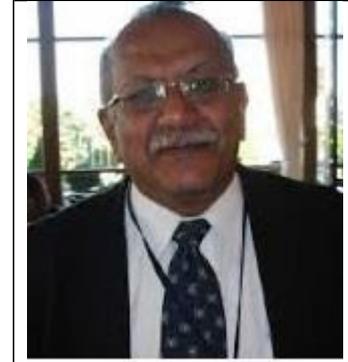


Annual Report 2015-16

**CUTS Institute for
Regulation &
Competition**



**Nitin Desai,
President, Governing Council**



Conceptualised as a High Performing Knowledge Institute (HPKI), CUTS Institute for Regulation & Competition (CIRC) is living up to its vision. Despite the odds and challenges, I am glad to note that CIRC has been able to start a wide range of training and capacity building initiatives, within the thrust areas of economic regulations and competition law.

India's economic growth prospects has been vulnerable to unpredictable and burdensome approach to economic regulation, the country has followed for long. Despite introduction of independent sectoral regulation in last few years, political expediency drives economic decision making. If the country has to maintain high growth rate, it cannot afford unnecessary and onerous regulations. Such regulatory gaps not only demotivate fresh investments, but also affect viability of existing businesses. Given government's current focus on 'Make in India' and bring in global investments, India needs to foster the right kind of market-oriented competitive and regulatory environment. Government does realise the need and there has been subsequent policy reform initiatives in that direction.

The dynamic changes in the regulatory environment of the country, however, require complementary capacity building of relevant officials and practitioners. CIRC has taken initiatives to launch courses some of these relevant areas, including public procurement, public private partnership, land regulation, energy regulation, intellectual property rights, role of economic in competition analysis and competition policy and law in India.

The ongoing long-term courses, Certificate and Diploma in Competition Policy and Law, accredited to National Law University, Delhi, have been running successfully. In addition, the Institute has been offering eight online courses and working on few other courses to be launched soon. The institute has also developed and offered professional trainings to relevant officials from civil service, electricity regulators, competition authorities and from private sector. In recent past, the Institute has been able to reach out to stakeholders in other developing countries in Africa and



Asia. In addition, more recently, CIRC has taken up research activities on relevant areas, in partnership with the parent organisation, CUTS International.

As the new regulatory agencies do not have adequate in-house capacity, institutes like CIRC can contribute through unbiased and cutting-edge research. High quality research conducted by CIRC and CUTS can fill the gap and identify potential areas of capacity building.

Building on the past initiatives and lessons thereof, I am confident that CIRC will identify new areas for capacity building within the thrust areas and reach out to relevant stakeholders.

Nitin Desai



**Pradeep S. Mehta,
Chairman, Managing Committee**

The year under reporting was one of downsides as compared to the earlier years because of several factors, but the future looks brighter than before. We faced a financial crunch which lead to reduction in our activities, which is evident from the number of pages this annual report has. We also moved to a much smaller premise at one third the rent to be efficient. Many of our old staff also moved on. Our collaboration with CUTS International helped us to stay afloat. Let me end this intro with the good news that we have secured a three year support from Qualcomm Inc. from the current reporting year to explore the depths of innovation, technology, intellectual property rights and competition law.

Another new area which we are developing as our core is in the domain of public procurement. In 2014, we partnered with the World Bank as one of the premier institutions in India to offer professional courses on public procurement.

Other than this, we were also awarded a project by the World Bank to create a Public Procurement Observatory in Rajasthan, which was done in partnership with CUTS International, Jaipur.

Taking this forward in 2015, a National Public Procurement Observatory (NPPO) was established to track and analyse developments in India's procurement framework and practice. As is evident from the NPPO website, the focus is on three broad aspects of procurement practice, viz. transparency, efficiency and competition, and aims to improve public access to information while providing suggestions for reforms.

In addition to courses and research in this area, we are also focussing on the training aspect. With support from Department of Personnel and Training (DoPT), GoI, a five days training programme for All India Services Officers was successful organised in November, 2014. This initiative will be replicated again and a proposal for the same has been positively acknowledged by DoPT. We hope it sails through again this year. Much of this work has come out of serious research in this area done by CUTS International over the last three years.

It is another story, that the Government of India is not serious about adopting a comprehensive policy and law on public procurement. I must have mentioned it thrice over the last three years of Pre-Budget Consultation with the Finance Minister that I have been privileged to be invited for.

Keeping with our vision on capacity building, the Institute has launched various online courses. This year, we added two such courses to our bouquet. The first one is on Intellectual Property Licensing in India and the second one is on Competition Law in Zambia. We are finalising two other courses on competition law in Kenya and Pakistan, which will be launched soon this year. The idea is to launch the online courses free of cost and raise revenues through advertising and value added services.

