PolicyWatch

Covering developments on policy responses, policy implementation and policy distortions on a quarterly basis. Comments are welcome.

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Looking Ahead of Price-control

The draft pharmaceutical policy that proposes to bring 354 drugs under price-control has expectedly raised raging debates in the country. Such a measure was deemed necessary in view of the Supreme Court order, though it was expected that there would be resistance from the pharmaceutical lobby.

Indeed, India had a similar drug price control regime earlier as well. But, with increased decontrol down the years, prices of some medicines soared, so much so that for some drugs prices today are not only higher compared to neighbouring countries like Sri Lanka and Bangladesh, but even *vis-à-vis* developed countries like Canada and the UK. This is not, however, universal. Some medicines continue to be available at reasonable prices.

The policy proposes to bring more medicines under price control, but at the same time increase the Maximum Allowable Post-Manufacturing Expenses (MAPE) to 150 percent from the current level of 100 percent.

This is far too high and cannot be justified. This also contradicts the policy of a trade margin of 50 percent (15 percent for wholesalers and 35 percent for retailers) for generic medicines proposed in the same policy draft. Obviously, many firms should be able to sell at lower prices than at the controlled level. The question thus arises: Is the government allowing firms to fix prices at a higher level in the name of price-control?

The Indian experience is that, by and large, suggested maximum price invariably becomes actual selling price. Hence, for many medicines, there is a risk that price- control will lead to higher prices.


Daily News & Analysis

No wonder, there is strong opposition on the proposed price control regime not only from the Department of Industry that tends to protect interests of the business, but also from the Departments of Health as well as Consumer Affairs, which seek to protect the interests of consumers.

Recently, the President of the Organisation of Pharmaceutical Producers of India had criticised the proposal arguing that competition should be encouraged with an appropriate monitoring of prices.

One may not fully agree with the above statement, and regulation, in such a purview, may be necessary. However, regulation should try to simulate the 'effects of competition', and price-control should not be imposed on drugs where the 'effects of competition' already exist.

It would be a better idea to put fewer number of drugs under price control while retaining the existing level of MAPE of 100 percent and put others on the watch list and adopt a threat-based policy by reserving the right to bring them under price-control any time their prices cross certain levels. Regulation of drug prices is necessary not only because it is a different kind of product that involves issues of life and death for people, but also because normal market forces do not operate as consumers do not make the choice.

In the case of a normal product, consumers make choice based on their perception and experiences of quality and prices.

However, in case of medicines, doctors and retailers play important roles in the purchase decision. As a result, medicines of same quality and effectiveness could be sold at higher prices by providing 'incentives' to doctors and pharmacists.

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HIGHLIGHT

ALSO INSIDE

"The reformer has enemies in all those who profit by the old order and only lukewarm defenders in all those who would profit by the new." **Machiavelli** in *The Prince*

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In fact, the proposed policy has indirectly recognised this by allowing Research and Development oriented firms to have higher MAPE. This means, for the same medicine, some firms will have 150 percent margin while others will have 200 percent. Incidentally, such problems occur for all medicines, essential and non-essential.

Nevertheless, the proposed policy has not spelt out any effective measures to deal with such problems. True, measure of fixing trade margins can deal with such problems. However, this has been proposed only for generic medicines, though the problems are there with all medicines. The issue of trade margin deserves more attention as it can check the anti-competitive practices of the retailers who are cartelised and often force the manufacturers to offer higher margins.

In any case, such cartelised behaviour must be stopped, as otherwise consumers will be forced to pay higher prices, even if pharmaceutical manufacturers are willing to provide the same at reasonable prices.

It is also not clear why the government has not considered de-branding some generic medicines, one of the recommendations of the task force headed by Dr Pronab Sen, Advisor, Planning Commission, though the policy speaks of promoting generic medicines. The proposed Drugs (Price Management and Distribution) Act is a step in the right direction. It will also be necessary to promote generic medicines and competition in the market, as consumers will be able to buy any brand of medicine without bothering about the quality and looking at prices. It is true that the drug market is not perfectly competitive, due to peculiarities of the sector.

However, it is not just the pharmaceutical companies that are responsible for this. All other actors of the health services delivery system, including doctors, pharmacists, hospitals and diagnostic clinics, are equally responsible. The government thus needs to take a holistic look at the issue of healthcare, and availability of affordable medicine is only a part of it.

For many people living in rural areas and for the poor in urban areas, the primary issue is the availability of affordable and 'honest' healthcare services rather than the prices of medicines. This would require measures other than price control.

As for price control, it would be advisable to maintain the *status quo* in view of the Supreme Court order. If more medicines are to be brought under price control, they should be restricted to a few that might have seen excessive price increase rather than all essential drugs.

THEME:IS DRUG PRICE CONTROL ESSENTIAL?

Yes, it will enhance access to essential drugs

A striking feature of the pharmaceuticals market in India is the wide variation in prices of different brands of the same formulation, and the top-selling brand of a particular formulation is often one of the most expensive. In several cases, the same medicine is sold by a company at five times or more the price of its competitor. This happens because the consumer has no direct interaction with the market in the case of medicines.

Consumers on the advice of doctors or chemists purchase them. By targeting doctors and chemists, companies are able to ensure sales of medicines even when they are more expensive than those of their competitors.

In most countries (especially developed countries) a majority of drugs is available through public-funded institutions and health insurance mechanisms. In India, where retail sales account for 70 percent of sales, the only mechanism available is direct price control. Only an estimated quarter of India's population has access to essential drugs. Price controls can contribute to increasing access. The bottom line for the pharmaceutical industry is that it should make available medicines to those who need them — if this is not ensured, there is little justification for allowing the industry to operate.

Amit Sen Gupta
General Secretary
All India Peoples' Science Network

No, it will affect investment and supply

More than three decades of controls on prices of medicines have demonstrated that they are grossly counterproductive. Empirical data shows that price controls drive investment away to products outside price controls.

This impacts supply and availability. The controls on prices of cement, sugar and paper have shown that price controls have invariably led to shortages. This was the experience even in the case of medicines when 374 essential drugs were brought under price control in 1979. The 1979 price control regime led to the emergence of spurious and counterfeit medicines in the country.

The ORG-IMS data for 2004-06 is an eye-opener. It reports sales growth at volume CAGR of 5.6 percent for medicines under price control. This is half the rate of growth (volume CAGR of 9.7 percent) for medicines outside control. Not only had the supply of medicines outside control increased faster, prices of these products remained almost steady. This is due to the entry of new players intensifying competition, competition in turn driving efficiency, leading to cost reduction. The result is cheaper medicines.

D G Shah
Secretary General
Indian Pharmaceutical Alliance

(Abridged from an article that appeared in the Economic Times on 22.07.06)

Dispatch Functions

A Committee of Secretaries has proposed to gradually carve out load dispatch functions from PowerGrid Corporation of India (PGCIL), starting two years hence.

Initially, the new entity will be a wholly-owned subsidiary of PGCIL, but over a period of time, PGCIL will bring down its stake in the arm. Eventually, the equity of the load dispatch company will be widely dispersed. It will act as an Independent Systems Operator (ISO), akin to such agencies in the US and UK.

The ISO will be capable of objective decision making, with no concentration of its ownership in the hands of any player. ISO is envisaged to be an agency that will federally control power transmission systems in the country.

Currently, PGCIL is the dominant player in transmission, even though private players are allowed in the segment. Absence of a systems operator for discretionary allocation of load is said to be one reason for the continued monopoly-like situation in the transmission industry.

(FE, 12.09.06)

Power Pilfer: An Offence

Power theft will soon be considered as cognisable offence as per an amendment in the Electricity Act 2003.

The cabinet will take up the amendment considered to being the key aspect of power sector reforms shortly, which is expected to substantially improve recoveries of distribution companies.

Average power theft levels in the country are estimated at 30-35 percent. The amendments will, for the first time, empower electricity companies to book consumers who tap power illegally and distribution companies will be in a position to get help from the police to book the guilty.

It is estimated that power thefts in the country account for total losses of about Rs 28, 000 crore. *(ET, 17.08.06)*

Bureaucratic Wrangles

The construction of four more hydropower projects by the Jammu & Kashmir-owned Power Development Corporation (PDC) has been caught in bureaucratic wrangles.

The project implementation was approved on a turnkey basis and work on the four projects was supposed to start this year. But, lately, the process came to a grinding halt when PDC was conveyed that the government has decided against executing the projects on a turnkey basis. Now, the government has changed policy and prefers build, operate, own, and transfer (BOOT) to turnkey as basis.

The government now intends to re-tender the projects for private participation though independent power producers under the BOOT formula. *(ET, 09.09.06)*

Turning Prepaid

To combat power theft, electricity will be prepaid from postpaid, in Agra. *Dakshinanchal Vidyut Vitran Nigam Ltd*. (DVVNL) has decided to do away with electricity billing for domestic and light commercial subscribers and turning connections prepaid.

In this system, the customer will have to buy a certain number of units through a prepaid coupon. The coupon will be fitted into the subscriber's meter through the control key panel. Once units are consumed, the meter will cut power supply. The supply will resume only after the subscriber enters the 20-digit code into the meter.

By adopting the method, DVVNL aims to raise the company's revenue by at least Rs 13 crore a month.

(BS, 02.08.06)

Developing Power Projects

India is planning to jointly develop over 15 power projects totaling 29,662mw in its immediate neighbourhood of Nepal, Bhutan, Myanmar, and Afghanistan. These projects are at various stages of discussion and have progressed considerably.

Nepal alone accounts for over 20,000mw of the capacity being considered. This is expected to add to the scale of co-operation between India and Nepal.

While in Bhutan three major hydro projects have been identified for joint development and the survey and investigation work for them has been initiated, a project of 1,200mw has been identified in Myanmar, as a mutual benefit project with India.

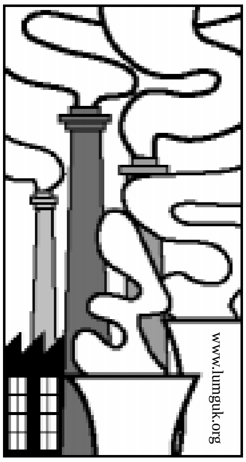
In case of Afghanistan, Indian agencies have rendered assistance for development of projects. *(BL, 11.08.06)*

Interest to Assist

The Asian Development Bank (ADB), Manila, has evinced interest in providing assistance for the government's ultra mega power projects being developed through competitive tariff-based bidding.

The centre is also discussing possible financing with other multilateral agencies for each of the seven 4000mw project, which would require an investment of over Rs 16,000 crore per project. The exact modalities involved are still being worked out. *(BL, 10.09.06)*

Independent Plants



Private power developers may be able to set up plants outside the tariff-based competitive bidding regime.

The Ministry of Power is considering allowing private developers to set up merchant plants, i.e. power plants, which are not tied up with long-term power purchase agreements (PPA).

Independent power producers (IPPs), which opt for this route, will have to do so at their own risk.

The government proposes to limit the plant size between 500mw to 1,000mw. This is not merely because the national tariff policy mandates all new private sector projects to come through the competitive bidding process, but there are transmission constraints as well.

Such a project would require transmission systems that are planned and executed in tandem with the generating plant. The ministry of power believes that a limited number of merchant plants will help develop an electricity market. *(ET, 08.09.06)*

Stern Action

Department of Telecommunications (DoT) has proposed severe action against leading telecom companies in the country for violating terms and conditions of the licence agreement, by not complying with subscriber verification norms for Haryana.

The DoT report has been prepared after its vigilance wing carried out a detailed check. In their replies, service providers remained silent about the requirements and did not even submit any documentary proof of compliance.

It was discovered that bulk connections have been given in single names without proper verification and documents.

Service providers in turn tried to shift the responsibility of verification to their respective franchisees, which were turned down by DoT stating that operators cannot absolve their responsibility by blaming franchisees.

DoT has proposed either a penalty not exceeding Rs 50 crore and/or termination of the licence agreement after a 60-day notice. *(FE, 27.08.06)*

Sharing Seven

As part of the project Mobile Operators Shared Towers Initiative (MOST), mobile phone operators have agreed to share seven transmission towers in Delhi and two in Mumbai.

The move is aimed at lowering the cost of new towers by 50 percent, de-clutter skyline, and reduce call drops.

Rapid growth in subscriber base requires expansion of telecom infrastructure, particularly towers, which are being replicated by nearly every operator. Sharing will certainly bring down infrastructure costs for all operators.

