



**Exploring the Interplay between Business Regulation and
Corporate Conduct in India (BRCC Project)**

PROJECT ADVISORY COMMITTEE MEETING

26th June 2012, New Delhi

Proceedings

At the onset **Rijit Sengupta** welcomed all the PAC embers and the project partners and requested **Bipul Chatterjee**, Deputy Executive Director, CUTS to deliver a formal welcome address. Bipul extended a warm welcome to the elite gathering in the house. He expressed his views on the nature of the project and how the concept of CSR has inherently been a part of our culture and there isn't really anything novel or unique about the idea of CSR per se. However, business responsibility, the focus of the project, is definitely a significant area and deserves more attention than the stereotypical idea of charity/ philanthropy in business.

The project is appropriately addressing the impact of business responsibility on the environment and the society at large. Since the project is about the interplay between business regulation and corporate conduct, the effectiveness of business regulation was subject to implementation more than the quality and content of the regulation. He added that however we need to develop a model where business can balance social, environmental and economic considerations along with profits as profit is also an essential part of a business for its existence. Though profit is required profiteering is unethical.

Mr. Arun Maira, Member, Planning Commission and Chair, BRCC Project Advisory Committee, delivered the opening remarks. At the outset he mentioned that throughout the world the subject of business contribution towards society has expanded from consisting of pure philanthropy to include corporate responsibility and further assimilating responsible business

conduct into its purview. He further stated that there is a distinct difference between business responsibility and corporate social responsibility and these two terms should not be used interchangeably. He mentioned that we should resist our self to made any recommendations in areas such as the ones pertaining to the project as it can ‘chewed and swallowed up’ in the conflict that follows. We must aware of the consequences of the recommendations and focus mainly on the architecture of regulations. We should give direction for discussions through the findings and communicate them in the form of suggestions. Emphasis on voluntary regulations (both co and self-regulation) should be the flavor of the study.

The floor was then transferred to **Vikash Batham, CUTS** whose presentation took the gathering through the stages of evolution of the BRCC project and its status so far. Light was shed on the project overview and schema, the concepts of business regulation and corporate conduct and the selected sectors and states for executing the study. Then the research problems and the approach to, and stages of, the fieldwork were described.

The PAC wanted to know if there have been any parallel studies studying the same avenues as the one in the project. They were intimated that a huge amount of research has indeed already been done on both the sectors pharmaceuticals and private healthcare but there are no parallel studies as such covering the interplay between business regulation and corporate conduct. The study of this project is one of its kind.

Mr V K Mathur, Inapex, enquired as to how the diversity of players in terms of their size had been addressed by the project methodology. Their query was addressed by intimating to them that big, medium and small hospitals are being studied in private healthcare and both bulk drugs and formulations from large and SMEs are being studied in pharmaceuticals so as to get a comprehensive flavour of the scenario.

Reference was also made to peer regulation by **Mr Atindra Sen, BCCI** – which was good enough for other sectors like media and could be the same even for the pharmaceutical sector. Another critical query by **Mr Bimal Arora, GIZ** was about elements to be studied in the two sectors - why were only marketing & distribution and environment chosen as problem areas? It was suggested that health and safety instead of environment should have been chosen.

The query was answered to the satisfaction of the PAC – The findings of literature review undertaken indicates that Environment and Marketing & Distribution (incentive structure) are getting qualified as the vital aspects in pharmaceuticals and healthcare for inquiring into BR and CC. It did not mean that the other aspects like labour, occupational health, workplace & safety and community engagement were not important. It is just that such aspects were not directly related to the ‘responsible’ conduct’ of the players engaged. However, if instances of gross violation of responsible corporate conduct were found it will not be overlooked and are covered in the project report

At this point Shri Arun Maira showed his confidence in the project by acknowledging that it was a study of four states and two sets of regulators and thus was enough to generate a lot of knowledge and constructive deliberation. It was specially appreciated that the project aimed to study the behavior of different regulators in different settings to see the comparison between the impacts both have on their respective outcomes. This would be a very good contribution.

Jens C Anvig, NUPI reasoned that facts are supported by data and numbers are important to quantify the instances of violations though those may not be statistically significant. He also expressed his concern mentioning a different dimension that how the generic firms are behaving in the market and how much they are spending in marketing. He emphasised that the regulator should consider stringent actions like revoking the license of the firm in case of violations on their part

Post the presentation describing the project, the floor was lent to the state partners for sharing their experience of the first phase of the fieldwork.

