

**Panel Discussion on
“The Political Economy of Regulation in India:
Impact on Investments and Economic Growth”**

and Release of the Report

“Competition & Regulation in India, 2011”

December 26, 2012, New Delhi

A BRIEF REPORT

Background

A Panel discussion on “The Political Economy of Regulation in India: Impact on Investments and Economic Growth” was organized by CUTS International in association with CUTS Institute of Regulation & Competition (CIRC), at the India International Centre, New Delhi on December 26, 2012 with an objective of analysing the impact of economic regulation on investments and economic growth. (Refer to Annexure I for the Agenda)

The panel discussion was chaired by Mr. Ashok Chawla, Chairman, Competition Commission of India and moderated by Pradeep S Mehta, Secretary General of CUTS International. It comprised of distinguished panellists such as Ashok Lavasa, Additional Secretary, Ministry of Power; Dhanendra Kumar, Principal Advisor, Indian Institute of Corporate Affairs (IICA); Pronab Sen, Country Director, International Growth Centre and Rajat Kathuria, Director & Chief Executive, Indian Council for Research on International Economic Relations (ICRIER).

The said discussion also set the stage for release of a report as part of a CUTS project India Competition and Regulation Report (ICRR) titled ‘Competition & Regulation in India, 2011’ by Mr. Ashok Chawla. The report takes stock of competition and regulatory issues across various sectors in the country and comes out with recommendations about the way forward as to what still needs to be done.

Mr. Mehta welcomed all the panellists and the guests (*Refer to Annexure II for the List of Participants*), introduced all the panellists to the guests. Mehta mentioned that the ICRR project (03rd cycle) was supported by the Royal Norwegian Embassy (RNE) and the project was implemented in partnership with the Norwegian School of Management (BI). This was followed by a brief introduction and history of ICRR. Mr. Mehta started with “Re-Regulation” as a concept and practice and briefly spoke about the need to establish common regulators for cognate sectors, such as energy, finance, etc and the issues dealt within the report such as quality of regulation, reducing regulatory complexities, interdepartmental co-ordination, political interference in regulation, overlap between the competition authority and sectoral regulators and on reducing legislative ambiguities, awareness among consumers and other stakeholder groups in all the studied sectors, i.e. 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.

Mr. Ashok Chawla, upon release of the ICRR Book, congratulated CUTS and CIRC for the publication of ICRR-2011. He appreciated the efforts taken by CUTS and CIRC to analyse the issues of competition and regulations in India and said it is a good idea to come out with the report every two years (ICRR 2007 and 2009 reports) instead of every year since this provides the scope to cover wide range of issues. He acknowledged the importance of policy relevant research in any public system and emerging market economy where rules of governance are changing rapidly.

On the issue of political interference in the functioning of regulators in India, Mr. Chawla said that work needs to be done in this area to ensure regulatory independence, however the problem lies in the reluctance of the politicians to let go of their powers. Mr. Chawla said that independence is important for regulators but they should not consider themselves as mini-states and should be accountable to the Parliament or an appropriate forum designated by the Parliament.

Mr. Chwala also recognised issues regarding overlap of sectoral regulators and the competition authority. He pointed out that CCI role while promoting competition is to also curb anti-competitive practices in the market and role of sectoral regulators is to promote competition. He also stressed that competition and regulation are not to be considered as substitutes, but rather complements and both should be used as a tool for achieving efficiency and social policy objectives. In the end, he very well accepted that consumer benefits, especially benefits to the common man from the establishment of the CCI are yet to be achieved.

Panel Discussion

The first speaker, Mr. Ashok Lavasa, congratulated CUTS and CIRC for their efforts and appreciated the Epilogue of the report which mentions the power sector as an unfinished agenda. He said that although ironically the power sector was one of the first sectors to come under the economic regulations which involved unbundling of the sector and thereafter a regulator coming into picture, still a lot of work is left to be done in the sector.

Regarding the need for a coal regulator in India, Mr. Lavasa said there is a need to protect the interest of consumers and not allowing any entity to exploit its dominant position to foster competition. 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. Till such a time does not arrive, one would need a regulator in the coal sector to ensure avoidance of abuse of monopoly powers. Reacting to the point for establishment of regulators for cognate sectors, he mentioned that the Electricity Act, 2003 did authorise creation of regional regulators rather than state regulators, but it was not successful due to absence of political will.

On the issue of political influence on the regulators, he opined that the regulator is still bound by the states which take it upon themselves to take important decisions such as tariff fixation. He felt that the de-politicising of tariffs is yet to be achieved. He spoke about creation of enabling environment in order to roll out open access, alternative source of supply of electricity and the possibility of generators selling electricity directly to consumers.

Mr. Dhanendra Kumar, after congratulating CUTS and CIRC for taking path breaking initiatives in the field of competition and regulation and for making appropriate policy

recommendations, spoke about the ‘*Theory of Entropy*’ which states that any process of change or development leads to a change in entropy, which means disorder. He applied the same principle of physics to the socio-political situation in India and said that in case of such disorders regulations are the need of the hour, but the questions to be debated are how much regulation and what type of regulation? He said that even though competition is considered as the best regulator, we still need somebody to regulate the competition.

