PolicyWatch

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

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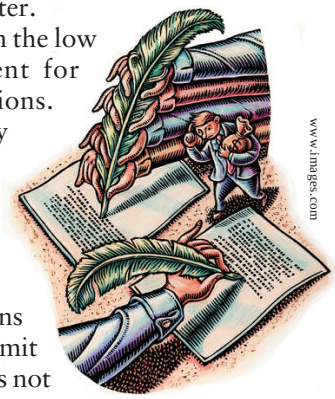
INSIDE THIS ISSUE

HIGHLIGHTS

"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*

Merger Regulations Promote Economic Democracy

Merger regulations under the Indian Competition Act, 2002 have always been controversial. Now that the government in its wisdom has announced June 01, 2011 as the date for operationalising them, Indian business has again voiced concerns over whether these norms would be a boon or a bane. They seem to be leaning towards the latter.


www.images.com

One of the concerns seems to be centered on the low financial thresholds set by the government for mandatory notification of merger transactions. Financial thresholds are yardsticks used by countries such as the US and the UK, among other countries and our law has been drafted keeping the good practices followed across the world. To address the issue of low thresholds, it is important to note that the Draft Merger Regulations recently released for consultations have proposed an increase in the threshold limit by as much as 50 percent. This threshold, too, is not cast in stone and can be reviewed as our economy grows.

Many opponents of the regulations also argue that market domination in an economy like India might not be a bad thing and may have pro-competitive effects by encouraging competitors to enter. It is pertinent to understand that it is not the evils of market dominance but the abuse of such dominance and situations that is being targeted through such norms and initiatives. Therefore, such a conclusion might not be entirely true as there were no entry barriers at the time of such takeover to cause "appreciable adverse effects on competition" – the litmus AAEC test. A critical point of analysis by Competition Commission of India (CCI) in any merger analysis will be to also scrutinise whether the proposed transaction would create entry barriers for new entrants.

The concerns regarding risk of leakage of sensitive information relating to merger transactions from the CCI due to low standards of confidentiality- an unfortunate feature of public institutions due to widespread corruption, are well-founded.

Notwithstanding such concerns, however, a well-implemented merger regime adds to industrial growth and promotes economic democracy. In the backdrop of the recent trend of foreign companies taking over Indian pharmaceutical companies the relevance of a competition law and the role of CCI to deal with such transactions through conditional approvals have been further highlighted.

We disagree that the competition law has been poorly designed. Instead, the true test and focus here should be on its effective implementation. And let us not lose sight of the fact that the CCI is an enforcement agency that has been entrusted with the task of competition regulation of which merger regulation is a part. Interventions by advocacy groups, customers and competitors who can guide the CCI to take care at every step during the course of its functioning will be valuable.

– *Abridged from an article that appeared in* the Business Standard, *on April 29, 2011.*

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• COMMUNICATION •

Stricter Mobile Radiation Norms

Concerned over high-level of electromagnetic radiation from mobile towers and handsets, a high-level inter-ministerial committee was called for imposing strict restrictions on installation of mobile towers near high-density residential areas, schools, playgrounds and hospitals.

The hot tropical climate, low BMI, low fat content of an average Indian and high environmental concentration of radio frequency radiation may place Indians under high risk of radio frequency radiation effect. Hence, revision of radiation norms is important for health concern.

The committee report has also recommended the use of hands-free technologies such as Bluetooth handsets and ear phone so as to minimise the contact of head with mobile phone. *(TH, 02.02.11)*

Data Protection Rules Soon

The government is framing rules for data protection and liabilities of service providers under the Information Technology Act. A facility for assessing quality of biometric devices for Unique Identification applications will be set up.

The Department of Information Technology will also prepare three manuals for skills enhancement and draft consultation paper as part of the 100-day agenda. A pilot scheme for providing digital literacy will be introduced. The Department of Posts would introduce a prepaid credit card to rural people, which will facilitate non-cash transactions. *(BS, 02.01.11)*

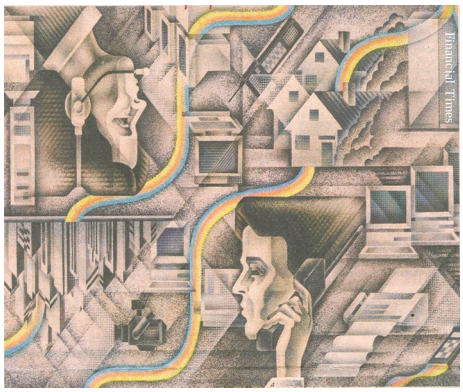
DoT Warns Erratic Cell Firms

The Department of Telecom (DoT) has asked all cellphone service providers to comply with the new norms for the mobile number portability (MNP) scheme and warned them of action if they fail to do so. The DoT warning follows complaints from mobile subscribers that they were finding it difficult to switch operators under the MNP scheme.

Many subscribers have complained that they were facing a lot of problems as the existing operators were not obliging their requests to change. These subscribers were told that 'servers were down' or 'there were technical glitches' which prevented them from effecting the switch.

(BS, 26.01.11)

Sibal to Delink Spectrum from Licenses



Telecom minister Kapil Sibal, outlined the broad contours of New Telecom Policy (NTP) 2011 which included delinking of license from spectrum, allocating spectrum on a market-linked price mechanism and a uniform fee for all licenses.

This would mean that a new telecom licence would be given for a nominal entry fee, after which operators would have to pay a market-determined price for getting spectrum. The market-determined spectrum price could be arrived at through auctions or any other mechanism suggested by the Telecom Regulatory Authority of India (TRAI).

The move would adversely affect new operators like Uninor, Loop and the GSM businesses of Tata Teleservices and Reliance Communications, all of whom have 4.4Mhz of spectrum. They will now have to pay market-determined rates to get the next 1.8Mhz or any other additional spectrum.

(FE, 30.01.11)

Mobile TV Policy on Anvil

The draft of the mobile TV policy is in final stages and expected to be sent to the Cabinet soon. Before sending the draft, the Ministry of Information and Broadcasting would discuss with the DoT issues relating to spectrum allocation to mobile TV service providers.

700 MHz frequency band has been in great demand for mobile and wireless broadband services as the technology required to be deployed in this frequency band will be cheaper compared to high frequency band.

(TH, 20.02.11)

Pay for Chosen Channels

The TRAI has asked satellite TV operators the details of subscription charges for individual channels they offer to customers. The regulator, in 2010, had asked the firms offering digital television services, which includes cable and direct-to-home operator, to allow consumers to select and pay subscription for channels they choose to watch, instead of offering only bundled packages.

The deadline for complying with the directive expired in January 2011 and further actions will be taken if satisfactory response is not obtained in 10 days. Reliance BIG TV Ltd responded to the notice, while Sun Direct already offers *à la carte* services. Dish TV is still pricing its channels individually and will respond soon and Videocon d2h requested for an extension. *(Mint, 08.01.11)*

Broadband in 5 lakh Villages

The Telecom Ministry is likely to provide rural wireless broadband connections to over 5 lakh villages in one-and-a-half years and a subsidy to both state-owned and private service provider operators from the Universal Service Obligation (USO) Fund for this purpose.

The USO Fund was set-up in 2002 in order to provide mobile services and broadband connectivity in rural and remote areas of the country. Under the 'Rural Wireline Broadband' scheme of USO Fund, a total of 2,61,413 broadband connections and 2,506 kiosks have been provided till January 31, 2011, in rural and remote areas of the country, against a target of 8,88,832 connections and 28,762 kiosks by 2014. *(HT, 28.03.11)*

• TRANSPORT •

Central Regulator for Ports

The new regulatory structure proposed for the port sector envisages one regulator for the major ports and state regulators for the ports under the jurisdiction of state governments.

The proposed Major Ports Regulatory Authority will replace the existing Tariff Authority for Major Ports (TAMP), according to the draft Port Regulatory Bill. The regulator will formulate tariff guidelines which are now being done by TAMP.

It will also issue guidelines on deciding various other charges for facilities and services provided by port terminals including those run by private operators. The authority will also issue norms for transhipment of containers, or goods between vessels, and use of property belonging to the ports or the private terminal operators.

(BL, 23.03.11)

Safety of Highway Users

The Road Transport and Highways Ministry will set up a panel of independent auditors to look into problems faced by users of national highways and evaluate cases where the users feel developers are not adhering to terms of the agreement with the National Highways Authority of India (NHAI).