The MoU with National Law University, Delhi has been extended for another three years to offer the 6-month Certificate and 12-month Diploma Courses on Competition Policy and Law. The Institute is exploring further collaboration and accreditation to offer additional courses and reach out to maximum number of stakeholders. Owing to the hardships, we could not offer some of the capacity building initiatives in the year. But the planning for next year has already started.

As the country is poised to have a regulatory transformation to facilitate the new wave of industrialisation, we envision a stronger role for independent institutes like CIRC. The institute is consolidating its capacity with addition of experienced researchers and managers to contribute to the policy development and related capacity building, in partnership with CUTS International

Pradeep S Mehta



Annual Report, 2015-16

This year has been a year of challenges and learning for us at CIRC. Beginning with a financial crunch early in the year, the institute has managed to restore the activities in later part of the year. However, the rough patch has enabled us to better strategize for the future. Despite the challenges, in this year, CIRC has moved closer to the objectives envisaged by its founding members, to carry out research-based capacity building activities in the area of competition and regulation.

Since it started operation in 2008, CIRC has continually been updating and consolidating its endeavours. In spite of the funding constraints, the Institute has expanded its capacity building initiatives by adding additional courses/trainings to the existing bouquet. As the capacity-building initiatives have been non-remunerative, the institute has taken up research activities to supplement the costs. Last year has been successful on that front. CIRC has been able to secure a major grant to launch a three-year long research programme on Promoting Innovation and Competition for Efficient Use of Intellectual Property.

The Way the Institute managed to overcome the challenges has inspired us to take few bold steps into the future that marks a positive turning point.

Following are the main activities and achievements of CIRC in the year 2015-16:

1. Capacity Building Initiatives

1.1 Long-Term Course: Diploma & Certificate on Competition Policy and Law

CIRC has been running these flagship courses, first of its kind, in association with the National Law University, Delhi. The Certificate Course in Competition Policy and Law is a fundamental course dealing primarily with markets and business laws, competition policy and law, in general, and the Competition Act, 2002 as amended in detail. The certificate course also covers fundamentals of Economics essential for studying competition law. The Diploma Course in Competition Policy and Law is an advanced course dealing, in detail, with topics related to abuse of dominance, anti-competitive agreements, and regulation of combination across select jurisdictions. The participants of Diploma course are exposed to emerging issues such as: interface between IPRs and competition law, cross border issues, and issues related to business strategy.

More than 200 students have enrolled for the courses till the 8th batch (April 2015). As the MoU between CIRC & NLU, came to an end, the 9th batch could not be announced in October 2015. However, the MoU has been revived and extended for next three years. Subsequently, admission for the 9th batch has been announced in February 2016, and classes are scheduled to start in April 2016.

With emerging competition from other institutes, the number of enrolment has been declining. However, the Institute intends to continue the course as an ongoing activity. All the eight modules of the course have been updated recently, which are being further supplemented with case studies. However, there is a need to restructure the course to make it further dynamic and interactive.

1.2 Online Courses

1.2.1 Online Course on Competition Act, 2002 (CA02):

The Competition Act 2002 (CA 2002) establishes a completely new set of rules unfamiliar to most stakeholders in India. Addressing this concern, another pioneering initiative CIRC undertook was the eight-week Online Course on “Competition ACT 2002 in India”. This course has been uniquely structured and aims to strengthen executive education in the areas of Competition Act 2002 while facilitating classroom-free, self-paced and interactive learning environment.

So far, the course has got 78 enrolments, out of which 02 enrolments were received in 2015-16.

1.2.2 Online Course on Law & Practice of Public Private Partnerships (PPPs)

Considering the importance and need for a professional course on PPPs, CIRC launched 8-weeks On-line Certificate Course on “Law and Practice of PPPs”, which is intended to introduce participants to the provisions of the law and practice of PPPs. The course is aimed at providing a better understanding of the legal and economic aspects of public- private-partnerships, project life, contractual agreements and management issues. The course is open for Central and State Govt., private sector officials involved in activities related to public-private-partnerships projects, officials of municipal corporations, etc.

So far, the course has got 13 enrolments, no enrolment was received in 2015-16.