This will be the first time that GSM and CDMA operators will share the towers. Operators under the aegis of Cellular Operators' Association of India and Association of Unified Service Providers of India will also announce plans of sharing infrastructure for the rest of the country. *(FE, 04.07.06)*

Not Regulating

The Telecom Regulatory Authority of India (TRAI) has decided that it will not regulate tariffs of Direct to Home (DTH) operators. The decision comes even as the regulator has recently proposed to impose a cap of Rs five on all pay channels under the Conditional Access System (CAS), whereby a minimum package of 30 channels would be provided for Rs 77.

Sources from TRAI report that DTH will face tough competition from cable operators under the CAS regime in four metros. Moreover, there will be competition among DTH operators for customers and hence they will have to offer reasonable prices.

Presently, there are three DTH service providers in the country with over three million subscribers. Since, DTH tariffs are lower than the maximum retail price of individual channels proposed by the TRAI for CAS, the regulator has decided to not regulate tariffs for TV channels for DTH services.

(FE, 30.08.06 & ET, 08.09.06)

Poor Control, Improper Auditing

The Comptroller and Auditor General (CAG) has slammed Doordarshan (DD) and All India Radio (AIR) for poor standards of internal controls and improper audit mechanisms.

CAG cited this as the main reason for the shortfall in revenue targets for both DD and AIR. During an appraisal of the system of revenue generation of public broadcasters, it revealed shortfalls in revenue generation with reference to annual targets fixed for AIR and DD.

It was discovered that internal audit was not conducted and the quality of maintenance of record was poor.

CAG has asked DD to work upon and fix realistic revenue targets and conduct periodic review of revenue generation. The CAG report also underlined an alarming drop in revenue of AIR FM channels. *(FE, 18.08.06)*

Poor Disbursement

The Standing Committee on Information Technology has pulled up the government for poor disbursement of money collected from telecom companies for the Universal Service Obligation Fund (USO) and has recommended the government to release the remaining unutilised sum.

The Committee further argued that the very purpose of creating such a fund stands defeated when the amount needed for providing basic telephone facilities in rural and remote areas is not provided for.

DoT contends that since the definition of USO includes the word 'basic', it is not possible to provide cellular services through the Fund to promote rural telephony and as such, it has introduced an amendment to the Telegraph Act to delete the word 'basic'.

The committee has however vehemently opposed the argument and pointed out that the proposal to delete the word will give an impression that the government is trying to water down the responsibility or promote a certain type of service. *(BS, 27.08.06)*

More Powers

TRAI has said that it wants more powers to deal with operators violating quality of service norms.

The regulator observed that there was an urgent need to address the problems faced by consumers in terms of poor quality of services and the government would have to give the regulator more powers for enforcing prescribed norms.

Telecom service providers have continuously failed to meet TRAI-specified norms for offering quality services. TRAI has no powers to take punitive measures against such operators. As such, it has proposed a slew of measures including increasing the tenure of the Chairperson and other board members and powers.

It has also sought an amendment of the TRAI Act to allow board members and the Chairperson to take up employment with other government agencies after demitting the office. TRAI holds that the current three-year tenure is rather short for making effective contribution to the sector *(BL, 14.08.06)*

Sleek Stations

Inspired by modern technologies used by railways in France and UK, the Railway Ministry proposes to give metro stations a face-lift. On priority is the sprucing up of the New Delhi railway station by 2010.

The plan envisages a multi-storey railway station having train arrivals on one floor, departures on another, and malls and hotels on other floors.

Not only would the stations have world-class facilities, but would also be completely re-built. Rough estimates indicate that each metro station upgradation will cost between Rs 2,000 crore to Rs 4, 000 crore.

The Railway Ministry will discuss a draft design on the revamp at a meeting scheduled in July 2006.

(FE, 16.07.06)

More Autonomy

The National Highways Authority of India (NHAI) has sent a corporate restructuring proposal to the Committee on Infrastructure, suggesting greater autonomy in awarding contracts to private companies, enlarging the board of directors, and establishing a dedicated cadre of professionals.

The authority has proposed to amend the NHAI Act so that its board of directors can be strengthened.

NHAI needs more autonomy in decision making, especially in the light of changed market realities. Currently, individual highway projects are approved only at the ministry level.

While justifying the demand for greater autonomy, an official from NHAI said that it would help the company in transforming itself into a 'multi-disciplinary professional body', with high quality financial management and contract management expertise. *(ET, 18.08.06)*

Quality Roads

In a bid to provide durable roads and resolve the problem of disposing off plastic waste in Delhi, the Delhi State Industrial and Infrastructure Development Corporation (DSIIDC) has decided to use cost-effective plastic-waste technology for road laying.

According to the DSIIDC, plastic waste is shredded into small parts and mixed with bitumen to enhance the quality of roads. The technology has been successfully used in Bangalore and Delhi.

Sources opine that the best part of the technology is that water does not stay on roads giving them more life. So, even if initial costs are high, in the long run it will help cut cost.

Further, plastic waste can come in handy in removing potholes on roads.

(TH, 08.08.06)

Yet to See Daylight

There is no hope that the Model Concession Agreement (MCA) will soon be finalised. In formulation since March 2006, the MCA is for public-private partnership projects to be awarded on a build, operate, own, and transfer (BOOT) basis in major ports.

According to official sources, finalisation of the MCA is getting delayed due to a tussle between the shipping ministry and the Planning Commission over tariff setting.

Sources further report that the shipping ministry wanted to continue with current cost-plus model for tariff. But, the Commission was critical of the model, which it believed did not provide any incentive to private players to cut costs.

Instead, the Commission said, tariff could be fixed through bidding, as in the case of the road sector. Alternatively, tariffs could be set every five years by a regulator who would fix a price cap.

With increasing foreign trade and additional pressure on the country's ports to cope, the shipping ministry is keen on finalising the terms of the MCA soon, to encourage, entry of private players into the sector.

(BL, 22.09.06)

Looking Afresh

The government is likely to take a fresh look at existing entry barriers for new airlines to enter Indian skies. It maintains that there has been no clampdown on issuance of fresh licences to serious players.

Under existing rules, a new airline has to have a fleet of five aircraft and an equity capital of at least Rs 30 crore, among other things, to get a scheduled operator licence, which allows them to operate in the domestic sector with a published timetable.

According to sources, the dynamics of the aviation industry is changing very fast and airlines could be assured of burgeoning passenger traffic in coming days. However, if carriers fail to maximise their yield, they could meet the same fate as that of several others, earlier.

(ET, 10.09.06)

Airport Regulation

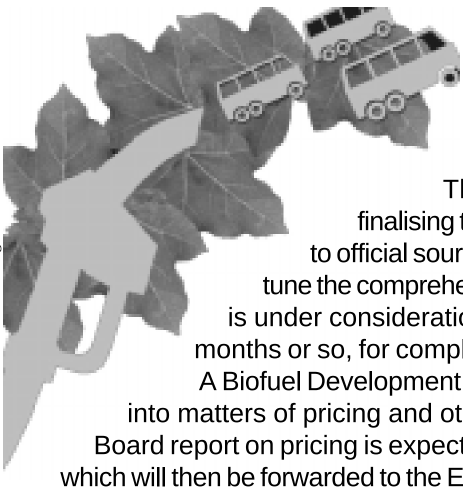
The legislation for setting up an Airport Economic Regulatory Authority (AERA) will be soon be placed before the Union Cabinet.

The proposed authority aims to create a level playing field, promoting healthy competition among airports, encouraging investments for building airport facilities, and regulating tariffs of overhaul services.

AERA will also protect user interests and look into efficient operations of economic and viable airports. It will also have the power to monitor the functioning of airport regulators.

Under the new regulatory authority, different airports will have a different tariff structure based on factors like traffic, capital investment, and facilities available at the airport. The authority will also have the power to determine development fees at major airports, besides prescribing the passenger services fee.

Apart from enjoying the power of fixing aeronautical tariffs every five years, AERA will have authority to make appropriate changes in tariff structure,if needed. *(ET, 07.09.06 & BS, 04.07.06)*



Biofuel Policy on Anvil

The Centre is on the verge of finalising the new biofuel policy. According to official sources, deliberations are on to fine-tune the comprehensive biofuel policy and the draft is under consideration, and would take another six months or so, for completion.

A Biofuel Development Board has been set up to delve into matters of pricing and other finer points of the policy. A Board report on pricing is expected to make specific proposals, which will then be forwarded to the Energy Co-ordination Committee for a final acceptance by the government. *(BS, 30.08.06)*

Price Review

The Ministry of Petroleum and Natural Gas has decided to set up a committee to review the price mechanism in some existing gas contracts where pricing is not determined through a transparent, open and competitive bidding process.

The committee would examine various alternative pricing methods in contracts where no such open competitive bidding route is followed or in cases where it is not feasible for the seller to follow such a process.

Alternative pricing methods to be explored would include linking the price to a basket of freely traded fuels in international markets; indexing on the basis of imported LNG; indexing on prices determined in other competitive markets in the region and/ or international exchanges or any combination of above listed formulas. *(FE, 01.08.06)*

Regulation of Coal Prices

The Planning Commission has pitched for an independent regulatory body to bring coal pricing under its purview.

The Integrated Energy Policy (IEP), prepared by an expert group constituted by the Commission, has recommended the need for a regulator in the coal sector to ensure price revisions, suggest measures for setting coal prices, regulate trading margins, and ensure that price discovery through e-auctions is free of distortions. At present, the coal ministry, in consultation with coal PSUs, fixes coal prices. Prices are determined on the basis of costs incurred in coal production from different mines in a coal company, plus a reasonable amount of profit.

However, this method is considered grossly inadequate in the present context and results in coal prices not being reflective of market realities. *(BS, 30.08.06 & ET, 15.08.06)*

Supply Constraints

The Coal Ministry has taken a slew of measures to overcome infrastructure constraints in the supply of coal to power, steel and cement sectors.

The Ministry is considering undertaking increasing capacity of coal washeries, improving coal transport system, and ensuring transfer of excess coal with a utility to area of requirement.

To improve recovery of fine coal, state-owned Coal India has planned to install a column floatation circuit.

To avoid coal supply shortages, the coal ministry will chalk out ways to transfer excess coal to the northern region where coal requirement is more. *(FE, 08.08.06)*

Better Service

Taking serious note of burgeoning complaints against the rude behaviour and occasional demands for bribes by the LPG cylinder deliveryman, oil-marketing companies (OMCs) have decided to conduct attitudinal training programmes for distributors and the deliveryman.

In case a complaint of misbehaviour and diversion of the LPG cylinder is established against the deliveryman or distributor, action would be taken against them as per the prevailing marketing discipline guidelines /dealership agreement.

Sources report that LPG deliverymen and distributors would be trained to be friendly and courteous and perform their job neatly, without sacrificing security and causing damage to the properties of the consumers. *(FE, 13.07.06)*

Licencing Coal Washeries

Coal companies are contemplating introduction of a licence system for coal washeries – those existing and those in the pipeline. According to the proposed move, a coal washery is expected to operate for 5,000 hours and later stop operations.

The proposal has attracted strong opposition from existing coal washeries and those in the pipeline.

Coal washeries noted that the move is totally against the Centre's policy of removal of licence *raj*. They further raised question as to how a washery can restrict its operations for 5,000 hours, when it is not possible to discontinue operations mid-way.

The washeries have thus asked coal companies to reconsider their move, as it goes against guidelines issued by the coal ministry on the setting up of coal washeries in the country. *(FE, 31.08.06)*

Strategic Entry

The private sector could soon be allowed into the strategic area of uranium exploration and mining.

The Centre is planning to outsource these activities to private players with a view to step-up uranium exploration in the country and to find larger, high-grade deposits.

The move to involve the private sector could initially be limited to areas such as data collection, utilisation of modern techniques, and processing uranium.

Official sources quote that the Atomic Energy Act, in its existing form, could allow private sector involvement in peripheral activities that supplement both exploration and mining. *(BL, 03.08.06)*

Single Act

Instead of having several Acts, the entire banking sector would be ruled under one, over the next few years This would apply to the different sub-sectors like state-owned, private, and foreign banks.

The single Act would provide uniformity to the legislation for the banking sector and would make it more firm and consistent. Accordingly, the government would be able to take a better stand on issues related to the banking sector.

Presently, the State Bank of India and its associates fall under the SBI Act, wherein the Banking Companies Act governs nationalised banks and the Banking Regulation Act governs private sector banks.