NHAI needs to be strengthened in terms of technical manpower and ensure long-term financing issues for the National Highways development programme. The NHAI and the Highways Ministry will award projects to develop about 16,160 km in the current fiscal. The Ministry had already awarded under the Special Accelerated Road Development Programme and in Left Wing Extremists affected areas. *(BL, 04.01.11)*

Refund for an Airline Ticket

Domestic airlines have agreed to refund passengers all costs barring the base fare if a non-refundable ticket is cancelled. However, passengers can avail this facility only if they cancel their tickets two hours prior to the flight departure.

The decision was taken at a meeting of the Civil Aviation Economic Advisory Council that is going into issues relating to bringing transparency in fixing of airfares and protection of consumer interests.

Apart from the base fares, fuel surcharge, passenger service fee, user or airport development fee and taxes will also be refunded in case of cancellation of a ticket. It has also been proposed that the service tax should be abolished on air tickets as it is against the International Civil Aviation Organisation norms and not in line with international practice.

(ET, 24.01.11)

NHAI to Speed up

The NHAI plans to fast track project award to meet its target of 7,000 km by 2011. It has already awarded projects totaling 4,600 km in 2011 and plans to award projects totaling 2,400 km more by March 2011.

Projects totaling about 1000 km are awaiting clearance of the Public-Private Partnership Appraisal Committee. The performance of the Road Transport Ministry was 33 percent lower than 1,283 km achieved during the corresponding period in 2010.

Various reasons like absence of a permanent chairman and allegations of bungling in the award of road projects, leading to raids by the CBI, have been given for the performance. The Minister decided to form a monitoring committee with representation from all stakeholders.

(BS, 15.02.11)

Ombudsman for Aviation

The Civil Aviation Sector is set to get an Ombudsman soon. The Civil Aviation Ministry has started work on creating a post for one in the sector. The Ministry is also looking at creating an Ombudsman's post and discussing whether to create that post now or incorporate it in the Civil Aviation Authority (CAA) Act.

A need for an Ombudsman was felt after the spot fares in the Delhi-Mumbai route were up to 300 percent higher. The person will look into the problems and complaints of air passengers and be the final appellate authority for them. CAA is to be funded by ₹12 charged on every air ticket and will not be dependent on the government for funds. *(BS, 15.02.11)*

Bidding Norms for Highways

With the government's liability on annuity payment reaching ₹85,000 crore and the Ministry deciding to discourage awarding projects on annuity, the existing Engineering, Procurement and Contract (EPC) model being upgraded to replace annuity model

The new model, being prepared by the Planning Commission, is expected to be finalised soon. It would have fixed total project costs and specifications. In the existing EPC model, a contractor builds the road and all the changes in the design and the cost of input cost is paid by the government. The current model also does not mandate the contractor to maintain the road. *(BS, 09.03.11)*

Safety of Passengers on Top Priority

The Minister of Railways, Mamata Banerjee said that Indian Railways work round the clock just like an army where every moment matters and every operation needs to be done in a disciplined manner. She said that safety of passengers cannot be compromised. It is always to be given top priority.

There should be periodical review and inspection to ensure that all safety related activities are done as per the rules. She said that maintenance of rolling stock especially coaches, wagons and engines is quite important and no laxity on this should be tolerated as it is related to safety.

She said that it is necessary to provide service with a smile maintaining good public dealings. It is necessary to listen to public grievances, address them effectively and create a sound mechanism to ensure best passenger friendly measures. *(www.internationalnewsandviews.com, 22.01.11)*

• OIL & GAS •

GAIL Backs Pipeline Tariffs

India's biggest gas transportation firm Gas Authority of India Ltd (GAIL) India has endorsed petroleum sector regulator's proposal allowing pipeline companies to charge tariffs lower than approved rates but the move has been opposed by Reliance Gas Transportation Ltd.

The regulator's move aims to promote competition in gas transportation sector which is expected to grow fast after Reliance Industries recently tied up with global energy major BP to source and market natural gas in India.

GAIL has, however, cautioned that the freedom to offer discount could be misused by companies having interests in both gas production and transportation. Reliance Gas Transportation Ltd asked the regulator to defer the move till the Indian natural gas market is matured. *(ET, 24.03.11)*

Uniform Pricing for Natural Gas

In an attempt to rule out a uniform pricing regime for natural gas, an inter-ministerial panel, headed by a Planning Commission adviser, has taken a call to raise the price of domestic natural gas for industrial users. However, a group of ministers is expected to make some normalisation to the panel's decision, considering the opposition from power sector users who will suffer higher input cost in case of higher rates.

This move of the ministerial panel to average the rates of all natural gas produced or imported into India aims at making LNG imported from Australia affordable. In India domestic gas is sold for US$4.2 and US$5.25 per million British thermal unit, taking into count whether it is meant for a priority sector or not while LNG imported by Petronet from Australia cost about US$16 per unit.

(www.money.oneindia.in, 24.03.11)

Panel Devises Ethanol Price

In India, the expert panel set up to devise the government-regulated purchase price for ethanol has suggested making permanent the interim price of ₹27 per litre. The final decision will now be taken by an executive group of ministers or the cabinet.

It had suggested three criteria for consideration: first, landed price of ethanol from Brazil, which is at present ₹31 per litre at port; second, the price of conversion of rectified spirit to ethanol, which works out to ₹29 per litre; and third, a rate based on the price petrol – the refinery gate price for petrol is in the range of ₹30 to ₹32 per litre.

(www.biofuelsdigest.com, 01.02.11)

Discount on Crude Sales

Backed by higher crude oil and natural gas prices as well as a one-time settlement of past dues, Oil and Natural Gas Corporation (ONGC) has reported a 131.9 percent jump in net profit for the third quarter of the current fiscal. ONGC has posted a profit of ₹7,083 crore in the third quarter against ₹3,054 crore year-on-year.

The company received ₹1,898 crore as one-time settlement of natural gas dues on the contributions it made to the gas pool account. The gas pool account, to which ONGC contributed funds, was created in 1990s for selling gas at subsidised prices to key industrial sectors, such as the power and fertiliser, and regions. *(BL, 28.01.11)*

Residents Face LPG Shortage

Due to the ongoing cold wave, residents of Ludhiana have been witnessing LPG shortage. According to consumers of different LPG companies, the gas cylinders are being refilled after the backlog of 10-15 days.

Sources point out there is also increase in black marketing of LPG cylinders and a domestic cylinder of worth ₹350 is being sold between ₹600 to ₹800. Naveen Talwar, owner of Bharat Gas Agency said that while checking if they come across a consumer having two cards, they can make a request to him/her to get either of his cards cancelled. *(ENS, 08.01.11)*

Reliance Bids for Six O&G Blocks

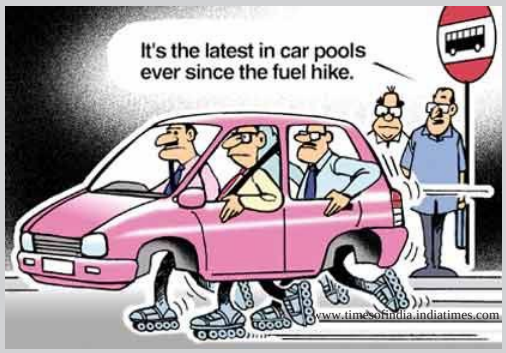
Reliance Industries bid for six oil and gas exploration blocks while Cairn India submitted offers for two out of the 34 on offer in the IXth round of auction under the New Exploration Licensing Policy (NELP).

Cairn India, whose success in Rajasthan may have propelled Reliance to bid for two blocks in the state, has submitted offers for only two blocks, one onland and one offshore. Cairn has not bid for any two exploration blocks on offer in Rajasthan.

Reliance, which had not bid for any block in the previous NELP-VIII round in 2009, has shown interest in onland blocks in Rajasthan, apparently swayed by the huge oil finds by Cairn India.

(www.currentnewsindia.com, 28.03.11)

IOC Seeks Hike in Fuel Prices



Indian Oil Corp (IOC), the country's biggest fuel retailer, said there was a need to raise petrol prices, a day after the federal budget failed to announce any measures to stem revenue losses of state oil firms.

Petrol prices in India are market-linked, but diesel, cooking gas and kerosene rates are set by the federal government, which partly compensates state oil firms for their losses when global crude oil prices increase.

Raising fuel prices is politically sensitive in India, with the government struggling to balance maintaining growth momentum and reining in inflation, among the highest of major Asian economies. IOC has raised petrol prices at least nine times since state control on its pricing was lifted June 2010. *(Reuters, 01.03.11)*

• POWER •

State, Pvt Cos. Beat CPSUs

Central Power Sector Units (CPSUs) like National Thermal Power Corporation (NTPC) and National Hydroelectric Power Corporation have performed poorly on capacity addition in the current five year plan, while State and private sector have not only commissioned a large number of projects but also announced a series of new projects aimed at rapidly adding capacity to make the most of present deficit situation in the Indian power market for the 11th Plan period.

