

CIRC CONDUCTS TRAININGS ON COMPETITION LAW FOR MALAYSIA COMPETITION COMMISSION

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On 8-9 June, 2013 the CUTS Institute for Regulation Competition (CIRC), New Delhi organised two training programmes on Competition Policy Law for the Malaysian Competition Commission (MyCC) in Kuala Lumpur.

In the inaugural session, the Chairperson of MyCC: Tan Sri Dato' Siti Norma Yaakob said: "..... allow me to mention once again the importance of knowledge in the effective implementation of the Competition Act 2010. The CUTS Institute for Regulation Competition (CIRC) and the other international speakers, Frederic Jenny, Allan Fels and Shyam Khemani, Pradeep Mehta, bring with them a wealth of knowledge on competition law and economics backed with research in key areas.

"Over the next two days, among the areas we will be looking at are the definition and scope of competition law and policy, an overview of competition law in Malaysia, lessons from other countries, international trade, and the role of media in competition issues.

"With such a distinguished panel of speakers from a well-established NGO specializing in capacity building on competition matters such as the CIRC on board, I am sure all of us will benefit from this training session".

Delving on the history of competition law formulation in the world, Chairman of CIRC and Secretary General of CUTS, Pradeep S Mehta, in his opening remarks, said: "We welcome this opportunity of conducting the two training programmes, and are grateful to MyCC.

"We bring with us experience of having worked in over 30 developing countries on research on competition law and conducting trainings for various competition authorities such as Mauritius, Zambia, Ethiopia, Kenya, Vietnam.

"Malaysia has joined the ranks of nearly 140 countries with a competition law, and it will take time to settle in. "Convincing people about a new policy and law is always a challenge. The MyCC will need to run a marathon rather than a 100 metres dash to convince the citizens of the need of having a competition law and protect their rights".

Two trainings were organised. The training session on economics was conducted by Dr Frederic Jenny, Chairman, OECD Committee on Competition; Dr Allan Fels, former Chairman, Australian Competition Consumer Commission and Dr Shyam Khemani, former adviser on competition policy at the World Bank.

The media training workshop was conducted by Mr Pradeep S Mehta, Mr Udai Mehta, Associate Director, CUTS Centre for Competition, Investment Economic Regulation and Ms. Alice Pham, Director, Hanoi Centre of CUTS and Mr. C. G. Hariprasad of Associate Fellow, CIRC, who will soon be joining the South African Competition Commission as a senior economist.

Malaysia has enacted the Competition Act in 2010. Being a new area of law in Malaysia, MyCC has been engaged in capacity building since its inception, but the same has yet to get a wider buy in. Since its inception, it has decided only one case of a flower sellers' cartel.

Learning about economics in a competition law, there are many complicated aspects which need an in-depth understanding of how markets operate, how firms behave in particular markets, effects of their behaviour on the market and consumers, etc.,

Dr. Jenny discussed the basic principles involved in the economics of competition policy and law such as utility, budget and indifference curves, as well as the concept of Abuse of Dominance.

The presentation used the assistance of fictitious scenarios and many visual aids, thus invoking a lot of discussion and provoking the Commission's Members and staff to delve deeper into their own competition law regime and understand the approach that they would take in similar matters.

Professor Fels lead the session on Markets and the different forms of market such as Perfect Competition, Monopoly, Monopolistic Competition and Oligopoly. While discussing the different forms of the market, he delved into the differences in the markets based on the efficiency in each market which is defined by the Productive, Allocative and Dynamic efficiencies and the consumer welfare criteria in each market. He also made a presentation on Anti-competitive Agreements and explained the contours of the economics of anti-competitive agreements.

Dr. Khemani undertook the methods of classification and definition of relevant market using the different tests, such as the SSNIP Test, the Elzinga Hogarty Test and studying the market power-concentration indices. He also spoke about the calculation of damages and penalties. The law covers private action as well.

He deliberated on the effective enforcement of competition law which requires a balance between legal enforcement and compliance that can be achieved by appropriate and fair levels of fines, sanctions and remedies.

The training sessions for the media were formatted in a way to be less technical and to help civil servants as well as journalists understand the need and importance of a competition law regime.

Pradeep Mehta gave a presentation on "Competition Policy Law – Benefits to Consumers". He delved into the basics of competition referring to price and non-price competition and their various forms and fair and unfair competition with loads of examples from other countries.

While discussing the specific benefits, he highlighted efficiency, innovation, check on concentration, check on corruption, economic growth and job creation, easy access and etc.

Drawing an example of the merger of two cigarette firms from Zimbabwe, a far smaller economy than Malaysia, he stressed on the need for merger review and cautioned on light handed approach by MyCC keeping in mind national interest and cost benefit analysis. However, he cautioned that perhaps merger review was not in the Malaysian law because of business apprehensions, and that it can be thought about for being introduced at a later stage.

Mr. Hariprasad C. G. examined the basic concepts of competition and markets. While discussing the different forms of market and competition such as monopoly to perfect

competition, he also explained the basic characteristics of these markets by inviting the participants to give examples of these markets by their own experience from Malaysia.

Ms Alice Pham undertook presentation of “An overview of Competition Scenario of Malaysia”. She discussed the national economy and market of Malaysia with basic statistic such as the country’s per capita GDP of slightly more than US\$ 8,600 in 2010 and that it is one of the fastest-growing economies in the world in the last half a century.

She threw light on challenges in terms of media engagement, reputation building and credibility and garnering public support, advocacy, maintenance of data for investigation purposes and broader challenges in terms of international integration and cooperation in the era of globalization.

Mr. Udai Mehta delved into the “Role of Media in Competition Issues” and he articulated by segregating the media into print, electronic and social. While talking about media engagement and its need and importance he highlighted the content of policy, alerting the public and adding to the pace of decision making.

Also, he emphasized upon availability of trained reporters and capacity building, importance of willing contributors, and the importance of good interaction with institutions in order to come out with relevant news items.

At the closing session, Ms. Shila Dorai Raj, CEO of MyCC expressed her gratitude to CIRC and all the resource persons about the huge utility of the two trainings and added that the MyCC will continue to engage CIRC for future trainings as well.

For more information, please contact:

Udai Mehta at usm@cuts.org or +919829285926

Praneeta Vir at pv@circ.in or +918130200202

Alice Pham at ap@cuts.org or +84986310179