India. But even if the government had done so, the heroic recommendations on a high reserve price might have had the same result.

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

Policies_to_allocate_natural_resources_should_be_dynamic_and_transparent.htm

PSUs cartelising in insurance?

Financial Express, November 06, 2012

Pradeep S Mehta

Government is expected to encourage competition as it creates efficiency in the economy. Following the 1990s reforms, the insurance sector was deregulated and private sector firms were allowed to operate in India. Until the 1972 law on nationalisation of the insurance business, many private players did operate in India. Then the government nationalised the insurance sector. Now that there is a healthy competition in the sector, thanks to the arrival of many private players, the finance ministry wishes to turn the clock back.

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

Should banking M&As come under the CCI?

Business Standard, October 10, 2012

Pradeep S Mehta

One must compliment Palaniappan Chidambaram to be able to rise above narrow considerations and support the jurisdiction of the Competition Commission of India (CCI) as the sole body to review mergers in not only banking, but all sectors. Thus, he has promoted the integrity of the economic governance system, which is imperative for the success of economic reforms. All countries empower the competition regulator to oversee competition issues in all regulated sectors, including banks, purely because of their skills. The only exception vis-à-vis banking mergers is Turkey, but there, too, the central bank has to use the competition law to review mergers.

www.cuts-ccier.org/Article-Should_banking_M&As_come_under_the_CCI.htm

Should_banking_M&As_come_under_the_CCI.htm

CCI needs to pull up its socks

The Financial Express, October 08, 2012

Pradeep S Mehta

Recently, CUTS published a round-up on the performance of the Competition Commission of India called "CCI through the lens of media". The media scan captures CCI's reported activities from 2009 in an attempt to assess how it has performed since it became active in enforcement. Notwithstanding this, some deficiencies, such as a lack of sound economic reasoning in its case analyses and a desired level of consistency in its orders which is partly attributed to this, continue to mar its functioning. To do this better, CCI needs to pull up its socks.

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

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The two percent conundrum

Business Standard, October 06, 2012

Rijit Sengupta

The implementation of public policies in India is often characterised by lack of convergence of ideas and processes, resulting in unnecessary duplication of efforts and loss of public resources. Such discordant policy processes not only baffle their implementers, but also reduce the anticipated benefits considerably. The development and implementation of the government's "corporate social responsibility" strategy seem to have followed this trend. As a result, there is a lot of confusion and misgivings about how to make it operational.

www.cuts-ccier.org/BRCC/Articles-The_two_per_cent_conundrum.htm

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