As of November 15, the central sector had added just 7,905 MW of its initial target of 36,874 MW. While state utilities commissioned 12,511 MW capacity against the plan target of 26,783 MW and the private sector added 8,945 MW capacity against its plan target of 15,043 MW set for them by the Planning Commission.

(FE,04.01.11)

Increase in Host State's Power

The Union Cabinet approved a key proposal by the Power Ministry to increase the share of host states to 50 from 15 percent, in allocation of electricity generated from thermal power plants. It also approved a crucial amendment to the National Tariff Policy to boost green energy generation and help reduce the country's carbon footprint.

While the Central Government's quota is kept same at 15 percent, the share of beneficiary states in the region has been decreased from 75 to 35 percent. Enhancement of allocation to 50 percent to the home state will help in developing power projects and increasing generation in the state.

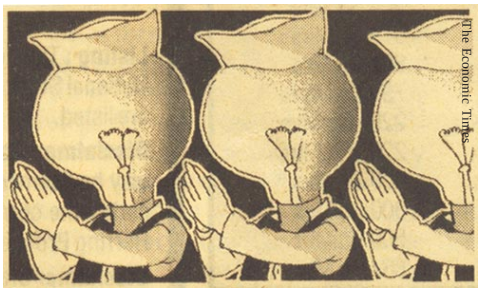
(BS, 07.01.11)

Under-recoveries Hit Power

According to Montek Singh Ahluwalia, Deputy Chairman of Planning Commission, under-recoveries of the state government-controlled power distribution utilities (discoms) may impact the stability of the entire power sector in the country.

Preliminary estimates, by the Plan Commission and the last Finance Commission, suggest that the discoms are losing annual revenue between ₹50000-60000 crore which is not possible for the system to bear for a long time. The Commission has already appointed a high-level committee for detailed assessment of the scenario and suggest remedial measures. *(BL, 05.02.11)*

NTPC to Give Power to Host States



The Centre has approved a policy for allocation of electricity from new thermal power projects being set up by public sector firms such as NTPC Ltd. Under this, the companies will have to allocate a much higher share of electricity to States where future plants are located.

The new policy earmarks 50 percent of the electricity generated from these stations to the home State for 10 years starting April 2012, up from a maximum of just over 30 percent currently. The move will come as a big boost to the coal-bearing States of Orissa, Chhattisgarh, Madhya Pradesh and Jharkhand, where a number of projects are slated to come up in the near future. *(www.energybusiness.in, 27.01.11)*

New Power Transmission

A new inter-State transmission charge norm is in the offing, which could make it relatively cheaper for upcoming power projects, especially large, inter-State projects, to wheel the generated electricity to customers across regions.

The Central Electricity Regulatory Commission is paving the way for the implementation of the new 'Point of Connection' model, which will replace the current 'Regional Postage Stamp' method that is followed for calculating inter-State transmission charges and losses.

The new regulation on 'sharing of inter-State transmission charges and losses' mainly aims at developing a uniform transmission charge sharing mechanism among grid constituents and avoiding 'pancaking' of transmission charges for power transmitted across regions, as is being experienced under the current (postage stamp) regime. *(BL, 29.03.11)*

Power to Get Tax Holiday Boost

The government is likely to give a breather to the power sector by extending the tax holiday for the sector by 2012. The move will benefit power projects, including ultra mega ones (UMPPs) and transmission projects, that are slated to be awarded in the remaining period of the 11th Plan (2007-12).

The power sector currently gets tax break under Section 80-IA of the Income Tax Act. The sop ends on March 31, 2011 making projects which are awarded after the cut-off date ineligible for the benefit. Under the provisions of the section, power projects get deduction of up to 100 percent profit for any ten consecutive years out of first 15 years of commissioning of a project.

The biggest beneficiary of the extension will be state-owned NTPC, while projects of companies such as Sterlite, Jindal Power, Lanco, GMR and other state utilities could also avail of the tax sops. *(FE, 20.02.11)*

Rates to Spike in Maharashtra

Electricity bills could go up as the government has decided to levy an additional duty and tax on electricity produced and sold in Maharashtra. While the levy would be applicable to power generation and distribution companies, it could be passed on to the consumer.

The fund collected through the levy would be used to improve infrastructural facilities in cities and villages where power generation plants have been set up. State finance minister Ajit Pawar made the announcement regarding the new levy in his budget speech. The finance minister used the example of Chandrapur to justify the move. *(ToI, 24.03.11)*

• MIXED BAG •

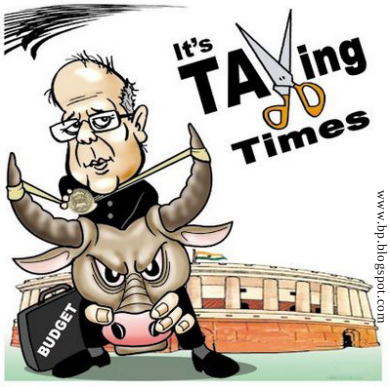
SBI to Merge 5 Subsidiaries

State Bank of India (SBI) proposes to merge its five remaining subsidiaries with itself over the next 12-18 months. SBI said before the Parliamentary Standing Committee on Finance that the consolidation exercise has been systemically planned as part of a logical step to bring in economies of scale, reduce administrative overheads, redeploy and channelise trained manpower to business development and, in the process, also reduce avoidable competition from different arms of the same group.

While the bank had already merged two subsidiaries, it will need approval of government for the next five. *(ToI, 23.02.11)*

Resource Flows into Infrastructure

The Centre intends to come up with a 'comprehensive policy' to improve resource flows to the infrastructure sector. The Finance Minister highlighted that a major share of public resources – about 48.5 percent of gross budgetary support to the Central Plan – has been allocated for the development of infrastructure.



The government's approach has been to attract and leverage private investment in infrastructure to meet the growing requirement of the economy. All three sectors – agriculture, industry and services – are contributing to consolidation of growth. Tax revenues have grown at an exceptional rate and there has been a strong rebound in exports. *(BL, 05.03.11)*

Public Banks may exit RRBs

Public sector banks can exit if they are not keen on infusing more capital in regional rural banks (RRBs) they have sponsored. The government is examining the report in consultation with the Central Bank, the Reserve Bank of India and National Bank for Agriculture and Rural Development (NABARD), the regulators for the 82 RRBs in the country to strengthen them.

The government could allow some other financial institution or the public at large to pick up the stakes of the promoting banks. The country's largest lender, SBI, alone sponsors 17 RRBs.

Roping in any other financial institution or tapping the capital markets is the only option left for RRBs if they want to stay in the field. There is competition between the RRB and sponsoring bank as both have branches in same areas. *(ET, 19.01.11)*

'Study Group' on Black Money

To tackle the issue of black money in a proactive manner, the Finance Ministry has set up a 'study group' to improve voluntary compliance and address the issue of revenue leakages by suggesting appropriate measures to motivate tax evaders to disclose their unaccounted income.

The study group will devise ways to increase direct tax collections and suggest measures to curb tax evasion effectively in the changing business scenario, which includes curbing the generation of black money. It will study the barriers to compliance as an ongoing programme and the compliance costs with respect to different categories of taxpayers. *(TH, 31.01.11)*

RBI's Focus on Inflation Control

Government bonds fell amid fears of sharper-than-expected monetary tightening by the Reserve Bank of India (RBI). The market has so far factored in a 25-basis point increase in key policy rates in industrial production figures. The index of industrial production grew by a meagre 2.7 percent.

RBI Governor D Subbarao said that the Central Bank has to calibrate its policy to manage the price rise while also supporting economic recovery. He stated, "We have recovered from the crisis sooner than other countries, but inflation also caught up sooner". Though supply-side pressures have impacted food prices more, the Central Bank is concerned this could lead to more generalised inflation. RBI has projected 5.5 percent inflation for March 2011. *(BS, 18.01.11)*

Banking Licence Guidelines

The RBI will announce draft guidelines for giving new banking licences. In the Budget 2011-12, Finance Minister Pranab Mukherjee had said the RBI plans to issue guidelines for the grant of new banking licences before the close of 2011.

The RBI also sought to know "whether industrial and business houses could be allowed to promote banks." Furthermore, it sought stakeholders' views on whether NBFCs should be allowed to convert into or promote banks.