1.2.3 Online Course on Energy Law & Policy in India

CUTS Institute for Regulation and Competition (CIRC), New Delhi has introduced the first of its kind 10 weeks online professional course on Energy Law and Policy. This course aims at providing a curriculum, which can be undertaken by inter-disciplinary professionals and students, having interest in gaining knowledge with reference to Indian Energy Sector, and its policy and regulatory framework. The programme has been prepared with an intention of creating dedicated professionals who are well trained in legal framework and contractual requirements for energy sector companies. Students will be exposed to the latest laws and judgments pertinent to the core energy sectors of India. The students are required to complete the course within scheduled 10 weeks, after the successful completion which, they will be awarded with a certificate.

So far, the course has got 12 enrolments, out of which 02 enrolments were received in 2015-16.

1.2.4 Online Course on Economics of Competition Law

This programme aims to equip the learners with an **understanding of the increasingly important role that economics plays in competition law** providing an insight into the relevance of economic **theories and analysis** that underlie competition law and the methods that are used to assess whether business practices are unsavoury, benign, or healthy. This comprehensive online certificate course with interesting content, striking a balance between theory and rationality is spread over eight weeks. The participants are required to complete the course within scheduled eight weeks, after the successful completion of which, they will be awarded with a certificate.

So far, the course has got 06 enrolments, one of which was received in 2015-16.

1.2.5 Online Course on Land & Property Laws

Land has played a central role throughout history. It has been the locus of productive activities and a source of political power. It has special and emotional significance, for families, communities and nations. Its sound management has contributed to environmental stability and economic well-being, while its abuse has helped undermine ecosystems and livelihoods. It has figured prominently in a wide variety of human conflicts, from inheritance disputes to wars. In recent years, land related issues have emerged at the top of the social and political agenda. Around the world, there are vast differences in the ways people use and possess land and the ecological, economic and social settings in which they do so. This course has been designed to cover many key topics in Land and Property laws so that students emerging from this course have a foundational understanding of this area. To understand the various acts related to Land and property issues that are put in place, impact on environmental factors etc.

So far, the course has got 05 enrolments, out of which 02 enrolments were received in 2015-16. Given the ongoing change in regulation, there was no interest for some time. But we are receiving fresh enquiries. The modules need to be updated in light of the recent changes in regulation.

1.2.6 Online Courses Launched in 2015-16

Intellectual Property Licensing in India

Intellectual Property plays a pivotal role in designing business strategies. Licensing of IP rights is an effective tool for achieving various business goals including starting, innovating and expanding business. Licensing helps an enterprise to commercialise its IP or expand its operations into new markets more effectively and with greater ease than on its own. The practical knowledge through this course will contribute to more effective licensing of IP which is at the base of numerous business practices like technology transfer, merchandising, franchising, software licensing, etc. This course aims at equipping the participants with the practical and applied aspects of IP licensing so that it is helpful for them to license and manage IP efficiently.

Enrolment for the course is now open.

Competition Policy & Law in Zambia

In partnership with CUTS Lusaka, CIRC launched eight week on-line Certificate Course on Competition Law. This course has been conceptualized, researched and written with the help of experts in Zambia. This course is intended to introduce participants to the provisions of Competition Law and its enforcement in Zambia. It aims to create a better understanding of the market concepts, restrictive business practices, IPRs and cross border issues.

Registration for the course is now open.

2. Conferences, Workshops and Outreach Events

2.1 Two Day Summer Master Class on Competition Law

CIRC has been promoting and spreading awareness on Competition Law and its scope. In pursuance of this objective, CIRC conceptualised a 2 day course on “Competition Law & Practice in India” to be held every summer. After the huge success of its earlier courses and workshops, CIRC successfully delivered a two days Summer Course from 26th June to 27th June, 2015 at New Delhi. The course was designed to give participants a basic understanding of the Competition Law of India with related case studies to understand the practical implications of the law in practice. The faculty comprised of the representatives from the Competition Commission of India (CCI), premier law firms of the country and CIRC with participants from different disciplines such as law, economics, commerce and management & professionals such as lawyers, economists and researchers. The course relied on sustained exposure and interactions of the participants with members of faculty with a view to allow participants the full advantage of rich theoretical and practical knowledge.

2.2 Awareness Seminars

As part of our capacity building initiatives, CIRC has been organising short awareness seminars at various universities, with the objective to sensitise the students on importance of competition law. The educative sessions with experts aim to sensitise students about the law and will help them understand various facets of Competition Law and application of the provisions of Competition Law in the area of anti-competitive agreements and abuse of dominance. The seminar also serves as a platform for the interested students to explore about courses and trainings offered by CIRC.

In 2015-16, CIRC organized two such awareness seminars. The first was held in SGT University, Gurgaon on 21st August 2015. The second seminar was held in Amity University, Noida on 28th March 2016.



