

1st PROJECT ADVISORY COMMITTEE (PAC)

MEETING REPORT

**NATIONAL COMPETITION POLICY AND
ECONOMIC GROWTH OF INDIA**

(ComPEG Project)

August 20, 2012



The first of the three Project Advisory Committee (PAC) meetings to span the one and half year project entitled “National Competition Policy and Economic Growth of India” (ComPEG project) was held at the hotel Sangri-La in New Delhi, India on August 20, 2012 and attended by representatives of key Indian stakeholder institutions that were identified and invited to be part of the PAC. The PAC also includes individuals, who by virtue of their knowledge and understanding of competition and growth issues, could add value to the project that British High Commission and CUTS are jointly implementing. The following is a brief proceeding of this meeting.

A. BACKGROUND

The BHC signed a Memorandum of Understanding with CUTS Centre for Competition, Investment & Economic Regulation (CUTS CCIER) in June 2012, to undertake a one and a half-year project entitled “National Competition Policy and Economic Growth of India” (ComPEG). With the objective of carrying forward the “advocacy agenda” of the National Competition Policy (NCP) of India, the project will focus on three sectors, i.e. Pharmaceuticals, Electricity and Petroleum and Natural Gas, to identify the existing gaps against the touchstone of competition and measure the benefits of correcting the same in the entire Indian economy.

The rationale for selecting these sectors lies behind their significance in the Indian economy. Sectors, such as pharmaceuticals and infrastructure are the backbone of an economy and a propeller of socio-economic growth. It is necessary to provide a level playing field to players operating in these markets as well as lower entry barriers and facilitate greater market access. This would boost trade, investment as well as build global competitiveness in these arenas in addition to allowing a free market environment conducive to the survival of efficient and innovative firms.

The purpose of the 1st PAC meeting was to discuss, brainstorm and refine the research methodology and the term of references of the research part of the project. The further objective of the meeting is to seek experts’ opinion about the sector studies and the scope of the research.

B. PROCEEDINGS

The PAC kicked off with an opening session followed by a second session during which two presentations were delivered: one by Natasha Nayak on the project overview and followed by a presentation on the terms of reference of the project by Bipul Chatterjee. Each presentation was followed by floor interventions to discuss and brainstorm on the issues.

1. Opening Session

The opening session was chaired by **Dhanendra Kumar**, Principal Adviser of the Indian Institute of Corporate Affairs (IICA) and former chairman of the Competition Commission of India (CCI). In the welcome note, he expressed his privilege to work in the competition area and

working on the draft NCP which is currently with the Cabinet for approval. He spoke about 13 sector studies done by the IICA with the support of CUTS. The sectoral studies have revealed the constraints to infusing competition in the sectors.

Elaborating on the history of importance of competition policy, he adduced that the history of *need of competition* was better understood looking at the archives of British rule in India and the formation of east India Company and its trade. Gradually they got the monopoly in certain trading where the economic dominance led to political dominance by them in due course. He inferred that the monopoly could lead to unwarranted consequences to consumers and hence competition act was required. He further adverted on the issue of competition as a driver of economic development and explained about more players' requirement in the field/market to get desirable implementation of competition.

Pradeep S Mehta, Secretary General, CUTS International, in his opening speech briefly spoke about the project and its scope. The purpose of the project is to identify the existing lacuna against the competition paradigm and measure the benefits of correcting the same by carrying out competition impact assessment in three select sectors, i.e. Pharmaceuticals, Electricity and Petroleum and Natural Gas. The methodology of these studies for three select sectors will be used as a template for future studies and research. He mentioned that the potential researchers involved in sector studies would be Anoop Singh, Indian Institute of Technology, Kanpur for Electricity, Aditya Bhattacharya, Delhi School of Economics for Pharmaceutical sector and Sangeeta Singh, Nathan & Co. for Petroleum & Gas sector.

Andrew Jackson, Counsellor (Knowledge Economy) of the BHC, New Delhi adverted their relationship and negotiation with India. He elaborated on the aim of the Prosperity Fund which is to promote sustainable global growth to the benefit of the UK and partner countries. The use of the Prosperity Fund would be to support the establishment of transparent and stable regulatory regimes and the promotion of economic policies that underpin strong, sustainable, balanced and low carbon growth.