At present, India has 26 public sector banks, seven new private sector banks, 15 old private sector banks, 31 foreign banks, 86 regional rural banks, 4 local area banks, 1,721 urban cooperative banks, 31 state cooperative banks and 371 district central cooperative banks. *(ET, 28.03.11)*

Wealth Regulation

New rules are underway for the estimated US$1tr wealth management industry and banking regulator RBI and capital market watchdog SEBI may be made jointly responsible for implementing these regulations and keeping a watch for any violations.

While RBI and SEBI would be primarily responsible for compliance of the rules, help would be sought from other regulators, namely Forward Markets Commission, Insurance Regulatory and Development Authority and Pension Fund Regulatory and Development Authority Bill, whenever needed.

The new set of rules is being framed under the aegis of Financial Stability and Development Council (FSDC), a high-level regulatory body chaired by the finance minister. *(ET, 07.03.11)*

Regulatory Turbulence for Airlines

– A K Bhattacharya*

It was a pleasant surprise that there were no loud protests when airfares on many domestic sectors almost doubled. There was added relief, too, as there was no government intervention either to discipline the airlines. The Delhi-Mumbai economy class one-way fare for an evening flight shot up to ₹14,800-16,400, compared to the normal fare of ₹5,500-6,000. What happened? Why didn't the *aam-aadmi* government of the United Progressive Alliance (UPA) issue a warning or two to the airlines for what it should have seen as a ploy by them to pocket super-profits?

Manjul Cartoons

Creating more regulatory bodies will only create more confusion and widen the governance deficit

Remember that the UPA government did just that last Diwali in November 2010, when the airlines decided to raise fares by almost 300 percent taking advantage of the holiday rush. The Civil Aviation Ministry had issued a stern warning to the airlines asking them to limit the fare increase on such occasions within a pre-determined slab. The airlines' argument that fares tended to go up automatically just before major festival holidays, particularly for those purchasing tickets at the last minute, failed to impress the government.

To be sure, the increase in fares during the Holi weekend remained within the government-stipulated cap. Here then was a government that seemed to be tying itself in knots over its own mindless game. Having first tinkered with market-determined prices and imposed a fare cap that too for a service that a tiny percentage of well-heeled Indians consume, it had no reason to intervene again since the airlines raised fares within the permissible range, never mind that the increase was more than 100 percent.

There was another governance failure that stood out in stark contrast. The airlines experienced a surge in the Holi weekend booking rush also because the ongoing Jat agitation had paralysed train services in large parts of northern and western India leading to the cancellation of many trains. The absence of government intervention in defusing the Jat agitation also contributed to the airline fare spike.

There is, of course, a larger problem in the way the government has been dealing with airline fares. The belief that airline fares should be subject to government directives has no rational justification. Yes, airline fares too need to be regulated, so that airlines do not make super-profits by taking advantage of sudden shortages in airline seats availability, but that regulation should be done by a regulator, and not by the government.

Those who had heaved a sigh of relief at the formation of the Airports Economic Regulatory Authority of India (AERA), in the belief that over time this body would expand its role and bring under its ambit the regulation of airfares as well are in for a major disappointment. The government proposes to create a separate regulatory authority to oversee airfares, while AERA would continue to deal with only airports regulation. Indeed, the government's thinking is that there should be a new apex level regulatory body supervising the functions of the two regulators – one for airports and the other for airlines. Why the government has made such elaborate plans to create multiple regulatory authorities within the same sector defies all logic and common sense.

Consider the following. The power sector has three distinct operations with different functions – generation, transmission and distributions. Now imagine a situation where instead of the Central Electricity Regulatory Commission as at present, there would be three different regulators – each one of them looking after the three segments of the power sector. What would be the advantage of such a system? None, except that more jobs would be created and more retiring bureaucrats will feel more secure about landing themselves with decent jobs with the perquisites and pay that are not lower than the last pay drawn by them prior to their retirement, thanks to the Sixth Pay Commission recommendations.

If only the government began seeing beyond the myopic interests of its bureaucrats, the civil aviation sector would benefit from better governance with a proper regulator overseeing the airports and the airlines. There is no need to create more regulatory bodies, which can only create more confusion and widen the governance deficit.

* *Columnist, Business Standard. Abridged from an article that appeared in* The Business Standard, *on March 23, 2011.*

Electricity Sector – Impediments to Open Access

– Navneet Sharma*


The Financial Express

A key objective of EA 2003 was to provide 'open access' in electricity transmission and distribution. In other words, the Act mandates competition and choice, which were non-existent in the pre-EA 2003 era. Central to the emergence of a market is the provision of open access. Seven years have passed, but for a few instances of limited success (Mumbai, Karnataka etc), India's electricity consumer is yet to have the freedom to choose his electricity supplier. Why could not the open access provisions be activated so far?

Section 42, read along with other sections of EA 2003, is clear that the states 'shall' introduce open access to all consumers above one megawatt load. EA 2003 mandated open access in electricity transmission and distribution. It envisaged that all consumers above one megawatt will be free to source electricity from a supplier of their choice. So there remains no ambiguity whether or not to provide open access. This was discussed in a recent brainstorming meeting at the Planning Commission, where it emerged that a concerted effort is needed before all the stakeholders buy in and open access is activated. But let me first deal with what holds it back.

The Electricity Act, 2003 (EA 2003) opened the power sector to multiple players by providing for a power market replete with competition

Is open access a 'win-win' proposition? In theory, this would be a win-win scenario if a distribution company (or discom) and the consumer both benefit from open access. But in reality, as in other sectors, there is much difficulty to persuade a monopolist/incumbent to give up its monopoly privileges. An oft-repeated concern by discoms has been that if large consumers shift, the discom (or utility) would suffer losses. But experience of other countries, such as the UK, shows it is not so. Also, in other sectors, for instance telecom, where consumers move freely to another supplier, competent players withstood such challenges.

That leads to another question relating to the political economy surrounding the electricity sector. In the sector, the regulatory framework includes the Ministry of Power and the Central Electricity Regulatory Commission at the Central level, and government departments and regulators at the state level, i.e. multiple bodies dealing with electricity regulation. Amidst multiple agencies and short-term and conflicting interests, the decision makers tend to succumb to local pressures and find ways to avoid open access. A plain answer is 'political will', which is necessary to create a competitive electricity market.

Next comes the nitty-gritty or specific regulation of open access i.e. lending regulatory clarity on the terms of open access. For open access to be practicable, prices should be broken up in components like production cost and transmission loss cost, and also specific applicable charges against wheeling, stand by, cross subsidy etc should be determined.

A related aspect on charges is that if a category (of consumers) is competitive, then the discom should not charge it the regulated tariff but a negotiated tariff. Thus, in the case of competitive consumers there should be two separate agreements, one with the generator and the other with the distributor.

Though housing societies in urban centres, due to their bulk consumption above one megawatt, would qualify for open access, discoms are reluctant to give them open access. Discoms claim that such housing societies 'distribute' electricity without being 'licensees' within the meaning of EA 2003.

Finally, the most important issue is the impact of open access on poor consumers. Statistics reveal that while electricity generation has increased about 60 percent, the household access to power has increased only 10 percent in the last ten years. A question here is whether open access will let low-cost electricity go to poor consumers? Here again the answer flows from political economy considerations. Unless, regulatory intervention frees up the low-cost electricity that is tied up with discoms, the benefit to *aam aadmi* is still a distant dream.

* *Director, CUTS Institute for Regulation and Competition. Abridged from an article that appeared in* The Financial Express, *on February 09, 2011.*

Karnataka-Gujarat Role Models

Gujarat and Karnataka are 'role models' of a competent and transparent government and a progressive leadership that can attract investors in the coming years. There are reasons why Essar, Torrent, Reliance, Shell, Tata, Adani and some others are thriving in Gujarat like effective governance and administration, business-friendly policies, superior core knowledge infrastructure and an entrepreneurial culture.

In 2011, US India Business Council featured such exemplary leadership and Ron Somers, President, US India Business Council, travelled to Karnataka and Gujarat to meet the chief ministers of both the states and the leaders of top companies like Wipro, Infosys, IBM, Lanco, Biocon and Suzlon. *(BS, 08.01.11)*

India May Miss Divestment Target

India has fallen short of its divestment target for 2011 and if current market conditions persist, chances are that even the next fiscal may not be smooth sailing for government share sales as political tensions in the Middle East and North Africa and spiralling crude oil prices continue to haunt investors.