To begin with, the *Andhra Pradesh* Partners (ESCII) exhibited their findings. Among many other intriguing observations, some opinions of the surveyed pharma firms have been mentioned as follows. Pharmaceutical companies opine environmental law should be implemented nation-wide, one state one law was unfair. It was also suggested that the government should provide infrastructure to encourage local industries. Again in the opinion of pharma companies, solutions are there for pollution mitigation – if pharma industries are at one place then it is easy to mitigate pollution in a cost effective manner. Frequent auditing for production and hazardous waste management was opined to be mandatory and under the control of regulatory bodies.

President, AP Nursing Home Association claimed that 90% of doctors do not follow ethical practices. No corporate hospital has any kind of CSR policy in place. Only 5% of hospitals are aware of bio-medical waste regulations and schemes like Aarogyashri are used more for doing wrong diagnostics and non-required surgery to get money from government.

Respondents were very skeptical as very recently there had been many cases of corruption reported due to media activism and sting operation. And public in general have very negative attitude towards health sector

Gujarat state Partners came forward with various issues like low proactivity for self-regulation among players in private healthcare and pharmaceuticals, weak system of penalties for contempt of regulation and absence of mechanism of incentives for good/ better practices. It was also observed that indulgence in cuts & commission is a well-accepted trade practice. Majority of firms are aware about the GMP but general observation is low rate of compliance in the different segments. While set-ups for effluent treatment are not sufficient in the plant or are not in working condition, the common belief is that only bulk drug production units are responsible for environmental pollution.

Himachal Pradesh state Partners mentioned that only 16% of pharmaceutical companies were found to be abiding by all the provisions of GMP pertaining to the environment. 80% of firms said they need technical support and training from Govt. on environmental issues. Alarming, not a single firm or hospital among the ones surveyed in the state, is aware about NVG's on Social, Environmental & Economic Responsibilities of Business. 68% firms and 51% hospitals were found to be unaware of the Uniform Code for Pharmaceutical Marketing Practices. Almost 80% hospitals were found not having any guideline on Rational Use of Drugs. Though 90% hospitals agreed that prescription audit should be mandatory, when conducted by the team of the state partners, they refused for the same. 60% hospitals are not in favour of Standard Treatment Protocol.

The findings of the **West Bengal** state Partner (CUTS, Calcutta Resource Centre) also have been enumerated as follows. Doctors are aware, have treatment protocols in place but just a little over 50% said they had code/ guidelines/ policies to guide doctors on prescriptions. Hospitals & pharma firms are low on awareness concerning UCPMP & NVG's etc. Regulatory regime in the sectors is weak in terms of implementation. Small pharmaceutical firms are finding it difficult to conform to increasingly stringent norms under GMP. Industry/ sector associations were not of much help to the respondents in the opinion of the latter. The awareness level on different regulations and

guidelines towards higher business responsibility was found to be low. Most respondents complained of an inadequate role play on part of the government in terms of encouraging a responsible behavior among business entities.

There were questions raised as to the need for complicated statistical details, in terms of percentages etc. in the findings when an issue could be highlighted even without the 'percentages'. It was concluded that it was useful to have numbers as that would certainly add a great deal of credibility to the study.

It was suggested by Mr Arun Maira that the designing of a "SYSTEMIC DIAGRAM" establishing linkages between various factors influencing the concerned sectors in the problem areas was envisioned to be a useful exercise. There was also a suggestion towards advocacy for the conduct of regulatory impact analysis in every state.

It was agreed that the study could be classified as a meso-level research rather than micro and macro levels. This kind of studies is rarer in the country at present. IICA showed interest in sensitisation concerning the pharmaceutical and the healthcare sector, the sectors of study in the project.

The Project Advisory Committee was fairly satisfied with the progress of the project and the valuable comments received by virtue of this meeting shall go a long way in the successful execution of the objectives of the project.

List of Participants

S.No	Participant	
PAC Members		
1.	Arun Maira Member (Industry), Planning Commission of India Yojana Bhawan, Parliament Street New Delhi	
2.	V. K. Mathur Chairman & Managing Director Inapex Limited New Delhi	
3.	Atindra Sen Director General Bombay Chamber of Commerce and Industry Mumbai	
4.	Bimal Arora GIZ Office India New Delhi, 110003	
5.	Gayatri Subramaniam (representing IICA) Indian Institute of Corporate Affairs (IICA) Ministry of Corporate Affairs New Delhi	
6.	Jens Christopher Andvig Senior Researcher Department of International Economics Norwegian Institute of International Affairs (NUPI) Oslo, Norway	
State Partners		
7.	Gopi Raghunadh , Andhra Pradesh	
8.	Hardik Solanki , Gujarat	

9.	Ashutosh Kumar , Himachal Pradesh	
10.	Prithviraj Nath , West Bengal	
CUTS		
11.	Bipul Chatterjee	
12.	Rijit Sengupta	
13.	Vikash Batham	
14.	Upasana Pannu	
15.	Vijay Singh	