This uniformity would be all the more needed once the banking sector opens up to reforms. As part of the reform, foreign banks would be able to merge with private banks, subject to a certain investment limit.

(FE, 09.10.06)

Fund Transfer

The government has directed the Insurance Regulatory and Development Authority (IRDA) to transfer its funds into the Public Account of India.

This decision has been taken due to some legality involved, which states that money collected by the IRDA under Section 16(1) are receipts on behalf of the government and should thus be credited to the public account.

Other regulatory bodies like the Telecom Regulatory Authority of India (TRAI) and the Central Electricity Regulatory Commission (CERC) deposit their receipts into the Consolidated Fund of India (CFI).

Unlike money deposited in the CFI, the IRDA can withdraw money at any point in time for meeting administrative expenses. According to government sources, the IRDA would not in any way lose its independence by such a decision. *(FE, 01.09.06)*

Ticket Service at Kiosks

Train tickets will soon be available through ATMs at railways stations. The Reserve Bank of India (RBI) has granted seven public sector banks to set up ATMs at 681 railway stations. The banks that have received permission include: Punjab National Bank, Bank of Maharashtra, Bank of Baroda, Canara Bank, Union Bank of India, Dena Bank, and Indian Bank.

Indian Railways will allot an area of six square metres for the ATM along with an additional 1.5 square metres for the ticket-dispensing kiosks. This would be done jointly with Indian Railway Catering and Tourism Corporation (IRCTC).

The kiosks would issue long-distance as well as season tickets, either through e-ticketing or i-ticketing: e-ticketing would give one a printed ticket on the spot, while i-ticketing would deliver the ticket to the purchaser's door. *(ET, 25.08.06)*

Privatising Healthcare

The state government of Gujarat is planning to privatise all 23 district civil hospitals. This could transform Gujarat's state-owned hospitals and refurbish the healthcare sector.

The healthcare industry has been trying, since a long time, to generate more revenues. The proposed privatisation would not only generate more revenue, but would also provide improved services to people.

The government would invite proposals for the same from the private sector. Some big corporates like Apollo, Wockhardt, Cadila, and Torrent have evinced interest. Non-government organisations (NGOs) are also to become a part of this project.

Experts opine that the whole concept is revolutionary, which surely promises better healthcare scenario.

(ET, 31.08.06)

Hard-pressed for Change

The government is keen at imposing a ceiling of 49 percent Foreign Direct Investment (FDI) in courier services. As of now, 100 percent FDI is allowed in the sector.

FDI restriction in courier service is as at a time when the Posts Department feels that it should shoulder the responsibility of fulfilling the Universal Service Obligation (USO). The courier service does not share costs involved in the USO.

As such, the Post Office Act would have to undergo amendment. The Posts Department has been trying to press this issue on to the government and get changes done. *(ET, 01.09.06)*

Improving Postal Services

Of late, the Department of Post (DoP) has come out with a string of initiatives and novel measures towards improving services.

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In a bid to outdo the private courier, the DoP has brought down Speed Post tariffs of letters weighing up to 50 grams by 50 percent. Thus, consumers can send a letter weighing not more than 50 grams to anywhere in the country for Rs 25.

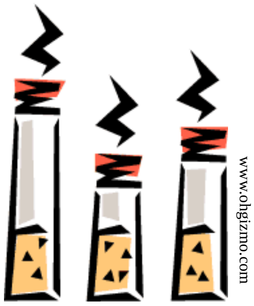
Another novel initiative is making Speed Post services hi-tech, wherein DoP plans to outsource track-and-trace facility to a call centre and equip postmen with devices to keep track of consignment delivery.

Under the call centre facility, customers would be able to get the status of their consignment by simply dialling a toll free number. Simultaneously, using the portable device, the postman would be able to revert once he delivers the consignment.

In another development, it has been reported that the grand old department of post and telegraphs will soon be opening doors to the private sector. According to official sources, the first privatisation bid of the department will involve appointing a network of franchisees in more than a dozen catchment areas. *(BL, 21.08.06; ET, 25.08.06 & 28.08.06)*

Curbing Health Hazards

The Health and the Family Welfare Ministry has issued stricter labelling norms, which intends to give teeth to the Ministry to be able to curb health hazards like tobacco, *pan masala*, cigarettes, and chemicals. Apart from these products, even colas would be included, if found guilty of causing diseases and deaths. The law will give enough powers to help the ministry to nail down erring manufacturers and regulate the market better.



According to a notification issued, the health ministry has prepared rules for manufacturers of all pre-packaged food, including soft drinks. The law states that the manufacturers have to mention the ingredients used in their products. Labels will also carry information on allergic and hypersensitive substances. Further, carbonated water that does not contain fruit juices or pulp cannot be labelled or described as a 'fruit' product. The notification makes it mandatory to disclose any information that may be deemed necessary in the interest of consumers.

The companies would be barred from putting any misleading, deceptive description on the pack.

The Ministry, however, reckons that it would be a very complicated task, as processed food contains a variety of natural ingredients and determining pesticide limit for each will be a very complex procedure. The notification will come into effect from August 20, 2007, giving enough time to manufacturers to adopt the new norms. *(ET, 07.09.06, FE, 22.08.06 & BS, 31.08.06)*

Heavy Losses

A recent report by the Comptroller and Auditor General of India (CAG), uncovered how public sector undertakings (PSUs) in the country have eroded gigantic amounts of public money due to heavy accumulation of losses. (*Refer to* Public 'Sinking' Undertakings *in PolicyWatch, April-June, 2006, for more)*

According to sources, the revival of eight public sector enterprises has cost the government almost Rs 1,800 crore. Since almost half the 200-odd PSUs are sick, revival plans on similar lines could cost the exchequer thousands of crores.

A major chunk of the Rs 1,800 crore spent on PSU revival has gone to Heavy Engineering Corporation. The government has waived Rs 1,101 crore of the company's interest liability.

Various alternatives such as takeover by profit-making PSUs or a private company and calling for joint ventures are also being explored as last option for revival of these sick units. However, these measures can work only if there are willing buyers and/or partners. *(ET, 30.06.06)*

More Edge

The central government is amending the rules to give a fixed tenure to All India Services officers working in the states right from the post of district collector upwards.

The move is expected to reduce powers of the political executive to use transfers as an instrument to penalise bureaucrats unwilling to pay along. It will also check political interference in the day-to-day working of administrations at the district and state levels.

Proposed amendment to the cadre rules of IAS officers empowers the Central government to determine – in consultation with the states – posts for which minimum tenure should be stipulated. *(HT, 29.08.06)*

Mandatory Appraisal!

After star hotels, it is now turn for star-rated real estate developers. The government is considering making mandatory for real estate developers to get rated by the urban development ministry. Developers would be accorded star grades on the basis of their past performance, quality of products, and net worth. If a developer fails to deliver according to the contract, the star status would be taken away.

Besides, forthcoming projects will also have to meet yardsticks for the star accreditation.

The move is aimed at protecting consumer interests in deciding whether they are getting value for their money spent. As the market is flooded with developers of various hues, the government has decided to introduce a rating system, which would ensure that consumers are not taken for a ride.

Industry sources opine that the move will be viable only if the government takes proactive measures to check that consumers also agree to adhere to the agreed payment mechanism. *(ET, 30.08.06)*

STATE BRIEFS

Currently in Probe

The state government of Maharashtra has filed as many as 101 cases against nine malls in Mumbai in response to recent consumer complaints over smudged price-labels, price discrepancies and incorrect packaging.The action was taken under the Standard Weights and Measures Enforcement Act 1985.

The Rule 6(1) of the Act makes it mandatory for retailers to display labels to give correct information about the product and its price. Officials said that most of these malls have been found violating the rule. *(ET, 25.08.06)*

Ban Brings Disquiet

In a move that could impact foreign direct investment (FDI) flows, Kerala and Karnataka banned Coca Cola and Pepsi following the pesticide controversy in August 2006.

The move has wider implications because Coke and Pepsi are seen as symbols of liberalisation and the opening up of economy since the early 1990s. Coke exited India in 1977 and re-entered in 1993.

Pepsi entered the Indian market in 1989. Kerala's decision followed a recommendation by the Left Democratic Front Committee. *(ET, 11.08.06)*

Draft NGO Policy

The draft non-governmental organisation (NGO) policy may soon revolutionise the way the nation views its NGOs and the role they will play in development.

The draft policy primarily seeks to institutionalise the partnerships between the governments in the Centre, State, District, *Panchayat* level and the NGOs in all fields, including primary education, health and rural development.

The policy will lead to a common and standardised system of online registration and reporting which will make genuine and honest NGOs stand out against fake ones who do not bother to report their expenses.

The Planning Commission as the nodal agency between the government and the NGOs has facilitated in the making of the policy draft. Four task forces headed by four NGOs authored the draft.

The policy not only puts responsibilities on the shoulders of NGOs, it also acknowledges the hitherto unacknowledged role that the voluntary sector has been playing in the socio-economic development of the country. *(BS, 10.08.06)*

Aquaculture in Focus

As per the Union Budget proposal, the Centre has formed the National Fisheries Development Board to bring aquaculture for professional management.

According to top industrial sources, the board was aimed at bringing the major activities relating to fisheries and acquaculture for focussed attention and proffessional management.

The board shall co-ordinate activities pertaining to fisheries undertaken by different ministries/ departments in the central government and also work in co-ordination with state/Union Territory governments to improve production, processing, storage, transport and marketting of the products of capture and culture fisheries.

The governing body would consider and decide the programmes of the board and supervise the functions of the executive committee and provide guidance. *(FE, 09.08.06)*

Ban on Child Labour

The government has banned children under the age of 14 from working as domestic servants or at hotels, tea shops etc. The ban comes into effect from October 2006. Those in violation, could face a jail term up to two years and a maximum fine of Rs 20,000.

The plight of children working as labour across the country is severe. They are subject to physical violence, psychological trauma and, at times, even sexual abuse.

Under India's 1986 Child Labour (Prohibition and Regulation) Act, children aged under 14 are already banned from 'hazardous' industries such as making fireworks, carpet weaving and glass making.

But the ban has not been properly implemented due to red tapism and corruption. *(BL, 03.08.06)*

Adhere to Code

The government has issued a notification to make the Advertising Standards Council of India (ASCI) codes compulsory for TV advertisements.

Unscrupulous advertisers who were not adhering ASCI will now have to mend ways and abide by the codes to put an end to the ads being aired by such advertisers.

Till now, the ASCI rulings were not tenable by law and there are companies who have been blatantly misuising the freedom of advertising. For an industry body like ASCI, the recognition by government is a big step. It will give it more teeth and power. *(BL, 12.08.06)*

No to Dual Regulator

The Planning Commission is finalising a draft concept paper with norms to set up regulators covering all infrastructure sectors wherein, it has proposed setting up of integrated sectoral regulators for communications, energy and transport.

Official sources report that the idea is to keep the regulators free from political interventions, help build capacity and expertise, promote consistency of approach and save costs.

The panel is further in favour to bring about a law to lay down the overarching principles of regulation cutting across different sectors. It will be supplemented by the existing sector-specific legislation.

(FE, 25.09.06)

Plugging in Loopholes?

A new pharma policy proposing to plug in loopholes that could be utilised to keep drugs out of price control is on the anvil.

According to sources, the policy proposes to provide *suo moto* powers to the National Pharmaceuticals Pricing Authority (NPPA), which would be the regulator for the industry.

Sources report that NPPA will enjoy powers to monitor production and marketing, and would set the price at a particular level. However, the policy also provides an avenue for pharmaceutical companies to keep their drugs outside NPPA's control.

The policy also proposes to bring under price control new doses of medicines uncovered under the existing National List of Essential Medicines (NLEM).

Further, it plans to put 354 essential drugs under control, which are being sold in various standard sizes. Drug manufacturers have stiffly opposed this move.

The draft policy would be finalised only after the new 14-member committee, set up to give its views on the draft policy, submits its report to the Ministry of Health.

The committee has been asked to give its views on five issues – namely, public private partnership for Below Poverty Line families, whether price rise could be contained through competition, R&D, concessional pricing for government procurement, and whether monitoring can replace cost-based price-control. *(ET, 05.09.06 & BL, 07.09.06)*

Clamp Down

The new Broadcast Bill seeks to clamp down the growth of media. It not only attempts to control the content of the programming, but its anti-monopoly measures could also entail a restructuring of media companies' shareholding pattern.