The government has a disinvestment target of ₹40,000 crore for 2011-12. In 2010-11, the government garnered nearly ₹22,500 crore through share sale of SJVN, EIL, Coal India, MOIL, Power Grid and SCI through its divestment programme, reflecting a shortfall of ₹17,500 crore. *(ET, 25.03.11)*

New CPI for Inflation

India introduced a national Consumer Price Index (CPI) that is expected to eventually replace the Wholesale Price Index (WPI) as a benchmark for inflation. A large part of price rise is due to widening gap between the wholesale and retail prices.

The new index has the potential to become the single index of reference for inflation as it comprises service sector data. Central banks, across the world, rely on CPI data to make monetary policies unlike RBI which depends on WPI. Data is collected from 1,183 villages and 310 towns across India for the all-India CPI. *(Livemint, 17.01.11)*

New Manufacturing Policy

The new draft manufacturing policy, aimed to reduce the compliance burden of the industry through self-regulation and help make Indian industry globally competitive, will soon be placed before the Cabinet.

The Union Commerce and Industry Minister Anand Sharma said that the announcement to impose Minimum Alternate Tax on special economic zones and its units came as a complete surprise and he would take up the matter with the Finance Minister urging him to review the imposition.

The government has proposed to set up integrated greenfield mega investment zones to attract global investment and latest technologies. *(TH, 02.03.11)*

Indian Economy to Touch US$2tr

With the Union Budget projecting gross domestic product (GDP) to be ₹89,80,860 crore in 2011-12, the size of India's economy is now poised to touch US$2tn in 2011.But the Budget estimate, which assumes a 14 percent growth in GDP at market prices, is likely to be an underestimate.

If one assumes a 9 percent GDP growth, and assumes an inflation rate of around 7 percent, GDP at market prices is more likely to grow at 16 percent, which would ensure that the size of India's GDP would be ₹91,38,419 crore (US$2,031bn) in 2011-12.

The pace at which the size of the economy has doubled from US$1tr-US$2tr is impressive and when the GDP touches the second trillion in 2011-12, the per capita GDP would be around ₹74,780 (US$1,662). *(FE, 02.03.11)*

• FDI WATCH •

Hurdles for FDI Inflows

One of the key factors affecting ''investors sentiment" according to the RBI is environment minister Jairam Ramesh's "environment sensitive policies" which seem to be driving foreign direct investment (FDI) away from the country. The inward FDI during April-September, 2010 stood at only about US$12.6bn as against US$19.8bn inward flow witnessed during the same period last fiscal. Net FDI flows to India declined by almost 36 percent that period.

There are the persistent procedural delays, land acquisition issues and availability of quality infrastructure. The government is also thinking on introducing amendments to the Land Acquisition Act and the global forecasts suggest that net FDI flow for emerging economies will rise by 11 percent in 2011. *(FE, 28.01.11)*

Liberalise FDI Policy on JVs

The government is likely to liberalise the FDI norms for entry of foreign companies that have existing joint ventures or technical collaborations in India. The new policy, to be implemented from April 01, 2011 may drop the requirement of no-objection certificate (NOC) that foreign firms need to set up a separate entity.

The revised version of the FDI policy, which will be released on March 31, is expected to do away with Press Note 1, 2005, to bring in the above-mentioned change. The main rationale behind the move to liberalise the policy is to prevent "monopolistic tendencies of certain domestic as well as foreign companies".

Besides, India is now aggressively engaged in signing bilateral trade agreements with several countries, which may induce the foreign companies to set up shop in one of the partner countries and start exporting the commodity into India duty-free under a particular free trade agreement. *(BS, 15.03.11)*

Rule-Based Economic Policies

– Yoginder K Alagh*

www.images.com

This will help clear the air and provide the necessary confidence required for higher investment-led growth

From my cottage close to a nature park, far away from Delhi, the happenings in our Republic in recent weeks appear to reflect the Roman circus. Hapless victims, including one officer whose integrity I certified and will do so again if ever called to, are thrown before the hungry lions as the media gladiators guard the show. Sometimes the Spartacus gladiators are also the victims. Reasoned arguments are casualties. Institutional responses to some of the real problems we face, however, are not on anybody's agenda.

As the dust settles, it is likely that it will be accepted that we have enough persons of integrity such that the rot can be contained but that amongst them there is unease and the ability to strongly contest wrongdoing is weakening. This, then, is a problem and we must strengthen systems to counter it. We also need to appreciate that we are no longer in the era of strong central leadership and must develop rules for more effective coalition regimes. A zero-corruption tolerance rule has to be the centrepiece but a lot can be done around it to allow those who want to be honest to continue to be able to do so.

On a narrower plane, rule-based economic policies and frameworks of accountability in this context may help. The transition to a market economy, initially reasonably smooth, was a rule-based phenomenon. The Narasimhan Committee, set up in Gandhi's time, laid down the framework. The rules were first to bring about domestic reform and prepare Indian industry for the more general reform expected in the early 1990s. Output, import, investment and price control was to be abolished and substituted by tariff, dual pricing and tax policies.

Machinery industries were placed on tariff protection instead of import controls. Efficient Indian industries with negative protection, since their inputs were inefficient, required tariff protection in a harmonised manner in what were called inverted tariff structures, popular with developed countries in the stimulus packages after meltdowns.

Apart from harmonisation, phasing rules were in place since Indian industry was expected to face greater competition globally in three to five years. In a well known paper, Raja Chelliah estimated that around 60 percent of Indian industry was deregulated by 1989. Dual pricing for some industries like cement was practised as an interim measure but industry was ensured a reasonable rate of return on long-run marginal-cost principles, which led to the modernisation or weeding out of inefficient units.

The reforms now are far more general and, in principle, should be more accepted since they should be following market-based rules. There are two flies in the ointment. First, in many non-tradables and controlled industries, the system of regulators, which replaced the earlier mechanisms, consists of retired bureaucrats, in many cases somewhat innocent of economic principles and also not always very competent. There is also the anomaly of the earlier controllers later becoming regulators, who tend to be secretive, and sitting in judgement on what they were themselves doing.

There is the more damaging phenomenon of reform being systematically scuttled, either by bureaucratic inertia, political meddling or just incompetence. So, the preferred variants of fertiliser pricing reform suggestions were jettisoned and alternatives accepted. Again, the market rules suggested newer products; balancing investments and the expansion of capacity were put on the back burner for years. This protected inefficient units or input suppliers but cost the country dearly.

A degree of transparency, consistency in policy rules and a design of reform with established guide posts would help clear the air and lead to the required level of confidence for higher growth.

* *Former Union Minister. Abridged from an article that appeared in* The Financial Express, *on January 19, 2011.*

Infra Projects Languish

A total of 666 projects with an investment of P1,74,000 crore were stalled in 2010 against 519 entailing an investment of P1,36,627 crore in 2009, according to the 41st survey by Project Today in India.

While in the government sector, project cancellation was limited to electricity and roadways, the private sector saw large-scale cancellations in refineries, steel, aluminum and electricity. The number of projects fell by 35 percent from 2,328 to 1520 in 2010. Automobiles, cement, steel and refineries were four major sectors which saw record project completions. *(BL, 25.01.11)*

5th Largest Consumer Market

According to a study 'Consumer 2020: Reading the signs' conducted by Deloitte Touche Tohmatsu Ltd, India is ready to become the world's fifth largest consumer market by 2025. The convergence of economic, demographic, and technological forces will bring about unprecedented changes in consumer behaviour globally.

With growing purchasing power, India is having a significant impact on the global consumer market in a wide range of consumer goods. India needs to take measures that stimulate consumer spending like liberalising consumer finance and improving the social safety net. *(BL, 05.02.11)*

India Most Corrupt Nation

India finds itself bracketed with countries like Philippines and Cambodia, rated as the fourth most corrupt nation among 16 countries of the Asia Pacific surveyed by leading Hong Kong-based business consultancy firm – The Political and Economic Risk Consultancy Ltd (PERC). In India civil and other local-level political leaders were found more corrupt than the national-level political leaders.

The Indian government has been wracked by a series of scandals involving the sale of telecom licenses, preparations for the Commonwealth Games, a land scam involving high level military officers, and improper property loans made by state-owned financial institutions. *(www.rediff.com, 29.03.11)*

Fiscal Deficit a Challenge

Even as inflation continues to remain a concern, bringing down deficit to the projected levels in 2011-12 and 2012-13, is a challenge for India, according to Federation of Indian Chambers of Commerce and Industry's Economic Outlook Survey.

