

What People Say

"This is a very timely Report, which takes stock of the regulatory regime in the country, in order to tell us in the government, about what we had promised to do when we came to power, and what we have not been able to do. It shows the way forward to the government to implement its mandate more effectively".

-Kamal Nath

Minister for Commerce & Industry, India

"...the first of a series, to explore many issues relating to an effective enforcement regime for competition and regulation. I commend this... to see India progress faster and deliver economic growth with equity".

-C Rangarajan

Chairman, Economic Advisory Council to the Prime Minister of India

"This new Report goes further to an earlier CUTS report in exploring what has happened, what is happening and what should be done in promoting competition in India. I hope

that the policy makers will utilise this Report in improving the entire framework of India's competition policy".

-Vijay Kelkar

Former Adviser to the Finance Minister

"... a comprehensive and most timely Report on Competition and Regulation in India. India has just enacted critical changes to its competition law and the study reviews the key policy and operational issues regarding that law".

-Allan Fels

Dean, Australia & New Zealand School of Government, Australia

"...competition is especially important for the poor, for whom a gain of even a few rupees from competition adds substantially to consumption.... Farmers get just one-sixth of the retail price of their produce, because of entrenched intermediaries. action is needed on multiple fronts to increase competition and empower consumers".

-Swaminathan Aiyar

Consulting Editor, The Economic Times, Washington DC

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Pradeep S Mehta



Competition and Regulation in India, 2007

This Report has resulted from a series of trade and regulatory projects that CUTS has been engaged in since mid-1990s. This included examination of the competition regimes in India and elsewhere, as a natural progression in our quest for an orderly market, which can add to economic growth and create more jobs for our people.

Two catalysts for this Report are worth highlighting: firstly, the analysis of the competition scenario in India through the 7Up project (2000-02) which did a comparative study of competition law regimes in seven developing countries, supported by the Department for International Development (DFID), UK. This gave us an insight into how the regime functions (or not) under a variety of political economy constraints.

The second catalyst for this Report is the present Government's resolution to promote competition as a means of economic development, which was articulated in the National Common Minimum Programme (NCMP) and the President's address to the first sitting of the Parliament in 2004.

The Report covers the following issues:

- Various policies/practices of Government (Central as well as States) in terms of their impact on competition;
- Competition Act and sectoral regulatory legislations;
- Competition issues in regulated sectors and competitive sectors; and
- Impact of competition on various stakeholders (in particular, consumers and business).

This Report contains research based analyses that will certainly stimulate a healthy debate on how the issues of competition and regulation policy are perceived. It also contains an assessment of present and future scenario in the context of competition and regulation in India. Sectoral studies of telecommunications, electricity and two social sectors, i.e. education and health helps show the need for methodological flexibility – not just in analysis but also in implementation.

Extracts from the 'Foreword'



This timely Report put together by Pradeep S Mehta and his team takes stock of the progress on the competition scenario in India as the new Government, when it came into power in 2004, announced its resolve to promote healthy competition in the market place with professionally run regulatory institutions. In the context of competition policy and regulation, the Report comes out with an all-encompassing question: where we are, and where do we need to go.

One unique feature of the Report is an assessment of the popular perception of the scene in the country through an Index. It is also hoped that this Report will become a regular biennial feature.

I am indeed happy that CUTS International has brought out this Report, the first of a series, to explore many issues relating to an effective enforcement regime for competition and regulation. I commend this Report to all, who wish to see India progress faster and deliver economic growth with equity.

– C Rangarajan

Chairman, Economic Advisory Council to the Prime Minister of India

How this Report would be Beneficial

- Provide comprehensive and contemporary assessment of the state of competition and regulation in India;
- Serve as an important tool for doing an independent monitoring and evaluation of competition and regulation scenario in the country;
- Provide necessary inputs to Government, CCI, sectoral regulatory authorities, other governmental agencies, civil society organisations, business, academia, media, professionals, etc; and
- Serve as a useful source of data and well-researched information on competition and regulatory issues in the country.

Who Should Read this Report

Policy-makers and regulators: to appreciate how a healthy competition policy can promote economic growth in India.

Academics and Professionals: to add new dimensions to their existing knowledge on the subject and to further their research in the light of this Report.

Civil society: to be equipped with better understanding of various topics in the changing scenario on the issues that have been raised or need to be raised.

Corporate houses: to enrich their learning as to why a healthy competition regime can be beneficial for them, and how they should be responsible corporate citizens by enhancing their knowledge on latest issues in competition and regulation in India.

Editor



Pradeep S Mehta is the founder Secretary General of Jaipur-based Consumer Unity & Trust Society (CUTS International), a leading research, advocacy and networking organisation established in India in 1984. CUTS now operates out of six offices in India, and one each in Zambia, Kenya, the UK and Vietnam.

He is the Co-Chair of International Network of Civil Society Organisations on Competition (INCSOC). He has served on the WTO Director General's Informal NGO Advisory Body; World Bank Operations Evaluation Department's High Level External Advisory Panel for Trade Assistance Evaluation, CII National Committee on Infrastructure, India, Planning Commission's Working Groups on Consumer Protection and Competition Policy, among others. He is also a member of the 'Warwick Commission' which is looking into the Future of the Global Trading System.

He writes extensively in the national and international press and has published several papers and books which include: Essays on the International Trading System – An Unfinished Journey; Towards a Functional Competition Policy for India; Multilateralisation of Sovereignty; Analyses of Interactions between Trade and Competition Policy; State of the Indian Consumer; Competition Regimes in the World – A Civil Society Report, and others.

What's Inside this Report

Foreword for this Report has been written by C Rangarajan, Chairman, Economic Advisory Council to the Prime Minister of India.

Preface by Nitin Desai, Former Under Secretary General, United Nations.

- ◆ Prologue – An Overview
- ◆ How do People Perceive the Situation?
- ◆ Policy Induced Anticompetitive Outcomes
- ◆ The 'Nine Principles' of Competition Policy
- ◆ Why Competition Policy and Law?
- ◆ India's Competition Law Regime: Past, Present and Future
- ◆ Cartels: The Major Challenge
- ◆ The Contours of Abuse of Dominance in India
- ◆ Competition Abuses: Local Problems need Local Solutions
- ◆ Telecommunications and Electricity
- ◆ Regulation in the Social Sector
- ◆ Epilogue: The Way Forward