



Competition Reforms and Emerging Challenges in a Globalising World

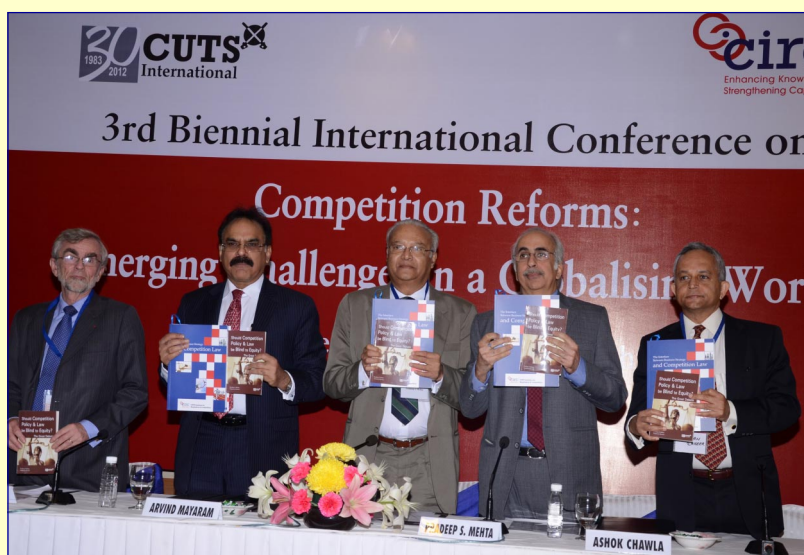
CUTS have considerable rich experience spanning over two decade in nearly 30 developing and least developing countries of Asia and Africa in advocating competition reforms. It strongly believes that competition reforms should be pursued to level the playing field and prevent interest groups and individuals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

The third, in the series, on 'Competition Reforms: Emerging Challenges in a Globalising World' was held in New Delhi, on November 18-19, 2013. This was an 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.

The conference featured national and international experts from polity, business, academia, media and others on key economic, governance and public policy issues facing developing countries in a globalising world. The conference started with the concept of elaborating on aspects of business strategies expected to be impacted and/or not impacted by the Competition law. This helped participants to understand



L to R: Frederic Jenny, Arvind Mayaram, Pradeep S Mehta, Ashok Chawla and Salman Zaheer

how to take business decisions in the light of expected deliberations of the current competition regime.

Further, it continued with covering issues, such as combinations, joint ventures and intellectual property rights, and the importance of effective competition compliance, which is one of the most significant matters of concern for the corporates.

The sessions included:

- Should competition policy and law be blind to equity – The Debate
- Competition policy in developing countries – What makes it different from developed world?
- How independent and accountable are competition agencies?
- How to deal with overlaps and conflicts between competition authorities and sector regulators?
- Multilateral disciplines on trade and competition: Overview of the Debate
- Strengthening transparency and accountability in public procurement – Competition is a Key
- Global landscape of competition scenario

A Policy Souvenir entitled, 'Interface between Business Strategy and Competition Law' and the Book, 'Should Competition Policy and Law be Blind to Equity? The Great Debate' was released on the occasion by Frederic Jenny, Judge, French Supreme Court; Arvind Mayaram, Economic Affairs Secretary; Pradeep S Mehta, Secretary General, CUTS International; Ashok Chawla, Chairman, Competition Commission of India; and Salman Zaheer, Programme Director, Regional Integration, South Asia The World Bank.

www.cuts-ccier.org/BiennialConference/index.htm

National Competition Policy & Economic Growth in India



CUTS Centre for Competition, Investment & Economic Regulation (CUTS C-CIER) organised a Seminar on 'National Competition Policy: Second Wave of Reforms in India' as part of project entitled 'National Competition Policy & Economic Growth in India (ComPEG)' at New Delhi, on October 10, 2013.

The purpose of the seminar was to impress upon industry champions on the need for adoption and effective implementation of National Competition Policy (NCP), which would require among other things, harmonisation of government policies at both levels (Centre and state) with principles of competition.

On the basis of the discussion and inputs during the meeting, CUTS is in the process of revising the Memorandum, which will be finalised and submitted to the Prime Minister of India including Ministry of Corporate Affairs, Government of India in January 2014, to build pressure for adoption of NCP. www.cuts-ccier.org/CoMPEG/



L to R: Ashok Chawla, Arun Maira, Pradeep S Mehta and Andrew Soper

Enhancing Social and Economic Welfare in Developing Countries

CUTS organised Partners' and Project Advisory Committee (PAC) meetings under 'Competition Reforms in Key Markets for Enhancing Social & Economic Welfare in Developing Countries' (CREW) Project on November, 19-20, 2013 respectively.