If the government wants to maintain fiscal discipline in the coming years then it must carry forward the tax reforms agenda and complete the reforms initiated in the pricing of petroleum products. The survey pegs the fiscal deficit at around 5.3 percent of the GDP and the WPI inflation rate to be at 7 percent. *(BL, 26.01.11)*

FDI's Free Fall

Falling FDI in India in both absolute and relative terms indicates a lack of investor confidence. It should jolt politicians back to governance and building on the 1991 reforms. A UN report on FDI in 2010 makes this point.

Though global FDI flows increased by a percentage point in 2010, developing economies' share jumped 10 percent. For the first time ever, more than half of global FDI travelled to emerging markets. However, FDI inflows into India declined by a whopping 31.5 percent. *(ToI, 25.01.11)*

Foodgrain for Poor Pilfered

More than half, 55 percent, of foodgrains meant for the poor is diverted and never reaches them, the Economic Survey, 2010-11 reveals. A large amount of the grain is sold off at a higher price in the open market than the stipulated ration shop price.

The Survey points out to the extent of pilferage that occurs and why the food security bill stands to fail if implemented in the current market conditions. The current system of handing over cheap food to the approximately 500,000 ration shops all over India and then requiring them to sell it at below market price to poor households leads to large leakages. *(BL, 25.02.11)*

Bits & Pieces

How Corruption Hits Growth?

- A spate of scams involving politicians and bureaucrats surface
- Opposition stalls Parliament trying to corner the government. Decision making in the bureaucracy slows down
- Lack of parliamentary activity causes delays in reforms. Key decisions on FDI in insurance and retail, land acquisition for infrastructure, direct, indirect tax reforms and food security are held up
- Continuation of political deadlock in the near-term could lead to investor pessimism over these much-required reforms
- Flow of both FDIs and foreign institutional investments could be affected
- The spending approval process for public sector projects is slow and could be one reason why government has failed to spend the close to P1tr cash surplus over the last two months *(ToI, 05.02.11)*

Rich Gets Richer


www.affordablehousinginstitute.org

A study undertaken by consultancy firm McKinsey & Co. found that, rich Indians are getting richer, faster. In last three years, India's top three income households have grown two times faster than what was forecasted in 2007, despite global slowdown. It is for this reason that the boom in sales of almost every consumer product is visible all over. While the households in the low income bracket, poorest of all, is higher.

Growth has disproportionately improved lives of people at the top than the bottom and so, as a society we should build inclusiveness in the economy. Indian households are getting smaller and they are also getting richer because there are more earning members per household, women being an important category, which is boosting the household income at a faster pace. *(ET, 01.02.11)*

Question D-6 capex

The Comptroller and Auditor General (CAG) of India is finalising a report that questions the government's move to allow Reliance Industries to increase its expenditure in developing the D-6 field in the Krishna-Godavari basin by over US$6bn, significantly reducing the state's share of revenue from the country's biggest gas field.

Despite the high expenditure, the Reliance's gas output from D-6 has fallen to about 55mn cubic metres a day when the target was 80mn cubic metres. The finding is likely to include an extensive account of lapses by the Oil Ministry, which abandoned its own procedures, and Reliance did not comply with some provisions of the production sharing contract.

(ET, 01.02.11)

Regulators Pulled Up

The CAG rapped five regulators, including SEBI, IRDA and PNGRB, for keeping their surplus funds worth over ₹2,142 crore collected through fee and penalty outside the government accounts.

The practices by the regulators are in contravention of the instructions issued by the Finance Ministry that all ministries and departments of the government would ensure that the funds of regulatory bodies are maintained in the Public Account. *(BS, 18.03.11)*

Bihar's Fiscal Position Worsens

There was deterioration in Bihar's fiscal position in terms of trends in 2009-2010 compared to the last two years, CAG report said. Although the state maintained a revenue surplus during these years and had already achieved the 12th Finance Commission recommendation of eliminating revenue deficit, there was a decrease in the revenue surplus during the period under review, said the CAG report on the state's finances for the year ended March 31, 2010.

The report, however, said the fiscal deficit which was well within three percent of the state gross domestic product increased to 3.4 percent during the year, which too was within the revised recommendation of 3.5 percent. *(ET, 30.03.11)*

India's Unused Aid

India is sitting on unused foreign aid of over ₹1 lakh crore reflecting inadequate planning by ministries like urban development, water resources and energy. The government has paid commitment charges of ₹86.11 crore during 2009-10 in the form of penalty for not timely utilising the aid approved by multilateral and bilateral lending agencies.

The CAG report has outlined 16 sectors which sit on unutilised external assistance to the tune of ₹1.05 lakh crore. The sectors include urban development, roads, agriculture and rural development, water supply and sanitation and power. *(BL, 18.03.11)*

Gets a Say in Social Audit

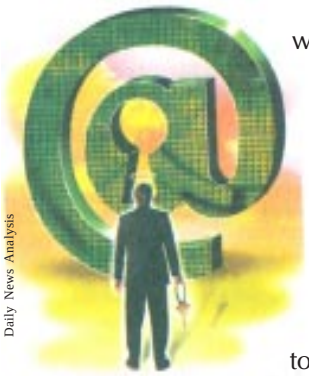
Entrusted with the task of improving the social audit process in Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) following reports of malpractices and corruption, the CAG recommended to the states to set up directorates to train auditors from civil society.

The audit watchdog has recommended this as part of the new audit regime that is likely to scrutinise the flow of hundreds of crores of rupees spent on schemes under the MGNREGA. According to CAG's recommendations, a nominee of the government auditor would be present in social audits that *gram sabhas* would conduct twice a year. *(ET, 07.03.11)*

E-GOVERNANCE

Digitised Ministries

The Centre is contemplating to bring in legislation to make it mandatory for every Central Government organisation and department to deliver public services using information and communication technology (ICT). The draft of the bill called 'electronic service delivery' is ready.


Daily News Analysis

The benefits of the bill would include efficient, transparent and reliable delivery of web enabled public services in a definite and time-bound manner to citizens, thereby transforming governance.

The bill would boost the national e-governance programme for which the total expenditure is estimated between ₹40,000 and ₹50,000 crore. As part of the implementation of e-governance programme, the Central Government would set up 2,50,000 common service centres by 2012, which will give a fillip to inclusive growth plans. *(DNA, 28.03.11)*

Online Payment for Power

The Tamil Nadu Generation and Distribution Corporation (TANGEDCO) appealed to low-tension electricity consumers to take advantage of the online payment facility to pay their electricity bills. The payment facility had been extended to all the parts in the State with effect from December 2010.

Consumers having an internet banking facility through Indian Bank, Indian Overseas Bank, ICICI Bank, Axis Bank and City Union Bank can also utilise the TANGEDCO's online payment facility. Steps have been taken up to include State Bank of India, Karur Vysya Bank and Bank of Baroda in the online payment services of TANGEDCO.

(TH, 19.02.11)

NHAI Opts for Online Bidding

With corruption charges flying high, the government has decided to move to electronic bidding of highway projects. For the first time since its inception, the NHAI will start e-tendering of projects from April 2011.

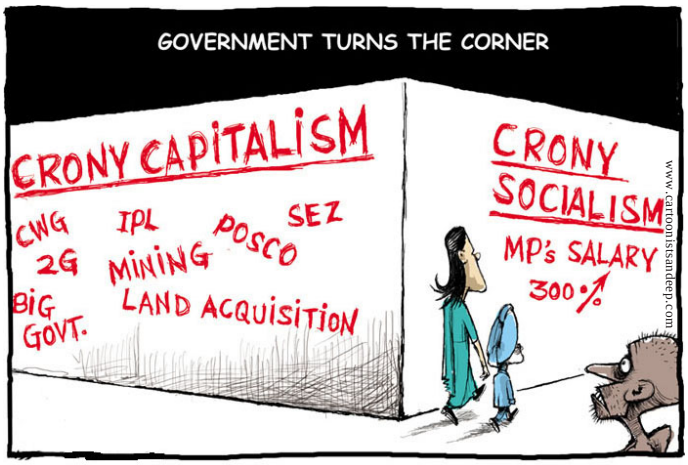
NHAI has approached the National Informatics Centre to build the platform for electronic bidding. The industry has welcomed the initiative and feels this would help weed out corruption in the system. *(BS, 25.03.11)*

How Pervasive is Crony Capitalism?

– Ashoka Mody, Anusha Nath and Michael Walton

Shady land deals, dodgy telecom auctions and political support for illegal mining – who in India does not know of the cosy links between politicians and businessmen? It's called crony capitalism. It leads to the enrichment of a few companies that enjoy state patronage, blocks competition, discourages innovation and ultimately hurts growth. But, while the state-business nexus in India can hardly be denied, the question is: how pervasive is it?