Mr. Kumar highlighted that in a state wise study it was found out that the time taken to get real estate approvals varies from state to state. Along with that it was also found that the authorities granting the approvals were not adequately trained for this purpose. Thus, he felt that there is 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 concluded by mentioning that there is a need to ensure regulatory independence along with proper accountability. Additionally, he emphasised upon periodic evaluation of the policies and their performance as a must. Herein the work done by CUTS and CIRC will need to enhance.

Mr. Rajat Kathuria said that the latest telecom experience has taught the country that for an independent regulator in India it is important to have the sectoral tribunal separate from the appellate body. He felt that, although in the sectors such as port, railway, urban transport, road, civil aviation, etc new regulators are being established, yet there is a need to establish independent appellate bodies also. Suitable regulations need to be designed to reduce political interference in regulation.

Mr. Kathuria felt that auctioning of the spectrum is the best way to move forward in the field of telecom. He felt that regulation is required in spectrum allocation but not in retail pricing. He spoke about interconnection as an essential facility and regulatory interventions are needed to address refusal to deal kind of bottlenecks.

He also stressed on the importance of undertaking sound research to map empirical evidence regarding the impact of regulatory policies on economic growth of the country. Such studies have not been undertaken in India so far. In this context Mr. Mehta suggested using tools such as Regulatory Impact Assessment (RIA), as it has also been suggested by the Working Group on Business Regulatory Framework constituted by the Planning Commission of India in the context of preparation of the 12th Plan.

The last speaker on the dais, Mr. Pronab Sen congratulated CUTS and CIRC for their efforts. He stressed on the importance of mapping of social objectives while establishing regulators in the country and stated that the regulatory regime should be tailored to the socio-political situation in India. Reacting to the point regarding independence and accountability of sector regulators, he opined that it is important to understand system of governance in which the regulators function, so as to determine to whom the regulators should be accountable to and from whom should they be independent. He stressed the need for accountability with a special concern for the nature of regulatory oversight.

Floor Discussion

The panel discussion was followed by a rich intellectual interaction among the panellists and the participants. The interaction involved several questions being asked as well as various issues being highlight by the participants.

One of the important issues about private sector suffering due to lack of political will was highlighted by Mr. Vinayak Chatterjee, Chairman, Feedback Infrastructure Services Private Limited. He stated that the government has been accepting the lack of political will in respect of regulatory independence since very long, however no steps have been taken in this regard. According to him, this is discouraging the private sector from working side by side with the state entities.

Mr. V. Ranganathan, a former part time member of TRAI also raised relevant concerns about the state of power sector in the country. He highlighted the issue of long power cuts even in the most developed states and said the people are spending double on electricity by purchasing invertors because of such power cuts. He criticised that licensees using the facility of open access are asked to use their separate wires thereby imposing unfair condition on them. In response, Mr. Lavasa stated that it was always decided that all licensees getting the facility of open access will lay down their own wires and system to ensure their economic and technical viability.

Mr. Mehta referring to the recent Northern and Eastern power grid failure expressed that there is a need for separation of functions of regulators and government. He stated that the Load Despatch Centres should be outside the control of state electricity companies. In response to that Mr. Lavasa said that the national load despatch centre is under the CERC, while the State LDCs are under the control of State Governments. The same is going to be done in due course of time.

Mr. Dhanendra Kumar after observing all the inputs from the guests, expressed that regulator is also required to remember that its role also is to promote and develop the sector. Mr. Rajat Kathuria expressed the need for an independent telecom regulator.

Mr. Sen appreciated the focused approach of CUTS and the efficient steps taken by it in highlighting the issues. He also suggested that like PRS Legislative Research, CUTS should start a forum to interact with the parliamentarians. In response to this, Mr. Mehta informed Mr. Sen about PARFORE, which is a parliamentarian forum initiated by CUTS to engage on economic policy issues.

Conclusion

The occasion marked the release of ICRR-2011, which is an important report in respect of the state of competition and regulation in India, and also emphasised the significance of independent and appropriate regulations for the future economic development of the country.

To conclude the discussion, Mr. Mehta delivered a vote of thanks and said that by highlighting the issues in the report and initiating the discussion, he hoped for raising more inquisitiveness and awareness in the country.

ANNEXURE I

AGENDA

**Panel Discussion & Book Release
Competition and Regulation in India 2011**

Date: Wednesday, 26th December 2012

Venue: Lecture Room No. 1, Annexe, India International Centre (IIC), 40 Max Mueller Marg, New Delhi 110003

PROGRAMME

1800–1830 Registration

1830–1845 Opening Remarks

Pradeep S. Mehta, Secretary General, CUTS

1845–1855 Release of the report “**Competition & Regulation in India, 2011**” and address by Chief Guest Shri Ashok Chawla, Chairman, Competition Commission of India

1855–1945 Panel Discussion ‘**The Political Economy of Regulation in India: Impact on Investments and Economic Growth**’, moderated by Pradeep S Mehta

Speakers:

- Ashok Lavasa, Addl. Secretary, Ministry of Power
- Dhanendra Kumar, Principal Advisor, Indian Institute of Corporate Affairs (IICA)
- Pronab Sen, Country Director, International Growth Centre
- Rajat Kathuria, Director & Chief Executive, ICRIER

1945–2010 Floor Discussion

2010 Dinner

ANNEXURE II

LIST OF PARTICIPANTS

No.	Name	Designation	Organisation	Email
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