



Tryst of CUTS in the journey of pursuing competition reforms in India

Introduction

CUTS was established in the year 1983-84 due to several factors, which included the issue of Unfair Trade Practices (misleading advertising and deceptive claims) being brought under the MRTP Act, 1969. Coverage of UTPs was brought into the Act in 1984. In fact, CUTS was the 1st consumer organisation to have filed a complaint before the MRTP Commission on a case of UTP of misleading advertising and bait & switch. Among other noteworthy actions, the central excise policy was changed due to deceptive labelling by cigarette companies as a result of our complaint against Godfrey Phillips. Many cigarette manufacturers were cheating both the government and consumers by selling the same brand at differential prices with a small print change, while paying excise to the government on MRP. Following this the excise policy was changed to charge levy on the length of the cigarette. Another small but significant improvement was achieved against match box companies to start packing the required 50 matchsticks in a box, when the practice was to pack only about 35 sticks. We also took up many cases of UTPs and Restrictive Trade Practices including challenging the merger of Hindustan Lever Ltd and TOMCO Ltd. The challenge failed because the merger provisions under the MRTPA were diluted in 1991 as part of the reforms launched in India. We felt that the dilution was a case of throwing out the baby with the bathwater. The same has been now rectified under the Competition Act, 2002, which covers regulation of mergers.

Year	Platform	Participation/Interventions	Outcome
1997-99	Ministry of Commerce Expert Group on trade and competition	Pursuant to Singapore Ministerial Declaration in 1996, which included the role of trade and competition, an Expert Group was set up by the Union Ministry of Commerce in October, 1997 to study issues relating to the interaction between trade and competition policy. CUTS was a leading member of this Group and provided large number of content inputs.	The study lead to the Government of India willing to negotiate incorporation of competition policy in the WTO, though the same never happened due to opposition against all Singapore issues in the Doha Development Agenda. Other issues included investment policy, transparency in government procurement and trade facilitation. The last was the only one of the four Singapore issues which remains on the Doha Round agenda. Alas, the Doha Round is itself in an impasse at the end of 2011.
1998	Lobbying for a new competition law	CUTS has been at the forefront in advocacy for a modern competition law and irrelevance of the prevalent regime under the Monopolies & Restrictive Trade Practices Act, 1969 (MRTPA)	Support of other like-minded CSOs and subject experts. Government also initiated steps to formulate the competition regime in the country. The then Finance Minister, Yashwant Sinha, while acknowledging the

			<p>contribution of CUTS, also announced the intent to draft a new competition law in his budget speech of 1999.</p> <p>This has also led to the setting up of the ‘Raghavan Committee’ in 1999 to recommend a suitable legislative framework relating to competition.</p>
1999-2000	Involvement in the High Level committee (HLC)	<ul style="list-style-type: none"> • A High Level Committee (Raghavan Committee) was set up in 1999 to recommend a suitable legislative framework relating to competition. • CUTS did a submission before this Committee, which was widely acclaimed by the Chairman and other Members. In fact, the new competition regime visualised under the Report was more or less on the lines of CUTS’ submission. 	<ul style="list-style-type: none"> • It was highlighted that the MRTP Act is limited in its sweep and in the present competitive milieu it fails to fulfil the needs of a competition law. • A concept bill was published by the government to motivate public debate
2001-02	Representation to the Parliamentary Standing Committee	The Parliamentary Standing Committee on Finance and Company Affairs invited representations from civil society and other stakeholders including consumer organisations.	<p>Enactment of the Competition Act, 2002.</p> <p>The new Act incorporated most of the recommendations made by CUTS.</p>

		Consumer Coordination Council, the apex body of consumer organisations in India, nominated CUTS to represent it before the Committee.	
2003 -	Role of interest groups in promoting the competition regime	<ul style="list-style-type: none"> • CUTS and few other consumer groups took initiative to bring forward complaints of several anti-competitive practices before the competition authority, as the law gives the right to consumer groups to complain • CUTS took some significant initiatives for advocacy on the new law. A series of articles were published in the newspapers. Meetings with the target audience of civil society organisations, research institutions, media, parliamentarians, etc. were also been organised from time to time • Significantly, when the Competition Act, 2002 was challenged on grounds of appointments of the Chairman and Members which were not from a judicial background, CUTS intervened at the Supreme Court suggesting that the authority 	<p>Consumer groups have become quite active in the context of the competition law. Their interventions have been quite significant in the debate and discussions on the new Competition Act, 2002</p> <p>Following the intervention by CUTS at the Supreme Court on appointments of experts and judges on the Commission, the Government drafted an amendment in the law to split the body into two: regulatory body as the Competition Commission of India and the Competition Appellate Tribunal</p>