The project is being implemented with support from the Department for International Development (DFID), UK and BMZ, Germany through GIZ. The central aim of the project is to provide evidence based understanding to policymakers of developing countries, of the

benefits of competition, with respect to consumer and producer welfare.

The Partners' meeting was a prelude to the next day's momentous PAC meeting. It was an informal interaction between the country partners, where they shared the issues and challenges faced while drafting the respective methodology for Country Diagnostic Reports (CDRs).

The PAC meeting was an important meeting as it sought to evaluate the work-in-progress with regard to the CDRs. The PAC members provided inputs to sharpen the hypotheses and suggested matrices be filled by marking relevant variables against reforms to address the data related issues.

www.cuts-ccier.org/CREW/

India Competition and Regulation Report, 2013

CUTS Centre for Competition, Investment & Economic Regulation organised seminars on regulation and competition issues in finance and private healthcare sectors, at Mumbai, Maharashtra and Ahmedabad, Gujarat on December 16 and 18, 2013, respectively, as a part of the India Competition and Regulation Report, 2013 (ICRR IV).

The seminars involved a panel discussion amongst sector experts, on prevailing concerns and the reforms required in the respective sectors. Findings of sector papers developed for the ICRR IV project were also discussed.



ICRR is a biennial project which conducts assessment of competition and regulation scenario in the country. The project is supported by the Ministry of Foreign Affairs through the Royal Norwegian Embassy in New Delhi.

Three ICRR reports (2007, 2009, and 2011) have been released until now and the ICRR IV (2013) focuses on competition and regulation in select sectors (coal, finance, private healthcare and railways) and certain cross-cutting issues (regulatory overlaps and regulatory independence).

In addition, stakeholder perception surveys about the state of competition and regulation in the economy in general and also for the select sectors have been conducted, to support the analysis and findings of the secondary research. The findings of the perception surveys are being converted into a dedicated paper, which will form part of the ICRR IV report.

Business Responsibility and Corporate Conduct in India

CUTS organised a meeting to discuss the findings of a report entitled “Rethinking Business Responsibility in India” published under the project ‘Business Responsibility and Corporate Conduct in India’ at New Delhi on November 18, 2013.

The report highlight issues that can help stimulate better business for achieving sustainable development goals in India. Two sectors, i.e. Pharmaceutical and Private Healthcare were selected to carry out the research in Andhra Pradesh, Gujarat, Himachal Pradesh & West Bengal. Evidence from both the sectors has been gathered through extensive primary research and secondary analysis involving key stakeholders from these two sectors.

An Interstate Regulators meeting was organised at Goa on October 04-05, 2013 to explore the possibilities of creating a ‘Forum of State-Level Regulators’ to enhance regulatory effectiveness of the pharmaceutical and private healthcare sectors in India.

An Interface Meeting for private healthcare sector at the state level was held at Kolkata on December 03, 2013 to prepare a blueprint of a responsible private healthcare sector at the state level.

Following this, CUTS in partnership with Indian Institute of Management-Bangalore organised a capacity building workshop for pharmaceutical and private healthcare sector at Bangalore on December 05, 2013.



L to R: Pradeep S Mehta, Eivind S Homme, Arun Maira and Dhanendra Kumar

Stakeholders’ Roundtable was organised at Bangalore on December 06, 2013 to discuss the findings of the BRCC project in presence of key stakeholders related to pharmaceutical and private healthcare sector.

In order to take the discussion forward on exploring how pharmaceutical firms could promote business responsibility and behave as better business in India given the public interest interface of the industry, a State-Business Interface Meeting was organised at New Delhi on December 11, 2013.

The meeting facilitated a discourse among senior policymakers and industry leaders in the pharmaceutical sector to develop a common understanding on feasibility and importance of business responsibility in the sector.

www.cuts-ccier.org/BRCC/

Advocacy

Reforming the Regulatory Environment for Doing Business in India

The Committee for Reforming the Regulatory Environment for Doing Business in India (Committee) was set up in wake of the Doing Business Report 2012, released by the World Bank and the International Finance Corporation, which ranked India at 132nd position amongst 183 countries, on the criteria of ease of doing business. The Committee submitted its report to the Ministry of Corporate Affairs in September 2013, and comments were invited on the Committee recommendations.