He flagged the spirit of the partnership of UK and India by this Prosperity Fund and mentioned about the reason for supporting this project. The purpose is to enable a more informed debate on India's reform agenda and learn from the same.

S L Rao, Member, Board of Governors, Institute for Social and Economic Change (ISEC) emphasised on the need of advocacy to promote competition culture in the economy. Mehta, in this context, spoke about CUTS long sustaining work since 2004 on the competition reforms and advocacy. Further, expressing the concern about awareness generation of competition, Kumar emphasised the role and importance of advocacy to generate consumer awareness. He proposed to include "principles of competition" in the curriculum of school, colleges etc. Acknowledging the consumer awareness programmes conducted by the CCI he pointed out that still much more efforts would be required to generate awareness.

In conclusion, Kumar welcomed the efforts of CUTS and BHC to nurture and sustain a culture of healthy competition and ensure a vibrant and competitive business environment through this project.

2. Presentations

Two presentations were deliberated by Natasha Nayak and Bipul Chatterjee of CUTS on project overview and terms of reference of the studies. Presentations were followed by floor interventions.

2.1 Project Overview

The project overview presentation was made by **Natasha Nayak**, CUTS.

In her presentation, she substantiated the links between competition policy and growth in the context of the project. Examples were cited from the relevant literature e.g. A Study of *Australian Productivity Commission* on expected benefits of competition reforms revealed that the annual gain in real gross domestic product was 5.5 percent and consumer gains by A\$9bn due to competition reforms in the nation. She also gave glaring examples of developing countries along with the sectoral evidences to establish the linkages between competition and economic growth.

She also delivered a brief presentation on the purpose, objectives, implementation, research plan, methodology and the advocacy plan of the project. The purpose of the project is to create necessary and sufficient conditions for adopting legislative changes to enhance competition in select sectors: pharmaceuticals, electricity, petroleum and natural gas. The objectives of the project are to:

- ensure that government policies are aligned with the principles of competition;
- translate benefits of enhanced competition to realisation of the objective of sustained economic growth; and
- formulate a template/methodology for similar studies for other sectors subsequently.

The implementation of the project will be done in two phases: Stage I will comprise research and advocacy for legislative reforms. The tentative time frame is June 2012-March 2013. The second stage will be on advocacy and monitoring implementation of NCP where the study on the progress of implementation of NCP will be done along with the advocacy with the stakeholders on adoption of proposed reforms. The time frame will be April 2013-December 2013.

She further deliberated the research plan of the stage I of the project. As a part of it, a PAC has been formulated for guidance and assistance through the project tenure. A Research Review Group (RRG) will also be formulated to review the research output. To identify the competition distortions in the select sectors, competition impact assessment will be done on the basis of Organisation for Economic Cooperation and Development (OECD) competition assessment toolkit. Further, suggested corrective measures through legislative reforms will be done on the basis of literature and perception surveys, i.e. by one to one interviews and stakeholder consultations. To map the political economy challenges in implementing reforms in select sectors literature review and structured questionnaires and stakeholder consultations methodology will be adopted. Quantification of economic gains from enhanced competition as an outcome will be measured through market structure analysis, concentration, entry barriers, conditions, firm behaviour etc.

As part of the advocacy plan of the project, regular engagement with the sectoral associations and stakeholders, viz. industry associations, relevant ministries, departments, academics, media, consumer groups (electronic as well as in person) will be carried out. Sensitisation of Parliamentarians through various forums, such as Parliamentarians' Forum on Economic Policy Issues (PARFORE) and national dialogue with stakeholders to disseminate all research and survey findings will also be the part of the advocacy agenda.

Role of PAC and RRG

At the outset, the presenter, Natasha described the PAC as a formal group of selected national stakeholders with aptitude for competition, regulatory policy and institutions. The newly co-opted members would act as a focal point in guiding and advising on the overall structure through the project tenure. The members will also help in identification of appropriate issues in select sectors by sharing their views and expertise. They will also assist in competition advocacy initiatives and addressing political economy concerns of implementation of reforms they will also contribute towards building the momentum for NCP in India.

The primary objective of the RRG is to review terms of references for sector studies, survey questionnaires, research outputs and draft reports.

2.2 Terms of Reference (ToR)

The presentation on draft ToR was made by **Bipul Chatterjee**.