The Bill seeks to cap cross media ownership, an area the government withdrew from hastily in 1997. Accordingly, a broadcaster cannot own more than 20 percent of another broadcasting network, a radio station or DTH network. Further, television network cannot own more than 15 percent of the total number of existing channels. Cable and service providers also cannot have 15 percent of total subscribers.

Though the anti-monopoly measures are aimed at the electronic media, but caveats in the bill provides that the restrictions can be later extended to the print media. The new Broadcast Bill could thus give media companies a headache. *(HT, 04.07.06)*

Making Way

The government plans to present the Banking Services and Financial Institutions law (Amendment) Bill in the monsoon session of the Parliament.

The Bill seeks to empower the government to dissolve the board of public sector banks with a rider.

The earlier version allowed the suspension to be for three years, which has now been brought down to six months. This was among the four pending banking reform Bills, which were being opposed by the Left parties and trade unions. *(BL, 04.08.06)*

Integrated Food Law

The Food Safety and Standards Bill – for creation of a regulatory body for the food processing sector and setting standards for regulating manufacture and quality of imported food – has been passed by Parliament.

The Bill eventually culminated into an 'Integrated Food Law' that would govern the entire food processing sector and enhance the growth of agri-business in the country.

Only one law and one regulator, instead of the earlier 15 different laws, would govern the food-processing sector. The legislation empowers consumers to lift the sample of any suspected food item available in the market and send it to laboratory for testing. The Bill fixes a fine of Rs 10 lakh for food inspectors using unfair means. *(BL, 02.08.06 & FE, 31.08.06)*

Resolving Disputes

A draft Bill is being prepared by the Ministry of *Panchayati Raj* (local self-governance) to enable setting up of *Nyay Panchayats* (local self-governance for providing justice) in the country. The *Nyay Panchayat* was meant to provide justice and redress grievances at the primary level and protect villagers from prolonged litigation in higher courts.

A Committee has been set to draft the model rules, regulations and explanatory notes for the Bill and justice would be dispensed by these *panchayat* courts within the limits of the Indian Penal Code.

If there is no agreement on the judgement provided in the *Nyay Panchayat*, aggrieved parties can approach the district court. *(BS, 07.07.06)*

Stronger Foundations

The Centre is planning the passage of the Forward Contracts (Regulation) Amendment Bill, 2006 to strengthen the foundations of the commodities market.

The Bill seeks to provide for corporatisation and demutualisation of recognised associations in accordance with the schemes to be approved by Forward Markets Commission (FMC). With a view to keeping strict tabs on speculation in commodities future trading, the FMC has warned those violating the open interest limits with stringent punishments. *(ET, 31.07.06)*

Heard in Parliament

Redesigning Processes

The Ministry of Planning, has informed Parliament that, in its recommendations on e-Governance submitted, the National Knowledge Commission has proposed that government process reengineering be undertaken before any computerisation.

It was further stated that at present e-Governance efforts are primarily based on computerising age-old processes left behind by British Raj and compounded by a plethora of new layers and silos by Indian bureaucracy, each working within departmental boundaries and pet-priorities.

As a result, the government is computerising cumbersome processes and hence not commensurately benefiting from it.

Novel Scheme

In response to a question raised, the Ministry of Railways, informed Parliament that Railways has sanctioned a pilot project namely Satellite Imaging for Rail Navigation (SIMRAN) for real time passenger information system. Utilising Global Positioning System (GPS) is developing this project.

Research Designs & Standards Organisation is carrying out this project jointly. This is a locomotive-based system and not station based.

The objective of the project is to develop technology for continuously tracking every train for its location, speed and direction of movement.

(Compiled from questions raised in the Monsoon Session, 2006)

Mouse Click Away

The government of India is planning to set up one lakh service centres in rural areas by 2007.

These centres will provide government services such as issuing caste certificates, birth certificates, land records, payment of utility bills, payment of taxes and even filing Right to Information applications.

Private services including micro-credit, purchase of air, railway or movie tickets, distance learning programmes, health services by huge hospital chains or even the local medical practitioner could also be provided.

These services centres, in the form of kiosks, will be run on a public-private partnership model. The aim is to have one kiosk for every six villages.

The government is also trying to involve local self-help groups and NGOs in the operations of the kiosks. The scheme will be implemented through a three-tier structure.

(BL, 26.07.06)

e-Governance for Haryana

The Haryana Government is actively considering setting up a Centre for Good Governance in the Haryana Institute of Public Administration (HIPA) complex at Gurgaon for switching the State over to e-governance.

The HIPA Director-General has been directed to prepare a proposal for setting up a cell so that good e-governance could be implemented in the State.

Official sources disclosed that the Planning Commission of India would give Rs 50 lakhs at the initial stage while the Haryana Government would incur an equal amount.

Sources further report that this system would be very effective and it could be used in the State on the pattern of Andhra Pradesh.

(TH, 29.08.06)

Under 'Watch'

Delhi is all set to introduce a web-based monitoring system in its Public Works Department.

The residents of the capital would soon be able to keep a 'watch' on every mega-project that is being undertaken or planned with the Delhi government.

According to officials, the projects worth over Rs 10 crore will be available on the website of the Delhi government

The important components of each project like details of the work, time schedule for completion, graphic design, and payment to contractors would be accessible at the click of the mouse, besides project cost.

The step "would help expedite the completion of the projects, keeping in mind the Commonwealth Games to be held four years later in the capital".

Besides, it would ensure transparency in the system as well as keep concerned officials on their toes. Knowing that their job is under constant scrutiny there would be no compromise on performance and quality. This would ensure timely completion of the projects.

(BL, 16.09.06)

Water Portal in Pipeline

A national water portal, which will allow an exchange of information and data on the country's water resources, is in the pipeline, Sam Pitroda, Chairman of the National Knowledge Commission, has announced.

The portal to be developed is part of the national project of a knowledge network, connecting universities, libraries, medical institutions, science and technology labs, and research and development units across the country. A national portal on energy, environment, education, citizen's rights, and literacy, which are key areas related to access to knowledge, will also be developed soon.

(BL, 29.09.06)

Transforming Governance?

The ambitious National e-Governance Plan (NeGP) is all set to be rolled out all over the country to make the government accessible to common man.

The objective is to meet the government's National Common Minimum Programme to improve quality of basic governance by making all government services and welfare schemes within reach of the common man.

NeGP is a centralised initiative with decentralised implementation where the state and local governments will have accountability, responsibility, and full ownership of their projects.

The projects will be implemented through 26 mission mode projects and eight support components over the next five years.

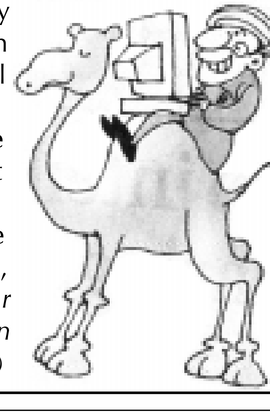
Among the areas it plans to bring under its ambit are land records, agriculture, road transport, commercial taxes, civil supplies, education and police at the state level; and income tax, pensions, passports, insurance, etc., at the central level. *(FE, 20.07.06)*

e-Choupal: Empowering Farmers

ITC hopes to create 10 million e-farmers through its *e-Choupal* network by 2010, with a vision to increase incomes and improve quality of life in rural India while delivering sustainable shareholder value.

ITC's *e-Choupal* is helping to improve the competitiveness of four million farmers through over 64,000 *e-Choupal* installations covering 38,000 villages in six states.

Enabling farmers to readily access crop-specific real-time information and customised knowledge in their own language, *e-Choupal* improves the farmer's decision-making ability, thereby helping him to align better his farm output with projected demand in India and international markets.



The Economic Times

The *e-Choupal* network also facilitates the farmer's access to higher quality farm inputs at lower costs. It creates a direct marketing channel, eliminating wasteful intermediation and multiple handling, which reduce transaction costs, improving logistical efficiency. *(Refer PolicyWatch, January-March, 2006, for more on "ITC E-Choupal" model)* *(TH, 26.08.06)*

Making Merry in Black

Black marketers are having a merry time with 38.6 percent of public distribution system (PDS) kerosene being diverted for black marketing and adulteration.

According to the Associated Chambers of Commerce and Industry of India (ASSOCHAM), about 38.6 percent of the kerosene subsidy meant for the targeted group through PDS disbursement for the current fiscal, diverted to black marketers, has cost the exchequer Rs 5, 700 crores.

The subsidy burden that falls on the government on kerosene at current prices for the year 2006-07 is estimated at Rs 15,000 crore. As much as 38.6 percent of it is totally diverted for ulterior gains by PDS owners throughout the country.

The share of non-household use is estimated at 18 percent, while that of black market and non-card holders at 17.9 and 2.6 percent, respectively. ASSOCHAM further holds that the usage of kerosene has taken an altogether new dimension, with a change in its usage over the last 35 years.

(FE, 02.08.06)

Expanding Scope

The government may expand the scope of business activities that require an industrial licence to include communication network management equipment, among other items.

The national security establishment has mooted a suggestion to bring this category of equipment and its manufacturers under the purview of the Industrial Development & Regulation Act, 1951. It has also mooted the need to amend existing communications licences and introduce specific security-related clauses.

The industrial licensing proposal will focus on the burgeoning telecom and broadcasting industry, expected to sell US$8bn equipment in the coming months alone to companies like Motorola, Nokia, Ericsson, Alcagtel, etc.

The suggestion to licence this sector is aimed at ensuring that any item that is imported (or manufactured in India by a global company or Indian joint venture), is not denied under some pretext – like the dual use restrictions imposed in the past.

(BS, 13.07.06)

In Place

India, which has been suffering from trade diversion due to the exclusion from major regional trading agreements (RTA), have reason to cheer now with a new World Trade Organisation (WTO) transparency mechanism for all RTAs in place.

According to a statement issued by the Negotiating Group on Rules, the members will now consider the notified RTAs on the basis of a factual presentation by the WTO Secretariat.

The new transparency mechanism would provide for early announcement of any RTA and notification to the WTO.

Official sources opine that this is an important step towards ensuring that RTAs become building blocks rather than stumbling block to world trade.

The decision will help break logjam in the WTO and the RTAs.

Analysts hope the decision to be a good omen for the much-needed progress in agriculture and industrial goods trade where agreement is urgently needed. *(BL, 12.07.06)*

Boost-up

In a bid to boost the manufacturing sector, a manufacturing investment region (MIR) policy is being formulated by the government, which would ensure benefits of world-class infrastructure to units located within.

According to official sources, MIR regions may include SEZs, industrial clusters, IT parks, export oriented units, and other such established schemes.

In another related development, the National Manufacturing Competitiveness Council (NMCC), an autonomous body set up by the government, has proposed a National Manufacturing Competitiveness Programme at a cost of Rs 956 crore to enhance the competitiveness of the manufacturing sector, including the small-scale industries.

Among other initiatives being considered to provide a fillip to the sector, include introduction of a system of self-certification by various departments of the government and a massive programme of national skill development to ensure that 6500 Industrial Training Institutes start producing skills that are more contemporaneous. *(BL, 13.07.06)*

Lifting Cap

The Empowered Group of Ministers (e-GoM) has pitched in for removing the existing cap on establishing special economic zones (SEZs) in the country.

It has recommended lifting the self-imposed cap of 150 SEZs and reviewing the position after 75 SEZs become fully operational, as against the extant 25 fully operational.

According to sources, inter-ministerial differences have surfaced between the Ministry of Finance and the Ministry of Commerce & Industry over permitting a large tract of the country to operate in a tax-free zone.

The Finance Ministry apprehends that a large number of existing export units, faced with the phase-out of income tax exemption on export profit under 80 HHC, began to relocate themselves in the SEZ areas in a brazen bid to qualify themselves for all the tax breaks.

The second worry of the Finance Ministry is that SEZs are not really oriented to export and they are all land deals.

In multi-product SEZ where 30 percent area is processing, the remaining balance of 70 percent is set apart for building other infrastructure such as roads, hospitals, schools and even a golf course for recreation.

(BL, 24.08.06)

North-east Push

The seven North-eastern (NE) states have urged the need for an exclusive Industrial Policy with special packages and better incentives to attract more investors to the region to enhance its economic development.

In a meeting of the industries and commerce ministers of the region, a memorandum was prepared. The memorandum is to be submitted to the Centre.

The NE states observed that the incentives and special packages granted for the industrial development of the region were not sufficient to attract investors as the same packages have also been granted to some other advanced states. *(BL, 13.09.06)*

Evading Government Control

The Monopolies and Restrictive Trade Practices Commission (MRTPC) is investigating as to how drug companies are allegedly evading government control over prices through indigenous methods.