		should be split into a regulator headed by an expert and an appellate authority to be headed by a judge	
2004-05	Towards a Functional Competition Policy for India (FunComp)	Indian component of a project on competition policy and law in Asia initiated by CUTS, which researched the competition scenario in select sectors to show the type of competition distortions in India. Advocacy efforts in ‘Moving the Competition Policy Agenda for India’ inviting various national and international experts and presented a detailed analysis of the status of competition in the country. CUTS also prepared an outline of the National Competition Policy for India	It set in motion the formulation of a National Competition Policy for the country. The above mentioned Raghavan Committee also acknowledged the need for a holistic competition policy along with a new competition law.
2005-06	Amendments to the Competition Act, 2002	Following the challenge to the Competition Act, 2002 before the Supreme Court on the issue of appointments of non-judicial persons on the Commission, CUTS prepared amendments to the existing law and filed an intervention petition before the Supreme Court and also shared it with various parliamentarians	The Parliamentary Standing Committee on Finance recommended Government to further strengthen the Act and the Commission.

		and Ministers.	
2006-07	Planning Commission Working Group on Competition Policy	Following persistent advocacy by CUTS, the Plan panel formed a working group on competition policy for the eleventh five year plan. CUTS was appointed as member of the Working Group on Competition Policy under its 11th Five Year Plan.	The Working Group recommended that it is important to have Competition Policy to strengthen forces of competition in the market. Broad objectives of the Policy were also laid out
2006	CCI Advisory Committee on National Competition Policy	On the Government's advice, the Competition Commission of India (CCI) constituted an Advisory Committee headed by former Chairman of the 13 th Finance Commission, Dr Vijay L Kelkar, to prepare a consultation paper for a National Competition Policy. CUTS, a member of the committee, provided a draft discussion paper for the NCP and the draft plan of action in order to stimulate a debate in the country on the design and contours of a National Competition Policy.	The CCI Advisory Committee adopted the report of the Working Group of the Planning Commission as the final draft Consultation Paper on Competition Policy.
2005-2009	India Competition and Regulation Report by	CUTS did a Competition Perception Index in	The findings showed that nearly half of the

	CUTS	2006/7 and 2008/9 with a comprehensive sample size and diverse stakeholders from across the society.	respondents believed that government policies are themselves restrictive and do not promote competition and similarly about half of them believed that the existing market regulatory laws are ineffective.
2011	CUTS inputs for new merger guidelines	CUTS submitted its comments on the procedure in regard to the transaction of business relating to regulation for combination (section 5 and 6 of the Competition Act, 2002) in 2011	Many among these comments were incorporated in the new guidelines which became effective as on June 2011 and the Government agreed to start with a light handed approach. This is visible in the implementation of the merger regulations by the CCI.
2011-2012	National Competition Policy	The Ministry of Corporate Affairs constituted a Committee for framing the National Competition Policy (NCP) headed by Dhanendra Kumar, former Chairman of the CCI. CUTS and CIRC are the members in this Committee.	CUTS prepared the draft Policy and an operational strategy note for the perusal of the Committee to operationalise the policy. According to the Minister for Corporate Affairs, Dr Veerappa Moily the Policy is expected to be adopted by March, 2012

2011	Planning Commission Task Force on NCP	Planning Commission has set up a Task Force on NCP headed by Pradeep Mehta, SG, CUTS under a Working Group on the Business Regulatory Framework constituted under the Steering Committee on Industry chaired by Arun Maira, Member (Industry). CUTS lead the process in providing inputs for preparation of the strategy for the 12 th plan to raise contribution of manufacturing in the GDP to 25 percent by 2025.	To develop an overarching policy framework for infusing competition principles in various statutes, regulations and policies of the Government. Furthermore, the Planning Commission has accepted the proposal to establish Better Regulatory Commission recommended by CUTS.