28th March 2016; Awareness seminar on Competition Law at Amity University, Noida

2.3 National Essay Writing Contest 2015

With an attempt to explore and nourish the talents of the students as well to express their outlook on current national issues, CUTS Institute for Regulation & Competition (CIRC) organise National Level Essay Writing Contest every year. This year it was organised in association with Society of Indian Law Firms and Services Export Promotion Council as Principal Partners, Amity Law School as Institutional Partner, Lex Witness as Official Magazine Partner. We received 30 entries from post graduate students in various universities. Entries were received from students of various Universities- National Law University – Gujrat, Jodhpur, Raipur, Lucknow, Patna, Nalsar. ILS Pune, Symbiosis Law School, Amity Rajasthan, SNDT Mumbai and other renowned institutions.

The winning entries were awarded in a specially organised event on 26th June 2015.



26th June 2015; National Essay Writing Competition 2015 Award Distribution Ceremony at India International Centre, New Delhi

2.4 World Competition Day Celebration

Like every year, CUTS International and CUTS Institute for Regulation & Competition (CIRC) organised an event to commemorate and celebrate the World Competition Day on 5th December 2015 in New Delhi, India. The theme for the event was kept in consonance with the INCSOC World Competition Day theme i.e. 'Competition Issues in Public Procurement'. The event comprised of a theme talk and a subsequent panel discussion, both dealt with importance of competition for innovation, cost-effectiveness and economic growth.



5th December 2015; World Competition Day Celebration, Theme: ‘Competition Issue in Public Procurement’ at YMCA, New Delhi, India.

3. Research Projects

3.1 Constraints to Growth of Micro, Small and Medium Online Business in India

Online business in India has enjoyed phenomenal growth in last five years and the trend of online marketing is set to see greater heights in coming years. Apart from the growth of internet users, it is also to be noted that the players have made intensive efforts to upgrade areas such as logistics and the payment infrastructure. Furthermore, the Indian consumer’s perception of online shopping has undergone a drastic change. E-retailing in India is growing at a great pace with current market value being USD 2.3 Billion which has grown from the USD 600 million two years ago. In this context, A study was conducted with the support from SafeGov (an online forum dedicated to cloud computing best practices in the public sector), drawing out several questions surrounding the growth of the online business model by small online businesses due to increased competition with the entry of global players. For small online business, there are many limitations including costly capital, trained manpower, and experimenting new systems or products. This study was set with the objective to understand and analyse the challenges of the micro, small and medium online business in India, employing a mixed method (both qualitative and quantitative) for data collection and analysis. The study found that small online business in India experience several challenges in terms of investments, finding skilled human resources and competitive advertising. In addition, these small online firms also face challenges due to rigid and complex regulatory environment. Despite of these challenges, Indian e-commerce market is growing significantly. The study found that there is a need of clear and transparent governance structure. In addition, there is also need to focus on the ease of market entry of the start-up, promoting business confidence and clarity, enhancing transactional enforceability and protecting intellectual property and consumer rights.

The project has been completed and findings were disseminated in a seminar organised on 26th June 2015.



26th June 2015; Seminar on E-business in India: Issues and Challenges at India International Centre, New Delhi.

3.2 Sustainable Development Investment Portfolio

Being the second fastest growing economic zone in the world, South Asia needs to have a cautious approach towards sustainable development balancing between the huge population density and its degrading natural resources. Besides the conscious and constant efforts taken by national governments and international agencies, acute poverty prevails in this region owing to poor policy and governance reforms, lack of infrastructure & institutional capacities, vulnerability to climate change, unscientific use of natural resources and poor regional cooperation. Poverty eradication is possible only through interlinking the key players of sustainable development viz., food water and energy. The linkages between food, water and energy are intricate and alterations in any one of the resources can have severe ramifications on other two resources. Considering the trans-boundary nature and the huge hydro-power potential of the major rivers (The Indus, The Ganges and The Brahmaputra), there is a need to address these issues of food, water and energy security through sharing and management of natural resources which again underlines the necessity of regional cooperation.

Sustainable Development Investment Portfolio (SDIP) is a portfolio investment approach by Australian Government's Department of Foreign Affairs and Trade (DFAT) to address the issues of water, food and energy security in South Asia through better regional cooperation, policy reforms, technology transfer and capacity building targeting the poorest and most vulnerable, particularly women and girls. This investment strategy has a 12 year horizon which will be realized in three phases. CUTS International is one among the portfolio partners for carrying forward the activities related to SDIP.