The office of the Director General of Investigation and Registration (DGIR), the investigative arm of the MRTPC has issued notices to 16 major drug makers to provide details about their products' composition and recent changes in them.

The MRTPC notice seeks information about three alleged practices in the sector. Companies have to disclose if they have stopped making a drug, which is under price-control, have changed composition of a drug in the last few years and if they get their products manufactured by a small-scale company.

According to officials, the drug pricing authority fixes prices of specified strengths or composition of medicines. However, when a company changes the composition, there is no government-fixed price for that particular composition till the regulator catches up with that change.

(ET, 15.09.06)

Retain Profits!

The government is planning to formulate a new policy initiative to encourage fertiliser production in the country. It is contemplating a move to exempt fertiliser manufacturers producing beyond their stated capacities from sharing their extra gain with the government.

This would be subject to two criteria: that production cost of this fertiliser is below the import parity price (IPP); and that the product is used for agricultural purposes.

According to the proposed New Pricing Scheme, the government would not intervene if the urea manufacturers produce beyond 100 percent capacity utilisation and would pay full subsidy.

As of now, the government claims 65 percent of the net gain made by a urea unit from the extra output. However, the share of the government is not taken in the form of cash but is accounted for by reducing the subsidy payout to the unit. *(BL, 20.09.06)*

Relaxing Norms

The government is mulling relaxation of certain regulatory norms such as permitting foreign currency hedging or easier purchase of a dollar-based or pound-based health politics within the country.

The move, which would benefit many Indian multinationals, is being considered to oprationalise the country's first International Financial Services Centre (IF-SC) proposed to be set up in Mumbai.

According to the officials, full convertibility of the rupee is not a necessary pre-condition to set up the centre. The list of regulatory measures needed to operationalise the financial services centre is being finalised by a Committee comprising chairman and managing directors of several public sector banks including the State Bank of India, UTI Bank and Bank of India is expected to submit its final report by December 2006. *(BS, 13.09.06)*

Joint Venture

Mitsubishi UFJ Securities of Japan plans to establish an investment banking joint venture with India's ICICI Bank. They said that they would co-operate in areas such as mergers and acquisitions (M&As), corporate finance, and asset management.

Mitsubishi said that India presented a big opportunity because of its strong economic growth. It expected increasing cross-border M&A activity between India and Japan and was keen to build its presence in 'public offerings without listings', in which Japanese retail investors overseas stocks without those stocks being listed in Japan.

India has been the biggest recipient of yen loans since 1994 and is a key recipient of Japanese portfolio and FDI. Japanese FDI in India rose 91.6 percent in 2005. *(FT, 29.08.06)*

Reforms Diminishing

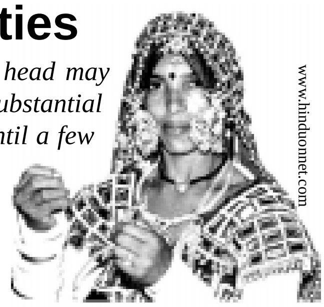
The prospects for Indian economic reforms dimmed when the government bowed to pressure from its allies and cancelled a number of privatisation plans.

According to Ministry officials, Prime Minister Manmohan Singh has decided to keep all disinvestment decisions and proposals on hold, pending further review.

The National Common Minimum Programme, the policy blueprint for the United Progressive Alliance (UPA) agreed in May 2004, ruled out the sale of majority stakes in *navaratnas*

(FT, 07.07.06)

Livelihood Opportunities



www.hinduonnet.com

An average annual wage of Rs 6,857 per head may not be a big sum these days, but it is a substantial amount for those who were exploited a lot, until a few years ago.

Several families across Kutch in Gujarat are engaged in the traditional craft of weaving and embroidery. A NGO, Srushti, took up the cause of empowering poor and illiterate women of the Kutchi villages some three decades ago – making them self-reliant .

Today, the initiative has made it possible for the poor craftswomen in this arid zone to get remunerative prices for their products.

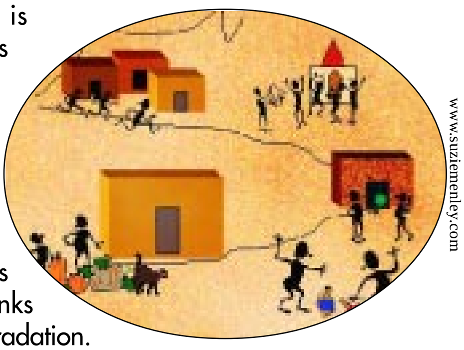
The NGO procures silk, cotton and other material from across India and decorates these with Kutchi craft. *(BL, 13.09.06)*

Rural Upliftment

Fair Price Shops (FPSs) are helping companies realise their rural dreams. Companies have discovered an effective route to reach out to Gujarat's rural consumer, who is certainly richer than his counterparts in many other states.

Biggies such as Hindustan Lever, ITC, Hutch, Amul, and BSNL are using the FPS distribution network to push sales in villages.

The government of Gujarat is promoting the idea of rural malls to seek necessary clearances to use the network. Players such as HLL are even willing to pay more margins to rural mall owners. According to sources, there are around 16,000 FPSs in Gujarat.



www.suziemenley.com

The Gujarat government has also tied up with nationalised banks to offer Rs two lakh to FPSs for upgradation.

The government's vision is to transform FPS into swank shops, which sell SIM cards and FMCG products. These shops are not confined to selling just wheat, rice and kerosene at subsidised rates. *(ET, 29.09.06)*

Threat on GM Foods

India's attempt to formulate mandatory labelling laws for genetically modified (GM) foods has met with the US challenge in the WTO committee on technical barriers to trade (TBT).

Mandatory labelling of GM foods is for giving the consumers an informed choice and to protect the health of its citizens. It is strange for the country like the US, which is the largest democracy in the world to deny informed choice to consumers in the name of 'restrictive trade measures'.

Mandatory labelling is necessary to check imports of unapproved GM foods. Many countries, including India have their own approval process for GM crops and foods, based on established scientific principles.

US has also said that India should refer its mandatory labelling norms for GM foods to WTO also under sanitary and phyto-sanitary measures (SPS) measures, but simply labelling of GM foods does not imply an SPS measure. *(FT, 04.09.06)*

Proposed Subsidies

The draft Cabinet note on national policy on subsidies by the Finance ministry proposes introducing smart cards for every citizen by March 2009.

It further provides for allowing states to announce a cash transfer scheme for food and kerosene supplies to poor families and a complete switchover to natural gas feedstock for the fertiliser industry against costlier fuels.

The note also includes restricting fertiliser subsidy only to small and marginal farmers, setting two separate prices for paddy and wheat for each season and complete elimination of LPG subsidy.

Stressing on the need to facilitate delivery of the entitlements only to the poor and the needy, without leakages, the draft policy note of the ministry proposes an overhaul of subsidy schemes for food, fertiliser and fuel. *(FE, 09.08.06)*

Legal Framework

The Confederation of Indian Industry (CII) has called for a clear legal framework to protect copyright owners in the wake of new digital media and emerging technology platforms.

The apex industry chamber, along with the LawQuest, has prepared a White Paper on the topic, which examines the legalities of the copyright owner's digital rights management with reference to international laws and makes special reference to content for mobile phones.

Experts opine that soon the mobile entertainment space may get larger than the existing copyright in the entertainment space. It is therefore important at this stage to identify digital rights and create a legal framework, ensuring that the revenues are mapped and distributed properly. *(FE, 05.09.06)*

Not in Favour

The Reserve Bank of India has told the government that it is not in favour of Foreign Direct Investment coming into the financial sector through the automatic route.

The present policy provides for 100 percent FDI through the automatic route subject to minimum capitalisation norms for non-banking finance companies (NBFCs) and other approved activities.

Indications are that the policy contours on FDI through the automatic route in financial services may well be drawn.

Under the automatic route for FDI, overseas investors who are eligible and fulfill certain norms can invest directly in a local firm or set up a new company in specified sectors, including financial services

They are liable to report to the RBI, which approves such proposal *post facto*. *(ET, 18.08.06)*

Largest Deal

The Rs 1,325-crore Matrix Laboratories announced that Mylan Laboratories, the second largest generic drug manufacturer in the US, would acquire up to 71.5 percent of its shares for US$736mn in the largest deal in the domestic pharmaceuticals industry.

Mylan and Matrix together will employ 5,100 people in 10 countries. The takeover will enhance Mylan's presence in China, Africa and Europe where Matrix distributes products through its subsidiary Docpharma.

Matrix will make an open offer for an additional 20 percent equity in keeping with the takeover guidelines of the Securities and Exchange Board of India (SEBI).

There will be no name change as of now with this acquisition. Matrix will remain a publicly traded company in India and will continue to operate on an independent basis. *(FE, 28.08.06)*

Wary MNCs

With growing incidents of data frauds in sectors like IT, BPO, banking and financial services, MNCs are apprehensive about security while outsourcing to India.

According to the Global Fraud Survey, released by auditing and advisory firm Ernst & Young, 60 percent of MNCs fear that a fraud may occur in emerging markets (like India), even though 75 percent of the frauds occur in the developed markets.

Nearly half (48 percent) of the companies cite bribery and corruption as the greatest risks in emerging markets, apart from frauds in collusion with third parties, financial statement frauds, and misappropriation of assets.

Experts report that companies tend to report lower profits/revenues and adjust in subsequent quarters. In context, the introduction of Clause 49 and has however Sarbanes Oxley been successful in creating awareness. Despite the same, companies and victims of fraud are not taking preventive steps. *(FE, 18.06.06)*

A Promising 'Code'

The voluntary 'code of bank's commitment for individual customers' laid down by the Banking Codes and Standards Board of India, provides an institutional framework to address some long-pending grievances and issues that have dogged customers in their dealings with banks.

The code promises to correct, promptly, mistakes in the statements of account and cancel any bank charges wrongly debited.

It also promises that banks will inform about changes in interest rate and other charges in case the customer stands in excess of the limits for free transactions or withdrawals.

In a section dealing with loan guarantors, the code promises to tell the guarantor about his actual liability. Experts opine the codes to be a positive step forward and to be helpful for customers. *(BL, 10.07.06)*

Stalling Hype

The Securities and Exchange Board of India (SEBI) will soon come out with a regulation to prevent companies from building hype around their initial public offers (IPOs). The regulation will ensure that the companies maintain a 'quiet period' before and during the launch of their IPOs.

In India, many companies announce strategic stake sales, expansion plans and even buyout intentions when they get close to launching IPOs.

This tends to influence market perception about these companies and also their IPO pricing.

Speaking at an inaugural address, SEBI chairman M Damodaran said that good corporate governance is at least a necessary condition, if not a sufficient one, for creating long-time value for shareholders. Shareholders needed to know what was being done with their money. *(FE, 22.07.06)*

Salary Overshadows Sales

The annual basic salary of Rs 4,26,000 for a company's executive director may not seem much, but the case of Kolkata-based Hindustan Wires Ltd is interesting because the company's sales, at Rs 75,000 for the year ended March 31, 2006, are just about one-sixth of the pay of the ED, R K Gupta.

Poor financial performance of the company has been attributed to factors such as lack of orders from public sector oil companies for the company's products, *viz*. LPG cylinder, valves, and regulators.

Apparently, demand for these products has fallen because of 'competitive advantage' enjoyed by 'units operating in tax free zones.'

Hindustan Wires is now on a rehabilitation scheme sanctioned by the Board for Industrial and Financial Reconstruction. *(BL, 25.08.06)*

Violating Insider Trading Norms

After selling shares worth about Rs 1.74 crore in violation of insider trading norms, an Executive Director of IT major Infosys Technologies has got away with a paltry fine of Rs five lakhs – less than three per cent of the full bounty made from the sale.

Srinath Batni, an Executive Director and a key member of the Infosys' top management team, has been asked to pay a penalty of Rs five lakh for a "technical violation of the Insider Trading Rules", the Nasdaq-listed domestic IT giant said in a regulatory filing in the US.

Across the world, regulatory authorities have devised norms to prevent insider trading, as these transactions could undermine investors' confidence in the fairness and integrity of the markets.

(TH, 02.09.06)

Accolade for Transparency

Ahmedabad-based Meghmani Organics Ltd. has received an accolade from the investment community in Singapore for good corporate governance and transparency. This is second consecutive year that Meghmani has been a runner up in the Securities Investors' Association of Singapore Investors' Forum Choice Awards for the 'most transparent company' in the mainboard small caps (of up to US$100mn) category.

