

CUTS CCIER ACTIVITIES REPORT

Making Competition and Regulatory Regimes Matter in Increasingly Online Developing World



CUTS International and CUTS Institute for Regulation & Competition (CIRC) organised the 6th Biennial Conference on Competition, Regulation and Development at New Delhi, India on December 01-02, 2019. Through the 6th edition, the international conference entered its 12th year and as always, it brought together a unique set of expert stakeholders from across the globe.

The theme of the conference was “Making Competition and Regulatory Regimes Matter in Increasingly Online Developing World”. The objective of the conference was to discuss the current state of competition and regulatory regimes in developing economies, challenges posed and opportunities offered by the increasingly online developing world, and policy and implementation innovations required to make them matter for sustainable development. The conference was attended by

more than 100 participants from around the globe, representing competition agencies, industry bodies, regulators, inter-governmental organisations, development organisations, law firms, civil society, media, and academia.

Some eminent personalities that deliberated during the event include:

- Baijayant ‘Jay’ Panda, National Vice President BJP and Former Member of Parliament, India;
- George K. Lipimile, Director and CEO, COMESA Competition Commission;
- Joel Abraham, CEO, Fijian Competition and Consumer Commission;
- Sangeeta Verma, Member, Competition Commission of India;
- Amit Kapoor, Honorary Chairman, Institute for Competitiveness;
- Rene Van Berkel, Representative, Regional Office India, UNIDO;

- Rathin Roy, Director, National Institute of Public Finance and Policy;
- Payal Malik, Adviser (Economics) & Head Economics Division, CCI;
- Arvind Mayaram, former Finance Secretary of India and Chairman, CIRC;
- Caron Beaton-Wells, Professor, The University of Melbourne;
- Raju Parakkal, Associate Professor, Thomas Jefferson University;
- Barak Y. Orbach, Professor, University of Arizona James E. Rogers College of Law;
- Jonathan Wong, Chief of Technology and Innovation, UNESCO for Asia and the Pacific;
- Kusha Haraksingh, Immediate Past Chairman and Commissioner, CARICOM Competition Commission;
- Duangthip Chomprang, Director, International Institute for Trade and Development;
- Pierre Horna, Legal Affairs Officer, Competition and Consumer Policies Branch, UNCTAD;
- Ryohei Yoshinari, Assistant Director, International Affairs Division, Japan Fair Trade Commission;
- Peter Misiani Mwencha, Lecturer, Kenyatta University; and
- Allan Asher, Chair, Foundation for Effective Markets & Governance.

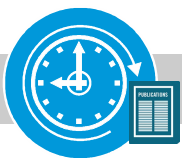
The deliberations at the event, containing all together five sessions, not only laid out clear competition and regulation challenges posed by a digital economy but also deliberated on the possible way forward for addressing them. It is to be noted that the life of a modern consumer is dependent on digital technology, which is

largely provided by large multi-national foreign companies. Some of such companies may become or may have already become too big to regulate.

An appropriate regulatory response is much needed at this stage. However, the same should not stifle innovation, nor should it hamper the transition of any country from a traditional economy to a knowledge-based economy. The interests of all stakeholders must be taken into account while devising regulatory responses, with special emphasis on consumer welfare. It also came out that competition reform can be a useful tool to deal with emerging challenges, particularly those posed by the digital economy. The adoption and implementation of national competition policy can institutionalise such a reform process.

As the way forward it came out that CUTS should continue its proactive engagement with relevant stakeholders, especially policymakers and regulators across sectors and jurisdiction, to further its mission of consumer sovereignty. Engagement with inter-governmental organisations, non-government organisations and consumer/advocacy groups across borders may also be useful in order to gain a diverse perspective on evolving competition and regulatory issues, along with learning from the experience of other researches within this realm. The inter-linkages between competition, regulation, and social sciences may also be explored in depth.

For more details, please visit: <https://cuts-ccier.org/6th-cuts-circ-biennial-conference-on-competition-regulation-and-development/>



Forthcoming Publication

Competition and Regulation in India, 2019

This 2019 Report on Competition and Regulation in India is very timely because the theme is '*Digital Economy – Hitting the reset button on competition and regulatory governance*'. The Report throws light on some very important facets of regulation and competition that are still not settled in the emerging digital economy. The insights from this report can be helpful in optimising gains from the economy.

Data Protection and Privacy & Impact of Personal Data Protection Bill, 2018



CUTS International organised a daylong consumer awareness workshop on Data Protection and Privacy & Impact of Personal Data Protection Bill, 2018 (PDPB) in Kolkata on November 01, 2019. The workshop engaged key local stakeholders from north-east and east India in order to build their capacity to further engage with citizens and policymakers productively on the issues of privacy and data protection and to also help consumers' put forth their perspectives.

The workshop highlighted issues related to data leaks, data breaches, and surveillance. Several stakeholders participated in the discussion, including policy influencers, academia, consumer organisations, think tanks, and media, among others.

Bipul Chatterjee, Executive Director, CUTS International, delivered the opening remarks and highlighted the role of citizens in enhancing privacy and protecting their personal data. Further, he mentioned that the key objective of this workshop is to deconstruct the concepts around privacy and data protection for a common man in order to enable his engagement in the debates surrounding the issue.

Swati Punia, Assistant Policy Analyst, CUTS International, mentioned that increasingly vulnerable groups are coming within the fold of digital economy and therefore having data protection that protects their privacy is need of the hour.