CIRC has been supporting the initiative as a strategic partner to CUTS. CIRC responsibility is largely focused on the research activities of the project and representing CUTS in the portfolio meetings. Currently, CIRC is involved in the perception study on water, energy and agricultural sustainability in five South Asian Countries (India, Pakistan, Nepal, Bhutan

and Bangladesh). CIRC has contributed to the research and writing of the diagnostic study released in 2015 and the perception study to be published in first quarter of next year. In addition, CIRC has drafted two of the six advocacy messages, one on regional energy cooperation and another on groundwater regulation in South Asia. Outputs of SDIP are available at www.cuts-citee.org/SDIP

3.3 National Public Procurement Observatory

The National Public Procurement Observatory is a modest attempt to track developments in India's procurement framework and practice, and analyse them. The Observatory aims to improve public access to information and happenings in regard of current procurement and procurement process, in order to ensure transparency; and thus, trigger a mechanism of public watch. It also aims to enable learnings from past experiences and good practices. Learning from path dependent developments in order to shed some light on past failures and provide guidance for future reforms and innovations. To meet these objectives, the Observatory will focus on three broad aspects of procurement practice, viz. Transparency, Efficiency and Competition. Through the website, the observatory also aims at sensitising general public about the laws and framework governing procurement processes, while simultaneously creating a rich literature repository engendering a wider awareness and access to global procurement literature. Having an expert column on sectoral procurement issues, the observatory also acts as a platform to bring together subject experts and other interested public for discussion on procurement related matters.

3.4 Regulatory Mandate & Engagement in India's Clean Energy Transformation: Balancing Political, Economic and Environmental Considerations

Government of Indian has shown its commitment to energy transformation, based on clean energy production and consumption. Subsequently, a broad policy framework has evolved for promotion of renewable energy (RE) and energy efficiency (EE), factoring in the technological evolutions and catering to domestic policy priorities. The regulators have crucial roles to play in implementing these policies. However, given that the clean energy transformations came as a latter policy priority, and remained a secondary priority until recently, there is a lack of clarity on the mandate and role of regulators in promotion of renewable energy and energy efficiency.

In this back drop, the project aims to analyse regulatory mandate and engagement in promotion of RE & EE, and find ways to consolidate regulatory engagement in India's clean energy transformation. Drawing on the analysis, CUTS & TERI will engage with two selected SERCs for adoption of proposed strategies. The project has been supported by Shakti Sustainable Energy Foundation.

3.5 Promoting Innovation and Competition for Efficient Use of Intellectual Property (CompIP)

Intellectual property (IP) plays a key role in almost every sector and has become a crucial factor for investment decisions by companies. India has been a part of wide range of international treaties and conventions relating to intellectual property rights (IPR). Recently, the Indian government launched "Make in India" and "Digital India" initiatives. Achievement of such initiatives by the government will not be possible until there is clear policy framework regulating IP. Thus, in order to strengthen its policy framework, the Indian Government is coming up with a National IPR policy soon. The policy is expected to ensure that IP rights of all innovators and

entrepreneur shall be safeguarded and that implementation and enforcement of IP rights do not adversely affect India's developmental objectives. This triggered the need to identify and analyse IP related issues more constructively, which will provide inputs for evidence based policy discourse.

The major concerns of competition law in regard to intellectual property rights are the abuse of market power and the detrimental effects, caused by exercise of IP rights, beyond the limits allowed by the IP law. IP provides exclusive rights to the holders to perform a productive or commercial activity, but this does provide them with the right to abuse their monopoly power in the market or society. The Comp-IP research programme (three years of duration ending in 2018) will provide a sustained platform for discourse and discussions involving different stakeholders from industry, government/regulators (former/current), academia, media, etc. Themes for conducting research for the first year (2015-2016) are mobile technology revolution & its socio-economic impact, and the importance of standards and standard essential patents in India.

CUTS Institute for Regulation & Competition (CIRC) along with Consumer Unity & Trust Society (CUTS International) is undertaking an empirical based research to advocate for constructive policy and regulatory reforms in the IPR regime in order to foster innovation and competition. This research is envisaged to facilitate promotion of a balanced IP regulatory framework. Over the planned duration of three years, the research programme is expected to communicate the significance of technological innovations and their economic footprint, the need for better regulatory IP framework, sensitised and better capacitated community and stakeholder groups and an impetus to the adoption of effective regulatory reforms framework that promotes and advances technological innovations, resulting in benefits to consumers and producers in India. The project is supported by Qualcomm, which is an American global semiconductor company that designs and markets wireless telecommunications products and services.

The programme was launched through a public event on 11th March 2016. Further details on the programme can be found at <http://compip.circ.in/>



11th March 2016: Comp IP Programme Launch Event at Le Meridien, New Delhi