About 25,000 retail investor members of the forum selected the company for the prestigious award.

(BL, 23.09.06)

AccounTEAbility

Tea industry majors, enjoying huge capital subsidy and grant-in-aid for replantation, irrigation and modernisation, are being made to turn more transparent on utilisation of public funds.

The company affairs ministry has asked 38 tea companies, including Parry Agro Industries, Tata Tea, Batak Valley Tea, and Gillanders Arbuthnot, having plantations to get their production cost records for the year ending 2006 audited by independent auditors and submit reports soon.

The cost audit order follows a request from the Tea Board, which is keen to know how the companies use subsidies before it finalises its scheme for the 11th Five Year Plan. During the 10th Plan, Rs 403 crore was allocated for various schemes, according to the Tea Board. *(ET, 22.07.06)*

Shocking Levels of Pesticides

A study by the Centre for Sanity and Balance in Public Life (CSBPL), a Gurgaon based non-governmental organisation has revealed the extent to which fertilisers and pesticides, intensely used on Indian farms has crept into the local food chain.

Common edibles such as rice, tea, milk, eggs, fruits, and meat in India are permitted to contain up to 34,000 times the pesticide found in colas. Comparing the chemicals content of common foods with colas, CSBPL said pesticides found in a breakfast egg in India could be more than the harmful chemicals found in over 3,850 300ml bottles of the soft drink.

Of note is the fact that Coca-Cola and PepsiCo are already fighting to keep consumers from giving up drinking their colas after charges that the drink contains excessive amount of harmful chemicals. In light of the above, the CSBPL study reflects how adulteration laws have allowed shocking levels of pesticides to enter in all our daily food items. *(FE, 18.08.06)*

Business Not Easy in India

International Finance Corporation in its report 'Doing Business, 2007' has ranked India on 134th position in a list of 174 countries, on various parameters of business environment.

The challenges of starting a business in India are far more with entrepreneurs expected to go through 11 steps over 35 days on average, to launch a business at a cost equal to 73.7 percent of gross per capita income.

Similarly, the report states that it takes 270 steps and 20 days to complete the process of complying with licensing and permit requirements for ongoing operations in India.

The only solace that India could get in the ranking is that its position has somewhat improved from the 2006 index when it was positioned 138th. *(BS, 07.09.06)*

'Buoyant' Job Market

A survey by global staffing consultancy firm Manpower, Inc has said that the outlook for India's job market is 'extremely buoyant', especially in financial and real estate sectors.

Of the 4,732 employers surveyed in India, 45 percent expected their headcount to increase while only three percent saw a drop in staffing levels, it said.

No change was expected by 41 percent of the employers, while the remaining 11 percent were unsure of their hiring plans, the survey said.

Experts opine that the optimism shown by Indian employers is reflective of the rapid pace at which the Indian economy is growing. Employers in the finance, insurance and real estate sectors were most optimistic about increasing headcount, with nearly 50 percent expecting the employment level to go up during the period. *(BL, 12.09.06)*

Facts & Figures

About 81 percent of industry experts feel that privatisation of public sector undertakings had been "inadequate and below expectations" says a countrywide survey conducted by the Confederation of Indian Industry (CII) among industry leaders.

The survey reflects that although the economic reforms initiated in 1991 have been beneficial to the country, a lot still needs to be done. The abolition of industrial licensing was considered the most successful measure with 72 percent of the respondents approving of it.

Almost 80 percent of the respondents felt education sector required reforms, while 66 percent of them accorded high priority to reforms in labour regulations.

Other sectors considered to be of high priority were agriculture and healthcare, according to 68 percent of the respondents. *(BL, 22.08.06)*

Debt Trap

Of 8.94 crore farmer households, in the country, 4.34 crore farmers are in debt of at least Rs 300 or more.

The National Sample Survey Organisation (NSSO) survey further cited that the rural farmer households spent more than 50 percent of their total expenditure on food. The main reason for this is the priority for food items and low level of purchasing power of rural farmer households.

Some common reasons for taking loans were capital expenditure in farm and non-farm business, consumption expenditure, marriages and other ceremonies, education, and medical treatment. *(FE, 28.08.06)*

Prospects & Challenges

Asian Development Bank (ADB), in its latest report, has upped its GDP growth projection for India to 7.8 percent for the current fiscal. The bank also kept its inflation forecast unchanged at five percent.

According to ADB, hardening of interest rates is not likely to have an impact on the domestic demand growth.

On the demand side, strong business confidence, accelerating industrial production, widespread capacity constraints and robust expansion of capital goods production imply that investment will not see a deceleration even if infrastructure bottlenecks become tighter.

However, the report said the biggest challenge for India would be meeting the 3.8 percent deficit target. The report pointed out that inflationary pressures are building up, with the fuel problem unlikely to be resolved soon. In addition, the tight fiscal position could limit the government's ability to loosen critical infrastructure bottlenecks and thus, restrain needed investment. *(FE, 07.09.06)*

'Disciplined' Air Fares

'Pricing discipline' in terms of fares seems to be the need of the hour for the Indian aviation industry, which has been running into huge losses.

According to Centre for Asia Pacific Aviation's consulting CEO Andrew Miller, in India, fares of full service carriers are almost at par with low-cost carriers, even though operating cost is totally different from each other.

Although India is one of the most dynamic low-cost airline markets in the world, the result has been appalling when compared with other markets.

"Usually in any market, there is a single big player and few smaller carriers vying for different markets and segments. In India, all the carriers are battling on the same markets and contest for each others passengers", Miller said. *(FE, 30.09.06)*

Regulating Agro-markets

According to the economic think tank, National Council of Applied Economic Research (NCAER), a watchful regulatory system for overseeing competition in the agriculture markets is essential for poverty reduction in India.

NCAER said that inefficiency in agriculture markets is a major reason for the poor performance of the sector, and an appropriate law to accomplish economic regulatory functions was needed to promote, guide, and discipline the establishment and operation of markets.

It further pointed out that reforms in Indian agriculture markets need to be introduced with caution and that a proper regulation and competition regime needs to be put in place before liberalising agricultural markets.

According to the NCAER, it is time to explore the possibility of establishing a single national regulatory agency for overseeing the implementation of measures concerning regulation and competition during the transition phase. *(FE, 03.09.06)*

Call for Caution

The United Nations Economic and Social Commission for Asia and Pacific (UNESCAP) has warned the region's governments to protect and prepare against sudden or unexpected market downturns, rather than remaining complacent in the current atmosphere of prosperity.

UNESCAP cautions Asian countries to stay alert, despite the lull in financial markets. It states that as Asian economies are becoming more integrated into the global economy, they also face a higher risk from the constantly shifting global environment

It calls on the government to focus on controlling inflation and debt, improving banking regulations, and monitoring complex financial products. It further emphasised countries in the Asia-Pacific regions to improve regional co-operation to lessen the impact of financial market volatility. *(FE, 02.09.06)*

Good Governance

According to Adi Godrej, Chairman, The Godrej Group, corporate governance in any organisation needs to be principle based and SMART i.e. smart, moral, accountable, responsive and transparent.

Godrej further pointed out that principles of corporate governance have to be simple and easily understandable.

Good governance provides a competitive advantage in the global marketplace and leads to improved employee morale and higher productivity, said Godrej. Godrej defined corporate governance as the efficient supervision, which encourages 'doing everything better' and protects the interest of the company while conforming to all established laws and ethics.

(BL, 25.08.06)

Pricing Fuel

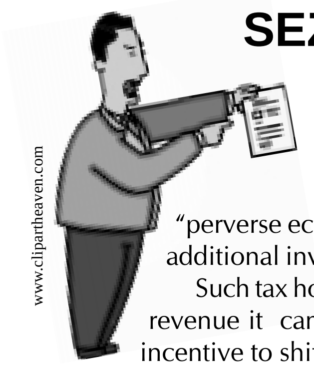
While the oil industry continues to be dominated by the PSU's, lack of an appropriate fuel pricing mechanism is affecting growth of the private sector.

In this context, Dr C Rangrajan, Chairman, Economic Advisory Council to the Prime Minister, called for an urgent need to find an appropriate model for pricing petroleum products in the country.

Dr Rangarajan observed that the biggest challenge facing the industry is how to control market prices so that while offering the right stimulus to the industry for growth, the common man is not affected. The prices should logically settle at the export parity price level.

He further emphasised that whatever pricing model is accepted, the key component behind its success lies in implementation. *(FE, 19.08.06)*

SEZ Scheme Slammed



International Monetary Funds' chief economist Raghuram Rajan has blasted the government for extending tax holidays to developers of special economic zones (SEZ). Such "perverse economic incentives", he opined, will bring little additional investment, and definitely, a lot less revenue.

Such tax holidays will not only make the government forgo revenue it can ill afford to lose, but will also offer firms an incentive to shift existing production to SEZ at substantial cost to society, Rajan added.

While the centre has said that only new investments in SEZs will qualify for tax sops, Rajan doubts if the government can judge what new investment is, given the corrupt tax administration.

Also, according to him, firms would shift all investment that would have taken place outside the zones to the new zones, depriving the government of revenue. *(FE, 01.09.06)*

Bureaucratic Capture of Market Regulation

Complexity in the nature of the industry requires that regulators have specialised knowledge and professional experience in the industry, should be independent and impartial, and should not have conflicting interests. Considering the fact that these are extremely important industries with significant externalities to other sectors, competence, experience, independence, and objectivity should be the core criteria for the choice of regulators. It should not matter whether the persons come from the public or private sector.

*– M Govinda Rao**

A great thing about Indian bureaucrats is that they take any challenge as an opportunity.

An important component of economic reforms is the setting up of an effective system of market regulation. Regulating the market is necessary to activate and ensure fair competition, protect consumers from monopolistic exploitation, prevent predatory behaviour, and deal with problems arising from asymmetric information. Thus, many advanced market economies have competition commissions to ensure fair competition.

In India too, a regulatory system has been set up to ensure fair competition, protect consumers' interests and minimise difficulties and problems arising from asymmetric information. Thus, we have regulators in activities such as the stock market, the insurance market, telecommunications, electricity supply, and water supply.

Complexity in the nature of the industry requires that regulators have specialised knowledge and professional experience in the industry, should be independent and impartial, and should not have conflicting interests. Considering the fact that these are extremely important industries with significant externalities to other sectors, competence, experience, independence, and objectivity should be the core criteria for the choice of regulators. It should not matter whether the persons come from the public or private sector.

However, the qualifications specified for regulators in India have been tailored to accommodate virtually any senior retiring bureaucrat. Thus, in the case of central electricity regulation, the chairpersons and members are required to have "adequate knowledge, experience or shown capacity in dealing with problems relating to law, economics, commerce, finance or management". Given that senior bureaucrats in their long careers acquire "adequate" knowledge of one or more of the above, they become eminently eligible. Similarly, telecom regulators should have "… special knowledge, and professional experience in telecommunication, industry, finance, accountancy, law, management or consumer affairs".

The dilution of qualification requirements for regulatory positions is not a mere oversight. It is part of the design to provide opportunities to senior bureaucrats, retired and serving. Furthermore, generally the tenure for these positions is fixed for three years (in the case of the Telecom Regulatory Authority) to five years (the electricity regulatory authority and Sebi) and until the person attains the age of 65. Indeed, the decks are clear for senior retiring bureaucrats to take up regulatory roles, irrespective of whether they are qualified for the job. The system does not merely stop at expanding opportunities for senior retiring bureaucrats. The attempt is to erect barriers to the entry of professionals into the regulatory system by specifying the terms and conditions of service.

The chairperson and members of a regulatory authority would receive remuneration aligned to the pay they got while in service, which implies that it is virtually impossible for professionals of a high standing to be involved in regulation. The condition also requires that after relinquishing the office of the regulatory authority, the chairperson and members are ineligible for further employment with the government, and, more importantly, should not accept any commercial employment, for a period of two years (one year in the case of the Telecom Authority) from the date he relinquishes office. Surely, no serving professional would choose to spend two years in oblivion.

With this, the bureaucratic capture is complete in the complex and difficult area of regulation, which requires the entry of professionals. The fact that they lack specialised knowledge of the industry to be regulated is not a disadvantage.