Faiza Rahman, National Institute of Public Finance and Policy, discussed the importance of notice-consent framework in the context of data privacy. Subsequently, discussions revolved around the needs and challenges in implementing a transparent, accountable, easy to understand, and affirmative data privacy framework.

Rahul Sharma, Founder, The Perspective, and Country Head-India, International Association of Privacy Professionals, focused on demystifying the concepts of rights and entitlement of users as provided under the PDPB. He explained various concepts and principles pertaining to data privacy; the evolution of the data protection regime in India, and the overall context in which the issue of data privacy should be considered.

S. Prasanna, Advocate, Supreme Court of India, discussed the enforcement and

regulation regime under the PDPB. He elaborated on the redressal mechanism for the consumers, along with the procedure for filing a complaint, generating an inquiry, and going for appeal.

Overall, participants emphasised that PDPB needs translation to regional languages, and such citizen-centric legislations should not just be in English. Moreover, all participants raised the need to supplement the same with training and outreach events that help educate and empower consumers, especially in tier II and III as well as rural areas.

Following the main event, Daniel David Castro, Vice President of Information

Technology and Innovation Foundation (ITIF) and Director, ITIF's Centre for Data Innovation gave a keynote address. Speech attendees included workshop participants, key local stakeholders from the industry, academia, lawyers and civil society. The address revolved around two important concepts: Convergence in Privacy Frameworks and Cross Border Data Flows (CBDF). The session attempted to explore the measures that could be undertaken to support a harmonised evolution and convergence of data privacy frameworks that facilitate CBDF.

For more details, please visit: <https://cuts-ccier.org/consumer-awareness-workshop-on-data-protection-and-privacy-impact-of-personal-data-protection-bill-2018-2/>



Advocacy

CUTS Comments on Discussion Paper on Guidelines for Payments Gateways and Payment Aggregators

CUTS submitted its comments for the Reserve Bank of India on Discussion Paper on Guidelines for Payments Gateways (PG) and Payment Aggregators (PA). Following are some of the comments:

- Guidelines prescribe requirements for the E-Commerce marketplace to stop acting as PG/PA to other merchants within three months. Additionally, they will need to create a separate entity if they wish to act as PG/PA. This will add unwarranted costs burden on market players and thus, should replace with function centric approach to regulation. If the intention is to address conflict of interest concerns, the creation of virtual information barriers can be a way forward.
- Guidelines should not restrict PG & PA to deal with merchants irrespective of their physical presence in the country.
- Guidelines prescription of a capital minimum net worth of Rs 100 crores for PG and PA is a market barrier, instead, adopt a risk-based approach linked with the value of gross outstanding transactions, or a similar indicator.
- Entities who fail to comply with the net worth requirement will have to wind up their PG & PA operations within one year. As the compliance time period is too short, in addition to the current economic scenario, such a requirement will push out players from the market that have the potential to grow and offer a better quality of services.
- Customer grievance redressal and dispute management framework should be in alignment with the RBI's notification on Turn Around Time and the Ombudsman Scheme for Digital Transactions, 2019 compliance with which should be reviewed from time to time.

Representations



Udai S Mehta participated in an event 'Mumbai Tech Talk: Regulating disruption and deepening digital payments in India' at Mumbai on October 09, 2019. The Mumbai Tech Talk was a multi-stakeholder event that examines how Mumbai and other cities in India should leverage the numerous opportunities that the fourth Industrial revolution brings.



Advocacy through Media

The relevance of good competition policy to our aims

Live Mint, December 26, 2019

By Pradeep S Mehta

A policy that ensures truly competitive markets could help India plug the gap between its targeted and projected growth, and thus help the economy reach US\$5tn by 2024-25. In 2018-19, the size of the Indian economy (at current prices) was US\$2.75 trillion. In 2019-20, it is expected to become US\$3.03tn, with a 5.5 percent real growth rate and 4.5 percent inflation. Taking the 2019-20 figure as a base, India needs to grow 11 percent annually for the next five years to reach its target of becoming a US\$5tn economy by 2024-25.

<https://cuts-ccier.org/the-relevance-of-a-good-competition-policy-to-our-aims/>

Tik Tok poses new risks for Net users, regulation needed

Asian Age, November 05, 2019

By Pradeep S Mehta and Udai Mehta

The Ministry of Electronics and Information Technology (Meity) recently confirmed that it would issue the Notification on the Intermediary Guidelines (Amendment) Rules 2018, by January 15, 2020. The rules aim to

bring in accountability in digital technology companies, with respect to regulating harmful content being published and transmitted through their platforms. Though all social media companies (among other stakeholders) would be anxious over it, the clock's tick-tock during the wait would probably be more resounding for Tik Tok.

<https://cuts-ccier.org/tik-tok-poses-new-risks-for-net-users-regulation-needed/>

The key to the Indian economy is in better wages for the masses

Economic Times, October 11, 2019

By Pradeep S Mehta and Abhishek Kumar

As per the latest World Economic Forum's Inclusive Development Index, India ranked at a low 62nd out of 74 emerging economies. While the incidence of poverty has declined over the last five years, 60 percent of Indians still live on less than Rs 230 per day. This, alas, is accompanied by inequality both in terms of income and wealth. To put this in perspective, India's top one percent of the population now holds 73 percent of the wealth, a whopping 15 percent increase from last year.

<https://cuts-ccier.org/the-key-to-indian-economy-is-in-better-wages-for-the-masses/>