The presentation outlined the selection criterion of the select sectors with proposed chapter outline of the study, methodology, timeline and use of the studies.

Chatterjee enumerated that the sectors would be selected by taking into account the following factors, among others:

- importance in the Indian economy in terms of their contribution to national income and economic growth
- political economy dimensions – reasons for government and market failures
- consumer welfare dimensions
- infrastructure dimensions, particularly as inputs to other economic activities
- evolving nature of their regulations

The proposed studies would address the following research questions:

- *Are all existing policies, laws, regulations, practices, etc in the three selected sectors compatible with the principles of the proposed NCP? If yes, how can they be reinforced for implementing an effective competition regime in India? If no, how can they be changed so as to make them compatible with the principles of the proposed competition policy of India?*
- *What could be possible economic gains, in terms of increase in producer and consumer surplus, as a result of expected changes in policies, laws, regulations, practices, etc. in the three selected sectors?*
- *What are possible political economy constraints for an effective implementation of competition principles in the three selected sectors and how could they be addressed?*

The tentative outline of chapters of each study would be:

- Executive Summary
- Introduction of the sector, objective of the study and overall outline
- Existing market structure (concentration, entry barriers, etc.) and prevalence of structural rigidities in the market
- Existing market conditions determining producer behaviour
- Principles of the proposed NCP *vis-à-vis* existing policies, laws, regulations, practices, etc including an analysis of flanking policies
- Conditions necessary for making changes in existing policies, laws, regulations, practices, etc to make them compatible with the principles
- *Possible gains to producers and consumers due to changes in existing policies, laws, regulations, practices, etc*
- Conclusion & Recommendations including an agenda for “competition advocacy”
- References
- Annexures

The suggested methodology would be:

- The sector studies will be conducted by taking into account general as well as subject-specific literature and by analysing secondary data and other information.
- Analytical and narrative analyses of market structure, conditions, etc. will be complemented by political economy analysis of evolving regulatory regimes in the selected sectors in general, and with a particular focus on why and how to make changes in existing policies, laws, regulations, practices, etc. in these sectors so as to make them compatible with the principles of the proposed NCP of India.
 - ✓ For this purpose, other than reviewing the existing literature on political and economic aspects of regulatory regimes *vis-à-vis* these sectors, a set of “key informants” of these sectors will be interviewed. Based on analytical and narrative research, sector-specific structured questionnaires will be used for this purpose. CUTS International along with the researchers of sector studies will conduct these interviews.

Regarding the **timeline** it was proposed to complete the first round of analytical and narrative research by the end of October 2012. Based on that, sector-specific structured questionnaires will be prepared for conducting interviews in November-December 2012. The first draft of studies will be completed by the end of December 2012. They will be anonymously reviewed in January 2013 and its result will be shared with researchers. The final draft of studies will be completed by the end of February 2013. Based on the final draft of the studies, in March 2013, an overview chapter will be written highlighting economic gains that is expected to accrue to producers and consumers as a result of an effective implementation of the NCP of India and complementing it with a qualitative political economy analysis of possible factors that might facilitate/hinder effective implementation of this Policy.

As regards to the **use of the study** an edited volume consisting of the overview and sector-specific chapters will be published. It will be widely disseminated to policy-makers and other relevant stakeholders *vis-à-vis* the implementation of the NCP of India and will be used for awareness generation and policy advocacy in the second phase of the ComPEG Project.

The presentation also highlighted some issues to ponder like inclusion of states, covering international market and possible ways of quantification of gains.

3. Floor Discussions

A detailed floor discussion took place amongst the PAC members and the potential researchers on the various structural, policy and current problem areas of the select three sectors. **Pradeep S Mehta**, Secretary General, CUTS International, enunciated that the study is going to deal with the policy aspects in detail in select sectors and the focus will be on policy and not on law. Study of policy distortions will be carried out as against anticompetitive practices.