To try and answer that question, Ashoka Mody, Anusha Nath and Michael Walton analyse the profits of companies listed on the Bombay Stock Exchange to find out whether there is evidence of market power and whether the benefits of growth have accrued to a few favoured firms. The period covered is the 1990s and the 2000s, the decades after economic liberalisation that saw a marked change for the better in the Indian economy.



One way to gauge dynamism is the entry of new firms. The paper finds that while there was substantial new entry across virtually all industries in the early 1990s, this stopped in the late 1990s and did not pick up in the 2000s despite a recovery in profits. Large business houses and publicly owned companies remained dominant during the period and firms linked to business houses slightly increased their share of total sales in the sample from 41 percent in 1989 to 42 percent in 2008.

The point the authors make, though, is that the increase in concentration in the market in the 2000s did not have an impact on profitability. For instance, firms in less concentrated sectors have higher profit rates. They also find that "firms in re-concentrating sectors have similar overall profit dynamics as other firms, again supporting the view that the exercise of market power is not a general phenomenon for this group".

In fact, the authors say that it is the dynamic firms that do well and thus gain market share. The paper does find persistence in profits from year to year, but it also notes that this persistence declines when profits are averaged over longer periods, thus pointing to "super-normal" profits being whittled away over time. Also, while they agree that market power may have a hand in the persistence of profits, they find that a part of the persistence reflects greater efficiency. The profitability of business houses behaves in a similar fashion to free-standing firms, with no evidence of greater capacity to use market power to get more profits.

Not surprisingly, the authors say their findings present "a picture of a corporate sector that, in this period of major change, was characterised to extensive competitive pressures, inducing dynamism, as opposed to being typified by market power and entrenchment".

Nevertheless, the authors also point out that their analysis does not take into account state-corporate links that may erect policy barriers to entry, thus having an impact on profits. But there is little doubt that for the vast majority of companies, including many large ones, cut-throat competition is the norm. That should be good news for the economy.

Extracted from the IMF Working Paper entitled, 'Sources of Corporate Profits in India – Business Dynamism or Advantages of Entrenchment?'

The article appeared in the Livemint, *on January 14, 2011.*

No Need to Amend RTI Act

UPA chairperson Sonia Gandhi-led National Advisory Council (NAC) might have expressed strong reservations on the government's draft rules on Right to Information (RTI) Act, but the Central Information Commission (CIC) has endorsed the rules saying it finds nothing wrong even with word limit restrictions for RTI applications.

The Commission, which is the final and central appellate authority for the Act, has sent its comments to the government expressing only a single reservation on the draft rules. According to sources, the Commission has even approved of the provision which makes it mandatory for an applicant to sum up his request for information in 250 words, excluding the address of the public information officer and the applicant. *(ET, 13.02.11)*

Makeover for Sugar Economy

A government panel, headed by the former RBI Governor C Rangarajan, recommended a radical overhaul of the sugar market, including partial indexing of cane prices to the retail price of the sweetener and relaxing restrictions on setting up of sugar factories.

The measures will reduce government intervention, usher in competition and make at least a section of farmers happy with the ruling UPA. The government should move to a uniform formula that will be based on a weighted average of the retail price of sugar across the country.

It would be best for state governments to procure sugar from mills through an open tender, rather than have fixed quotas. The panel also suggested that the current controls on export and import of sugar should remain. *(Livemint, 05.01.11)*

Stop Food Wastage!

The government is discussing if it should regulate how much food can be consumed at weddings and other social events. The thinking comes as the government is trying to reconcile with the varying view points on the proposed legislation on food security, and as the ruling Congress-led UPA attempts to support its food entitlement programme for the poor.

The Department of Food is of the view that if it improves the efficiency of PDS, reduces leakage in the pre-harvest, storage and transportation stages and cuts wastage, the government would be able to provide foodgrain as a legal entitlement to the poor. The government spends ₹55,578 crore a year on food subsidies. *(Livemint, 22.03.11)*

EXPERT VOICE

Cut Stamp Duty to Curb Black Money

Prime Minister Manmohan Singh hinted that the state governments could reduce stamp duty to check the flow of black money into the real estate sector. Both developers and consumers will benefit from a reduction in stamp duty, a property tax. Illegal money is increasingly finding its way into the sector. Private realtors have welcomed the proposed move on the ground that it would help bring transparency in transactions.

Stamp duty is a property tax, to be paid in almost every deal at a prescribed rate on the transaction value or calculations based on circle rate, whichever is higher. It varies from state to state. At present, stamp duty is charged from both consumers and developers. *(FE, 19.03.11)*

'Polluter-must-pay' Policy

Singh made clear his government's policy on the environment-vs-growth debate. He virtually cautioned against over-zealousness of green lobbies. To deal with residual pollution caused, despite regulatory efforts, Singh suggested the polluter-must-pay principle to discourage polluters and collect fund for regulating this system.

If India were able to eliminate all its greenhouse gas (GHG) emissions, it won't make a significant difference to our climate since the country's emissions account for only four percent of the global total and so the countries responsible for the build-up of GHGs should take action. *(FE, 04.02.11)*

20-Point Agenda on Corruption

Singh is set to outline a comprehensive agenda to make transparency and ethics the core focus of governance at all levels through a 20-point agenda. Adoption of Finlands' model of procedures was also under consideration. The PM wants effective steps to break the corruption nexus between politicians and bureaucrats and focussed attention on making corruption a zero-tolerance zone.

The measures to curb corruption were: proper scrutiny of officials before appointments, especially to critical posts, posting on websites the names of officials involved in corruption cases and permission to prosecute identified cases, internal security, implementation of the *Gram Sadak Yojana* and drinking water mission, etc. *(BS, 02.02.11)*

Rural Jobs Scheme Cuts Spend

The Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), the United Progressive Alliance government's flagship programme, has so far spent just 56 percent of its Budget allocation of ₹40,000 crore. It has recorded a fall in the average number of workdays per household in 2011.


The Hindu Business Line

Government managers are asking for a 60 percent rise in allocation for the scheme in 2012. While there was a surplus of ₹7,000 crore in 2010, the surplus was double that amount in 2008-09. The Ministry has attributed this huge unspent balance to poor demand for work rather than to poor access to work. *(BS, 03.02.11)*

Wrong Approach to Food Security

– Sharad Joshi*

Coupons would work better than public distribution system (PDS) as a food security mechanism. It is not surprising that the largest support for PDS comes from regions where pilferage is maximum

The discordance of views between the National Advisory Council and the Prime Minister's Expert Committee on Food Security was ironed out by a compromise between contending parties on the quantum and level of subsidies for food security.

But there was no public debate on the larger issues involved in food security, like feasibility of the PDS.

India has often let go such great opportunities, avoiding open debates on matters of vital public importance. We avoided an open debate on the Nehruvian socialist misadventure, for which we suffered some four decades. This is not the first time that the PDS has been a subject of intense controversy. The first time this happened was when Rafi Ahmed Kidwai was Food and Agriculture Minister in Nehru's Cabinet. Finally, the Food Corporation of India won the day by prevailing upon the Opposition to maintain the *status quo* and keep the PDS going, along with the paraphernalia of food procurement.

PDS and Pilferage

The logic of those who oppose the PDS is irrefutable. PDS necessarily involves a dual pricing mechanism which is opposed to the idea of a unified market. Properly implemented, PDS would take away almost 70 percent of the foodgrain market.

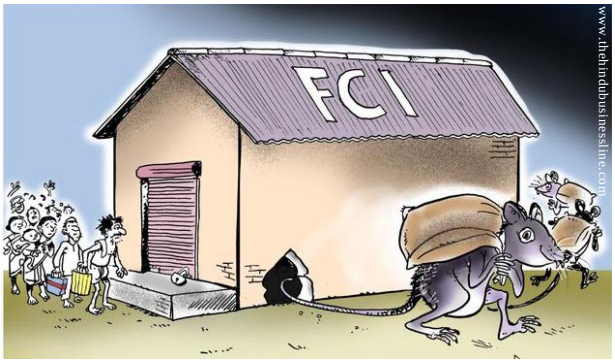
The PDS is a white elephant, and the foodgrain market can hardly hope to bear such a burden. In today's situation, that kind of dual pricing will not be acceptable to the WTO.

Rationing has been in existence for long, long time. There has been a continual debate on whether a free market system works better than a controlled PDS with several layers of inspection.

The recent case of Lt. Col. Sahani has clearly brought out the impossibility of a well-regulated rationing system existing even under military rule.

The PDS, by its nature, offers great opportunities for pilferage.