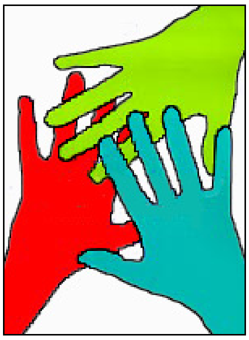
This is not to say that retired bureaucrats do not have the capacity, capability, or competence, but simply that being generalists they have limitations in developing expertise in the complex area of regulating difficult industries involving information asymmetry such as the stock market or insurance. The important issue is that there is no need to exclude experts from the regulatory system. Most of the regulators appointed acquire their understanding of the industry on the job. More importantly, in the case of regulating public utilities, having got used to working on the side of the government, it is difficult for bureaucrats to work in an independent framework.

A great thing about the Indian bureaucracy is that bureaucrats take any challenge as an opportunity. Of course, they have vast opportunities in various commissions and committees. The decentralisation reform required the constitution of State Finance Commissions and they have easily filled most positions of chairpersons and members. Electricity reform required the establishment of regulatory commissions at the central and state levels and they provide ready expertise! They are equally at ease in entering the regulatory system of complex areas. Who cares if scams come up from time to time? Will the country give the opportunities to the real experts where they are required?

**Abridged from an article that appeared in Business Standard, August 1, 2006*

PPP: The New Pep in Infrastructure?*

Definition



Public-private-partnership (PPP) is much in news. The Finance Ministry of India has defined PPP as "a project based on a contract or concession agreement, between a government or statutory entity on the one side and a private company on the other side, for delivering an infrastructure service, on payment of user charges". The potential benefits of this arrangement include:

- fiscal space that leaves adequate resources to finance inescapable commitments on schemes, which do not lend themselves to such partnership;
- attracting private investment, which may otherwise be hesitant;
- efficiency gains through improved private management;
- more equitable distribution of access to output and services at affordable cost; and
- creating a more competitive environment, and thus, improved governance.

None of the above can be pursued independently, nor divorced from improving the overall investment climate and sectoral reforms to address policy deficiencies.

Why PPP?

Apparently, the many positive aspects of PPP are being perceived as panacea for the many ills plaguing our infrastructure.

For instance, PPP is viewed as sidestepping the inadequacies of public and private sectors. Excessive reliance on the former fosters inefficiency, while the latter is of inequities.

Projects and Financing

The scheme for support to PPP in infrastructure, along with the features of a special purpose vehicle for funding infrastructure announced by the finance ministry in July and November 2005, broadly lays down the coverage, eligibility criteria, and approval procedures to secure financing.

Clearly, the government recognises that "the development of infrastructure requires large investments that cannot be undertaken out of public financing alone, and that to attract private capital, as well as the associated techno-managerial efficiencies, the government is committed to promoting PPPs in infrastructure development". And "infrastructure projects may not always be financially viable because of long gestation period and limited financial returns, and that financial viability of such projects can be improved through government support". Within the infrastructure category, it would be the easiest supporting the road sector, while in other areas like power, gas pipelines, and special economic zones, progress pace would be conditioned by sectoral reforms.

Issues Involved

Nonetheless, excessive enthusiasm for a PPP approach must recognise the complexities of several issues. First, intrinsically, this is a sub-optimum solution in that it acknowledges that public consensus for outright privatisation remains elusive, but partnering the private sector is more acceptable. Yet, these special arrangements are no substitute to ongoing sector reforms. There is inherent danger that redressing endemic sector-specific issues, particularly on subsidies and rates, get postponed under pretext that investments are being garnered by this special mechanism, e.g., implementation of mega-power projects is no alternative to resolving issues of open access, enhanced competition and elimination of distortionary cross-subsidies, to name a few.

The second point of note is that evolving a model concessionaire agreement, in which risk assignment and unbundling combine the virtues of equity and efficiency, need to be benchmarked with the best international practice, as well as the stage of the sector- specific reforms. There could be wide variations across sectors, regions and states.

Third, ensuring quality of service stipulated in the concessionaire agreement is problematic. Assuming adequacy of the monitoring mechanism, short-term contractual arrangements may not secure financial closure, while longer-term contracts make ensuring assured service quality and penalty imposition more difficult.

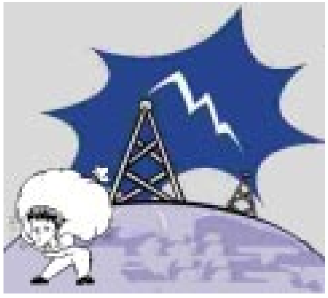
Fourth, application of user charges, which combine financial viability with distributional and equity considerations, make rate rebalancing a complex issue. The time frame for application of market-based user charges and its calibration during the transition period needs consultation and consensus of stakeholders. Given market imperfections, information asymmetry and information rent making in the public sector can create serious 'moral hazard' concerns.

Finally, regulatory and legal issues are critical. While some are embedded in the broader context of our legal reforms, alternative measures of dispute resolution and contract enforcement would remain a precondition for large private flows.

PPP is at a fledgling stage, and as such should get the aforementioned issues right if it has to be a potent tool for infrastructure improvement. Attracting private investments and improving managerial efficiency depends on how credibly these concerns are addressed. PPP is not a panacea for our multiple infrastructure ills. There are no fixed paradigms on the most preferred modes of such an arrangement. We can shape it to meet our needs, and more broad-based reforms would make the transition more acceptable.

**Adapted from an article by N K Singh, noted economist and Deputy Chairman, Planning Commission, Government of Bihar, that appeared in The Financial Express, April 2006.*

Consumer Interest In Electricity Sector



The Electricity Act 2003 provides for the creation of Consumer Grievance Redressal Forums (CGRF) and Ombudsman to attend to consumer grievances. The Act has made it mandatory for state governments to entrust the regulation of power sectors to autonomous regulatory commissions. Several proponents of the Electricity Act 2003 have termed it as a progressive legislation on the basis of provisions of the Act aimed at protecting consumer interests. The regulator has a salient role in protecting consumer interests by providing a credible and authoritative interface between the consumer and the service provider. Two recent cases bring out the implementation 'hole' while enforcing these provisions. While the first case indisputably raise a question over the government's intentions in line with the National Common Minimum Programme, which, *inter alia*, aims to strengthen all regulatory institutions to ensure that competition is free and fair and that these institutions are run professionally, the second case dents the key objective of the power sector reforms to restore the financial viability of utilities, which, owing to years of unprofessional conduct, have been sailing in bankruptcy. And the worst sufferer is none other than the consumer, ironically considered as 'the King' in today's scenario!

A recent judgment by the Appellate Tribunal for Electricity (ATE) combined with the rules promulgated by the Ministry of Power has however undermined this very role of the regulator.

The Maharashtra Electricity Regulatory Commission (MERC) issued three orders between February and August 2005 declaring billing practices followed by the Reliance Energy, Maharashtra State Electricity Board (MSEB) and other licensees to be improper. The orders directed these licensees to stop illegal practice of billing their customers on the basis of average consumption rather than actual consumption recorded by meters on the consumer' premises. It also directed the licensees to refund money to consumers on account of such bills. The refund payable to consumers on account of these orders is to the tune of Rs 300-400 crores.

Pursuant to the orders issued by MERC, M/s Reliance Energy Limited, MSEB and others appealed against these orders to the ATE. In its judgment, ATE concluded that matters relating to wrong billing practices are in the nature of billing disputes, and the State Electricity Regulatory Commissions (SERCs) have no jurisdiction to entertain consumer petitions on these issues, even if they relate to non-compliance with regulatory orders.

The ATE held that CGRF and Ombudsman are the competent forums to deal with such complaints. In holding such a view, ATE has not only virtually made the SERCs toothless and confined their role to mere tariff fixation, but also set an unfortunate precedent.

The said ATE judgment imply that if a licensee is found to charge a tariff other than what is prescribed by SERC, the SERC cannot intervene in the matter. The CGRF, a body manned by licensees' officers, will decide whether actions of licensees are legal, essentially making the tariff determination by SERCs meaningless and leaving consumers to the mercy of distribution licensees.

(Based on inputs from Prayas)

Another case exemplifying loss of public/consumers at large is the recent award of arbitration between the Karnataka Power Transmission Corporation Limited (KPTCL) and Tanir Bavi Power Company (TBPC).

Consequent to the Power Purchase Agreement (PPA) entered into between KPTCL and TBPC, the former was to pay tariff inclusive of fixed and variable charges to the latter in consideration for electricity supplied. The clause contained under the PPA provided for total fixed charge comprising of 'dollar denominated fixed charge' (DDFC) at four cents per kWh and a rupee denominated 'other fixed charge' specified as 14.5 paise per kWh for the first year and subsequent escalation for the following six years.

The fixed charge (implying DDFC) had to be determined at the time of financial close, subjected to a ceiling of four cents per kWh. The fixed charges were to provide exchange rate protection for (a) return on foreign equity up to 16 percent and (b) foreign debt service components. And in case there is any balance in the fixed charge after meeting (a) and (b) above, the balance was to be paid in rupees

However, the PPA did not specify how the fixed cost would be determined at the time of financial close, and more importantly what constitutes fixed costs. Subsequently, i.e., at the time of financial close, the DDFC was worked out to be around 2.05 cents. TBPC's claim is that the portion of (a) and (b) within 2.05 cents should be paid in dollars and the balance from four cents, namely, 1.95 cents plus whatever is left over from 2.05 after paying (a) and (b) should be paid in rupees. So, the bone of contention is whether the additional 1.95 cents per kWh is legitimate or not.

It appears that during the arbitration, TBPC twisted the word 'balance' out of context and applied it to four cents instead of to the DDFC which was to be determined at the time of financial close.

Karnataka Electricity Regulatory Commission (KERC) in its order entitled TBPC to the fixed charge at the rate of US$ 0.04 per kilowatt hour, as per the terms of the PPA. It has further entitled TBPC to the amount of fixed charge of Rs 191.31 crores together with interest at the rate of 24 percent per annum from the date of default to the date of payment.

(Based on inputs from V Ranganathan, RBI Chair Prof., IIM Bangalore & The Hindu, June 16 & September 06, 2006)

SPV Model For Dedicated Freight Corridor: Step in Right Direction?

Over the last few years, Indian Railways (IR) has embarked upon a number of steps in a bid to improve its performance as well as to run on commercial lines. Of its two main segments – freight and passenger – the freight segment has by and large been IR's bread and butter accounting for about two-thirds of revenue. Profits from freight sector usually get exhausted making up the losses by passenger segment. Realising the need to retain and increase market share in its freight segment operations, IR has come up with forming an organisational structure or special purpose vehicle (SPV) to construct a dedicated rail freight corridor (DFC).

www.espyjunction.com

Salient Features

- The DFC will separate the movement of goods train traffic from passenger trains by providing them an exclusive track and lead to the formulation of a Freight Train time-table for the first time in the country.
- Costing a total of Rs 22,000 crore, the DFC is the single-largest infrastructure project in the country and the biggest development programme to have been undertaken by the Indian Railways since independence.
- A new Public Sector Undertaking named Dedicated Freight Corridor Corporation of Indian Limited (DFCCIL) has been formed to implement the DFC project through a SPV by a combination of Engineering Procurement and Construction (EPC) and Public Private Partnership (PPP) modes.
- DFCCIL has been set up with authorised capital of Rs 4000 crores. The initial equity is being provided by Indian Railways. DFCCIL shall raise the balance money required for the project from the market as debt.
- Public Private Partnership could only be allowed for the construction, ownership and maintenance of sections of the corridor for a pre-defined period after which the ownership will stand transferred to the railways. The partner would only be allowed to build, maintain and transfer but not operate on the system. IR will be the sole operator on the system and the monopoly of traffic will remain with the Railways
- The SPV would share the financing and construction risks, but the extent would be governed by the Concession Agreement to be signed between the SPV and Ministry of Railways.
- IR shall be the sole operator. There will not be any Open Access. IR will, in contrast, pay track access charges to the SPV whenever it accesses DFC tracks.
- Private players will be allowed to operate their trains on the DFC but they will have to deal with the Indian Railways for that and not the SPV.
- The SPV would be in charge of infrastructure including tracks and signalling system, whereas the Railways would maintain the rolling stock.
- The system would function through an earnings apportionment mechanism. Both IR and the SPV handling the dedicated freight corridor will pay access charges to each other for the traffic carried on each other's track as will the private operators running services on the DFC.