CUTS provided comprehensive comments on the report of the Committee (available at, www.cuts-ccier.org/pdf/CUTS-Comments_on_the_Report_of_the_Committee_for_Reforming_the_Regulatory_Environment_for_Doing_Business_in_India.pdf). The report of the Committee was in furtherance of the report of the Working Group on Business Regulatory Framework (WGBRF), Steering Committee on Industry, Planning Commission, which conducted a detailed

analysis of business regulations and provided exhaustive recommendations to create an enabling business ecosystem for sustainable and inclusive business development in the country. CUTS acted as Knowledge Partner to the WGBRF.

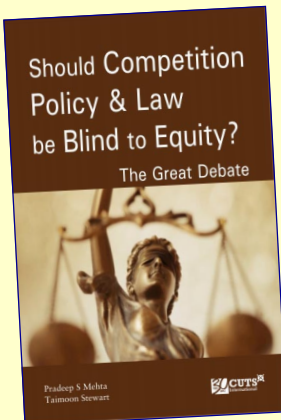
It was expected that the Committee would take forward the recommendations of the WGBRF, and prepare a credible framework/ roadmap to implement its suggestions. However, it seems that the Committee could not resist the temptation to prepare a comprehensive report covering as many issues as possible, which affect the business regulatory environment in India.

As a result, the Committee has ended up providing broad recommendations with little details or roadmap on practical implementation, which may make this report an addition to the ever increasing pile of unimplemented reports on various kinds of reforms.

Book

Should Competition Policy and Law be Blind to Equity? *The Great Debate*

The role of competition authorities is quite critical in ensuring equity while carving the path of growth in an economy. This volume is an attempt to present collection of views of competition practitioners and others from across the globe on linkages between growth and equity. The methodically reasoned opinions came in the form of debate on the issue of growth and equity and role of competition authorities, which happened over an e-discussion group ‘CompetitionOnlineForum’ hosted by CUTS International in 2013.



Almost all the contributors to the debate agreed to the point that element of equity should not be overlooked by policy makers while chasing growth, else it would lead to protest and backlash from the society not receiving benefits from the overall development of the country. This was also the point made by C. Rangarajan which initiated the whole debate.

This publication firmly analyses the importance of competition law and its role in achieving equity. However, there are different opinions on the subject of the extent to which competition law and its enforcement should seek to incorporate equity.

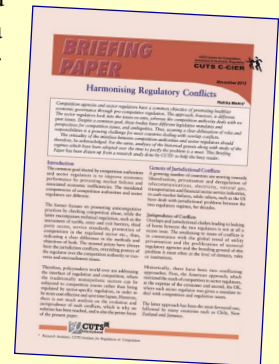
www.cuts-ccier.org/Book/Competition_Law_and_Equity.html

Briefing Paper

Harmonising Regulatory Conflicts

Competition agencies and sector regulators have a common objective of promoting healthier economic governance through pro-competitive regulation. The approach, however, is different. The sector regulators look into the issues *ex-ante*, whereas the competition authority deals with *ex-post* issues. Despite a common goal, these bodies have different legislative mandates and perspectives for competition issues, and ambiguities. Thus, securing a clear delineation of roles and responsibilities is a growing challenge for most countries dealing with overlap conflicts.

The criticality of the interface between competition authorities and sector regulators should therefore, be acknowledged. For the same, analyses of the historical genesis along with study of the regimes which have been adopted over the time to pacify the problem is a must. This Briefing Paper has been drawn up from a research study done by CUTS to help the busy reader.



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

Representation

Pradeep S Mehta participated in the 3rd BRICS International Competition Conference on the theme “Competition Enforcement in BRICS Countries: Issues and Challenges”, at New Delhi on November 20-21, 2013. He presented a paper and delivered a presentation on *Competition Culture: The Key to Successful Competition Regime*.

Advocacy through Media

Build a Compliance Culture

Financial Express, November 22, 2013

Every country needs a healthy competition culture through regulation of anticompetitive practices, removal of competition impediments and awareness generation. In many competition regimes, penalties for violating firms are reduced if the said firms have compliance programmes in place; such provisions incentivise businesses to be competition-friendly. Hitherto, the role of CCI has been restricted to limited awareness generation without any proactive advocacy. So, the unilateral awareness-generation approach of CCI seems to be short-sighted and misses the ultimate goal of building a culture of competition and self-compliance. Building a culture of compliance is a step ahead of plain awareness generation.

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