Anil Bharadwaj, Secretary General, Federation of Indian Micro and Small & Medium Enterprises (FISME) suggested looking into the feasibility and political economy aspect of the policy concerns in each sector. **Sangeeta Singh**, Economist, Nathan India, called attention to the extent of state aspect to be covered under the study. In reply **Anoop Singh**, Associate Professor, Indian Institute of Technology, Karpur, adverted that issues of electricity sector are subject to state concern hence, discussion/consultation with selected states are required to be incorporated. He also suggested restricting the scope to distribution aspect and reviewing of existing acts, policies and regulations on key principles of draft competition policy to see or gauge the possible sectoral policy changes which will lead to competitive reforms. Solar bidding and/or PX vs. traders' market issues can be addressed if data is available. He also raised question whether to incorporate the issue of unbundling and open access as they are issues of state concern.

Ajay Shankar, Member Secretary, National Manufacturing Competitiveness Council, suggested giving flexibility to the researcher to dig deeper the problems and allow researchers to develop the toolkit of the study seeing the problems. He also suggested restricting on OECD toolkit to get a feasible outcome regarding the competition impact assessment. He admitted with Singh regarding the discussion or consultation with select states for electricity sector.

Dilip G Shah, Secretary General, IPA, proposed to restrict the pharma sector study more at macro rather than micro level. Emphasis was laid to restrict the study on identification of 4-5 key policy areas that could impact competition policy. He advised to analyse the impact of macro policies and practices on competition by considering the following:

- a. Regulatory infrastructure and its policy framework/bio similars
- b. IPR regime
- c. Pricing policy in the context of universal healthcare
- d. Marketing practices
- e. Role of policy on trade channels

The proposed outcome would be to provide safe effective and quality medicine, to ensure access and availability and promote innovation to bring new medicines and treatments in the sector.

Aditya Bhattacharjea, Professor, Delhi School of Economics, New Delhi raised concern about

the data availability and the tight time line to do the study. He proposed an extension of the time line which was also welcomed by other PAC members.

G R Wadhwa, Adviser, CCI enunciated on the pricing policy of Petroleum and Natural Gas sector that would be tagged with input parity price. He enumerated on the cost structure of the sector – 88 percent of the cost is the raw material/crude oil cost where no competitive structure is there due to international cartel. Rest four percent is the operating cost, five percent is the capital cost and one percent is the margin. The companies are competing within this price margin where the import parity price is the upper ceiling. Thus, elimination of the subsidy is the only option to recover cost. Hence, scope of competition is limited in the sector.

Considering the scope of the project, **S L Rao** mentioned about the distortions in the electricity market at the state level and in the petroleum sector due to government policy. He emphasised to study the issue. He also suggested to take the study on Food sector, instead of Petroleum and Natural Gas sector and to focus on the food grains – rice and wheat. The foreign direct investment (FDI) in multi-brand retail issue can be considered in food sector study as suggested by Anil Bharadwaj.

The researchers and PAC members suggested revisiting the quantitative analysis of economic gains in the select sector as it would be time consuming approach and subject to adequate and relevant data availability. They further suggested to prepare sector wise separate ToRs for researchers considering the sectoral diversity.

C. KEY POINTS

The following are the key points of the suggestions of PAC members extracted from the floor intervention:

- The study is going to deal with the policy aspects in detail in select sectors.
- Focus will be on policy and not on law.
- Study of policy distortions as against anticompetitive practices.
- The study will look into the feasibility and political economy aspect of the policy concerns in each sector.
- Electricity sector: restricting the scope to distribution aspect.
- Study of all relevant problems of the electricity sector and then to see or gauge the possible sectoral policy changes which will lead to competitive reforms.
- Pharma sector: Impact of macro policies and practices on Competition (restrict the study more at macro rather than micro level. Identify 4-5 key policy areas that could impact competition policy).
- Discussion/consultation on the distribution aspect with some states in case of electricity and pharma.
- Take Food sector, instead of Petroleum and Natural Gas sector, and proposed to focus on the foodgrains – rice and wheat.
- FDI in multi-brand retails issue can be considered in food sector study.
- Timeline of the study should be increased.

D. THE WAY FORWARD

The project is motivated by the objective of bringing markets in compliance with the principles of competition such as effective prevention of anticompetitive conduct; institutional separation between policymaking etc. CUTS project aims to take forward the agenda of a NCP and focus on three of these sectors: Pharmaceuticals, Electricity and Food sector to identify the existing gaps against the competition paradigm and measure the benefits of correcting the same in the entire Indian economy. Thus, the methodology to be developed here will be used as a template for future studies for an adoption and effective implementation of NCP and advocacy upon which the NCP is hinged.