Panorama Across

On the Right 'Track'

The SPV initiative, the long overdue initiative is a great concept and no doubt will help in sorting out the major congestion that exists in the already overburdened railways infrastructure (tracks etc.). It should be used on a well thought out business plan. Competition is something that the Indian railways has never faced and it is high time specially in the context of changing demands, that new mix of users and service be expected from this new group. Having stakeholders other than the government is a great idea.

I have a suggestion regarding the scenario where the railway has the main mover and shaker role. I strongly feel that a new system needs to emerge where the old mindset can be changed and a fresh group of decision makers come up to set new systems which can also enrich the ongoing practices of the IR and infuse new sense of confidence with the main users. Hence, active participation of the stakeholders can create the right amount of transparency as well as discipline of fund utilisation.

Disha Banerjee
Lead Co-ordinator, TERI

Complementarity Also Needed

Privatisation is not in itself a solution to the problems of the railways. The Railway Ministry has a point in saying that it is complementarity that matters. Also, limited competition is possible if the DFC is made subject to contestable markets—parties can bid for specified time limits to run it under the railways conditions. The railways are doing well today—nothing should be done to weaken them.

Vinod Vyasulu
Director, Centre for Budget & Policy Studies

(Information in this article has been gathered from a host of website sources and news articles)

Walking Deep into Forests

Connotation

Social Forestry is a term that has its origin in the parent word – community forestry.

Community forestry was initially defined as, "any situation, which intimately involves local people in a forestry activity. It embraces a spectrum of situations ranging from woodlots in areas which are short of wood and other forest products for local needs, through the growing of trees at the farm level to provide cash crops and the processing of forest products at the household, artisan or small industry level to generate income, to the activities of forest dwelling communities".

Apparently, no clear definition exists for social forestry, which is used by some interchangeably with community forestry and by others to describe an implicitly narrower spectrum of activities surrounding the fuelwood/deforestation/woodlot aspect of forest sciences.

Interestingly enough, the term 'social forestry' originated in India.

Background

The Indian Forestry Act was passed in 1865 to control indiscriminate felling and initiate the preparation of working plans that would regulate yield. The first statement of the National Forest Policy (1894) emphasised the need to demarcate, reserve, and conserve forests. While this was excellent from the point of view of genetic resource conservation and wildlife, soil, and water protection, it did not rationalise or maximise yields of forest products nor did it endear forestry officials to local populations, who carried out a policing function.

The policy was revised in 1952 and re-emphasised the protective function of forests. But, the full importance of improving forest productivity was not recognised until 1972 when the National Commission on Agriculture published its interim report on "Production Forestry-Manmade Forests" (NCA, 1976a). Prior to the time, India had been slow to adopt new methods of forest planning, management, extraction, and research that were being rapidly developed and widely used elsewhere.

The National Commission on Agriculture, Government of India, first used the term 'social forestry' in 1976. It was then that India embarked upon a social forestry project with the aim of taking pressure off forests and making use of all unused and fallow land.

With the introduction of this scheme, the government formally recognised the local communities' rights to forest resources, and the need to encourage rural participation in the management of forest resources. Through the social forestry scheme, the government has involved communities' participation in drives towards afforestation and rehabilitation of degraded forests and common lands.

Ventures

A positive beginning in the sphere of social forestry was made with Joint Forest Management (JFM) projects, where attempts were made to involve local people with forest department officials in managing forest resources in a sustainable manner.

JFM originated in West Bengal, accidentally, at the Arabari Forest Range in West Midnapore, in 1971. The major hardwood of Arabari is *sal* (shorea robusta), a commercially profitable forest crop. At the time, there were no initiatives for sharing of forest resources between the government and the locals, with the government considering many of the locals no more than 'thieves'. A forest official, Ajit K Banerjee, against the suggestions of his co-workers, sought out representatives of eleven local villages and negotiated the terms of a contract with an *ad hoc* Forest Protection Committee. The initial programme involved 612 families managing 12.7 square kilometres of forests classified as 'degraded'. 25 percent of profits from the forests were shared with the villagers. The experiment was successful and was expanded to other parts of the state and later to other parts of India.

Accordingly, JFM was initiated in the village Sukhomajri in Haryana's Ambala district in 1976 to prevent soil erosion and deforestation.

In the early 1980s, the village earned nation-wide acclaim for the way they had utilised forests and water to their benefit. An estimated 5,000-*khair* (betel leaf) trees had matured in the 400 ha Sukhomajri forest. At an average price of Rs 1,000 per quintal of heartwood, these trees could reap more than Rs 50 lakh in timber alone. About 5,000 trees would mature in the forest every year.

The 1990's saw important changes in the policy environment enabling a better involvement of local communities in determining the management of the local natural surroundings under the Watershed Development programmes, JFM arrangements, and the Panchayat Raj Amendment Act (1992). New opportunities to work on different land categories through a variety of village level institutions provided a more enabling environment to address the critical task of ecological restoration.

This motivated various Community Board Organisations (CBOs) and Voluntary Organisations (VOs) to initiate programmes that placed forests in the heart of local community development and innovate ways of protecting, preserving, and reviving.

As such, it is extremely difficult to single out experiments done by the CBOs, and the VOs – experiments that have taken the benefits of 'social forestry' to the local community. References are replete. Nevertheless, the Foundation of Ecological Security's model of wasteland development in the barren areas of India and Peoples' Science Institute's work on watershed management in the hill states deserves special mention.

(Information in this article has been collated from various sources)

Reforms Need a Competition Policy Framework

It is time the government adopted a National Competition Policy as the mantra for implementing economic reforms

*By Pradeep S Mehta**

It is time the government adopted a National Competition Policy as the mantra for implementing economic reforms [see "How to Enhance Growth and Competitiveness," in PW 7(2)]. The policy could spell out competition principles to guide the government for integrating a competition dimension in all public policies. What are these principles?

Free, Fair Market Process

The first principle: The government should 'ensure free and fair market process'. However, as the examples above show, policies are most often designed in such a way that they stall the market process or promote the welfare of some market players. In the context of the Postal Amendment Bill, for instance, discussions have got skewed to providing DoP with a monopoly based on weight criterion instead of considering the fact that a segmentation already exists between ordinary mails and express.

The second principle requires the government to 'foster competitive neutrality', that is, through measures that ensure equal treatment to all market players, whether in private or public sector. In India, this principle is violated in both ways, that is, there are cases where government enterprises are given special advantages over their private counterparts. Similarly, there are instances, where public sector is disadvantaged *vis-à-vis* private competitors.

VAT: A Big Step Forward

As per the third principle, the government should 'facilitate easy movement of goods, services and capital' by adopting rules and regulations so that trade and commerce within the country is free and unhindered. VAT is a big step forward towards a single market for the country. Another effort is that of the agriculture produce and marketing law, though its implementation, like VAT, is dependent upon the will of the States.

Sometimes, for reasons of technology or other public purposes, competition is neither desirable nor feasible. In such situations, the government is required to 'ensure third party access to essential facilities,' such as the creation of an access regime to an electricity transmission grid in order to create competition in the electricity sector. However, there are several cases where the access regime is thwarted by government actions. For instance, interconnection in telecom, in particular, to the state-owned BSNL network is a big problem.

The Telecom Regulatory Authority of India has failed to ensure interconnection among service providers due to an ambiguity in the law. Consequently, growth in telecom services has been accompanied with an increase in inter-network congestion and poor quality of service. Over the years, the government has set up sector regulators to 'ensure a transparent, predictable and participatory regulatory environment'. However, most often, the government interferes in the functioning of the regulatory agencies in a manner that violates this principle. The power sector is a case in point, where continuous government intervention in regulatory decision-making has resulted in poor regulatory environment.

Related to this is the principle of 'separation of policy-making, regulation and operation functions', which becomes imperative to avoid conflict of interests. Unfortunately, the temptation to command and control still prevails within line-ministries, often leading to turf wars, reflecting the state of immaturity of the regulatory framework in India. The government's role as licensor, policy-maker and service provider in the telecom sector creates serious conflicts of interest.

IPR May have Negative Impact

Healthy competition encourages innovation. To provide incentives to innovate, firms are granted an exclusive right for a certain period for commercial exploitation. However, the existence and exercise of intellectual property rights (IPRs) may generate anti-competitive effects through the monopoly power granted to holders of these rights.

In this context, the government needs to 'balance competition and IPRs' through appropriate policy and law. Accordingly, in several countries, abuse of IPRs is covered under competition law to ensure the required balance. However, in India, IPR laws such as the Copyright Act or the Trade Marks Registration Act have overriding powers over the Competition Act in matters related to IPR abuses. This is a huge gap in the law.

The above assessment of the state of adherence to the 'competition principles' does not present a rosy picture for India. Violation of these principles exists in several measures adopted by the government at all levels. It is imperative that the government (Centre as well as States) adopts these principles to complete and enhance the process of economic reforms. The goal of 10 percent growth will then be within reach.

**Abridged from an article that appeared in Business Line, June 06, 2006.*

Issues for Discussion

- How can adherence to 'competition principles' help the government in enhancing the process of economic growth?
- How can competition policy framework result in building an efficient and enabling regulatory environment?

REGULETTER

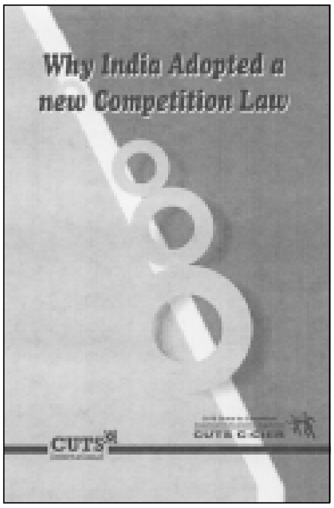
The latest issue of ReguLetter, (July – Sep 2006), articulates the need to reinvent the regulatory framework in developing countries. Culled from a recent CUTS research study entitled, "Creating Regulators is Not the End, the key is Regulatory Process", the article draws illustrations from the poor countries of the world, where prevalent socio-economic conditions debilitate regulatory efficacy or where the infrastructure of regulation is inadequate or absent in certain cases.

Special Article by Derek Ireland dwells on the "Evolution of Competition Policy and Law in India" tracing the history of competition in India, elaborating on the rich ethos of the country in such a context and the inheritance of anti-competitive practices from the colonial rulers.

News & Views elaborates on a system going back to the nineteenth century of shipping companies fixing freight charges in exchange for ensuring regular services.

About a Competition Law dwells on the competition scenario in Venezuela, the institutions of competition law in the country and the scope of improvement in the law.

"Why India Adopted a New Competition Law?"



The latest monograph of CUTS CCIER entitled "Why India Adopted a New Competition Law?" deals with a study wherein 20 countries have adopted a new competition law after scrapping the old one. It revisits the frequently visited topic on the role and relevance of competition policy and law in the national development strategies. India paper has been presented in the form of this stand-alone booklet, which throws light on the developments of competition regime in the country since its inception.

For more, please allow the link
http://www.cuts-international.org/ccier_publications.htm#mono

On the Kinds of Newspapers

C R Irani

...Of all forms of censorship known to us, self-censorship is the worst. Because there is no complaint, no redress, and no record. Newspapers have no business criticising men and affairs if their own conduct does not bear scrutiny. While there is no overt attempt by government to influence or control, the attractions of being understanding, and being willing to carry official handouts disguised as news or obliging a bureaucrat or politician are very high. Then there is the occasional prostitute. Such a paper will spend its time blackmailing advertiser or politician and will suddenly see the other point of view but not before a deal has been struck.

Then there are papers, which are owned by economic offenders or those under investigation for serious economic offences. They discover a sudden passion for human rights. Yet other papers are started by politicians to embarrass or upstage their political opponents. There is room for all of these and more. If every paper took the same stand it would make for a very boring world!

We want to hear from you...

Please e-mail your comments and suggestions to **outreach@ccier.cuts.org**

We put a lot of time and effort in taking out this newsletter and it would mean a lot to us if we could know how far this effort is paying off in terms of utility to the readers. Please take a few seconds off to grade the newsletter on the following parameters on a scale of one to ten (ten being the best). Try to be honest and please suggest ways for improvement.

- Content
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- Readability (colour, illustrations & layout)

Eagerly waiting to hear from you!

SOURCES

ET: The Economic Times, **BS:** Business Standard, **TH:** The Hindu, **BL:** Business Line, **FE:** The Financial Express, **HT:** Hindustan Times

The news/stories in this Newsletter are compressed from several newspapers. The sources given are to be used as a reference for further information and do not indicate the literal transcript of a particular news/story.