The PMO will find it impossible to maintain its clean image in the event of another multi-million scam in the domain of PDS, if it continues to insist on a system of food security implemented through a rationing system.



The PDS has failed beyond redemption and any plans to ensure food security through the PDS is doomed to disaster. The largest support for PDS comes from regions where the proportion of pilferage is maximum.

Redundant Institutions

The present system of agricultural marketing in India is based on three pillars. The first is the Commission for Agricultural Costs and Prices (CACP) that establishes some kind of estimates of the cost of cultivation that the farmers must recover. In fact, its estimates come closer to a running average of last three years' prices, according to an expert committee. The Food Corporation of India (FCI), the second pillar, is only nominally responsible for the prices it pays for the foodgrains.

It is mainly in charge of foodgrain procurement and pumping the foodgrains procured into the rationing system. The CACP has become redundant since we now have, in futures markets, a much better estimate of prices that farmers can expect at harvest time.

The rationing system, the third pillar, has become a target of criticism because of the large holes that are built into it. Most of the defects of the rationing system can be remedied by the system of food coupons that could be linked with the UID.

This is once again an excellent opportunity to have a public debate on all these issues. It appears that we will fritter away the opportunity.

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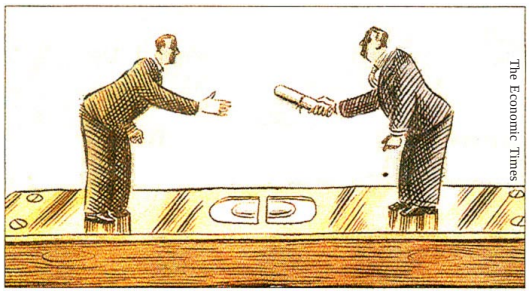
* *Founder, Shetkari Sangatana and Member, Rajya Sabha. The article appeared in* The Hindu Business Line, *on February 23, 2011.*

GST to Boost Tax Revenues

State governments will enjoy virtual veto power on matters concerning the proposed goods and services tax, with the Centre ceding ground to opposition-ruled states on the Constitutional Amendment Bill in an attempt to build consensus in Parliament.

The legislation stipulates that every decision of the goods and services council, a joint decision making body of states and Centre, must be supported by all the members present, giving every state the power to block a proposal.



The proposed GST council will have Union finance minister, minister of state for revenue and finance ministers or anyone designated by the states as members. The council will decide on all the key issues concerning GST including the taxes that will be subsumed in GST, goods and services that will attract this levy, threshold limit, and rates of tax. *(ET, 23.03.11)*

Bill on Forward Contracts

Commodity-markets regulator Forward Markets Commission expects the Parliamentary Standing Committee's report on Forward Contracts Regulation Amendment Bill 2010 to be taken up in the Budget session. The Bill has undergone various changes since it was first introduced in 1998 with three standing committees submitting their reports.

The government seems more convinced now that the futures trading in commodities were not stoking up inflation. Competition in the commodity exchange space will intensify, as there are five national exchanges currently in operation. The number of commodity exchanges had been changed to eight by the government and FMC has ruled out further margin hike in guargum futures contract to arrest hike in prices.

(BL, 25.01.11)

Nod for Press Registration

The Union Cabinet decided to replace the old Press and Registration of Books Act, 1867, with a new law which will give statutory backing to guidelines and executive orders issued, from time to time, on issues such as the FDI limit and facsimile editions, and scientific, technical and other specialised journals.

It will also have a provision to bar those convicted under the Unlawful Activities [Prevention] Act from bringing out publications, and prevent blocking of titles. The title owners would have to maintain the periodicity of the publication and submit annual statements on matters like circulation figures. The Bill would also set time frames for approval of new titles and cover Internet editions of newspapers. *(TH, 11.02.11)*

Govt Okays Banking Bill

The Union Cabinet gave its approval for introduction of a Banking Laws Amendment Bill 2011 in the Parliament. This Bill seeks to among other things lift the 10 percent voting rights cap in private sector banks and pave the way for the RBI to give some additional banking licences to private sector players.

The proposed Bill will seek to amend the Banking Regulation Act, 1949, so as to remove the voting rights cap for private sector banks. The legislative intent will be to make voting rights commensurate with economic ownership. *(BL, 03.03.11)*

Second go at Pensions

A Bill to regulate the pensions business introduced in the Parliament by the UPA government set a precedent by keeping the policy decision on foreign investment outside the purview of the legislation. The move insulates it from the kind of political opposition that has checked foreign investment in insurance.

The Bill said the foreign investment policy for the pension sector would be determined and notified outside the legislation under the Foreign Exchange Management Act. The UPA's attempt to increase the foreign investment limit in insurance firms from the current 26 to 49 percent has been unsuccessful so far on account of political opposition to the legislation.

(Livemint, 25.03.11)

Academic Depository on Cards

The Union Cabinet cleared a Bill that seeks to create a national database of academic qualifications in DMAT format, which will authenticate and reissue certificates. The National Academic Depository Bill 2011 will now be tabled in Parliament.

The database will be established in an electronic format by an identified registered depository, with all institutes, including school boards, the Indian Institutes of Technology, the National Institutes of Technology and polytechnics from different States having linkages to the depository.

The database will help the administration effectively deal with forged certificates and fake degree rackets, and enable online verification and easy retrieval of particulars of academic qualifications. *(TH, 23.03.11)*

Food Security Near Ready

Union Finance Minister Pranab Mukherjee announced that the National Food Security Bill (NFSB) will be introduced in the Parliament during the course of 2011. Presenting the Union Budget 2011-12 in the Lok Sabha, Mukherjee said that the government is close to finalisation of this bill after detailed consultations with all stakeholders including state governments.

Referring to the government's schemes of Right to Work for rural people, Right to Information and Right to Education, Mukherjee said that the government has engineered a major directional change in public policy by its focus on inclusive development.

The Finance Minister said that the allocation for the Social Sector in 2011-12 is being proposed to be ₹1, 60,887 crore, which is an increase of 17 percent over current year.

(www.andhranews.net; 28.02.11)

Healthcare Needs 'Lifeline'

With a bed ratio of 0.77 per 1,000 population and doctor-population ratio of 0.6:1,000, the healthcare industry in the country wants an immediate lifeline to tide over the ever increasing demand-supply gap. The lifeline should include a 10-year tax holiday, infrastructure status and waiver of duties on life-saving drugs and key equipment.

The industry needed a stimulus package akin to the one given to the infrastructure and information technology industry. The government needs to create a policy environment that encourages banks and financial institutions to lend to hospital projects. *(BL, 24.02.11)*

Closure of Vaccines Unjustified

Taking a critical view of the manner in which the manufacturing licences of three public-sector vaccine producing units were suspended, a Parliamentary panel said it was abundantly clear that the decision was based on a major misconception and due to the misinterpretation of certain unclear signals in the communication from the World Health Organisation (WHO).

A prudent step that was blatantly missed by the Ministry of Health and Family Welfare was determining, at the outset, the WHO's exact position in this regard. The three units in question are the Central Research Institute (CRI) at Kasauli, the Pasteur Institute of India (PII) at Coonoor and the BCG Vaccine Laboratory at Chennai. *(TH, 05.03.11)*

Drugs to Heal Rural Healthcare

In what would come as a shot in the arm for rural healthcare, the government is planning to form a chain of over 8,000 drug retail outlets spread across the length and breadth of the country to take affordable medicine to the hinterlands. The plan is to set up or contract one drugstore in every block in addition to about four-five drug outlets in all district headquarters. India has 640 districts and 6,000 blocks.

The government aims to have at least one warehouse in each district, centralise the drug procurement at the state level while decentralising the drug distribution system. The idea is to create a Drug Supply Logistics Corporation, under which national and state level utilities would be set up to ensure transparency in provisioning of adequate, low cost, generic drugs. *(FE, 14.03.11)*

Taskforce to Support Pharma

The Union Ministry of Health & Family Welfare constituted a task force to evolve a long-term strategy for addressing the issues faced by the Indian pharmaceutical industry.

The task force would evolve a short, medium and long-term policy to make India the hub of drug discovery, research and development. It would come up with strategies to support the interests of the Indian pharmaceutical industry in issues related to Intellectual Property Rights and recommend strategies to capitalise on the opportunity of US$60-US$80bn drugs going off-patent over the next five years.

It would suggest policy measures to promote indigenous production of bulk drugs, prevent take-over of the industry by multinational companies, promote generic drugs and recommend measures to ensure adequate availability of quality generic drugs at affordable prices. *(TH, 17.03.11)*

SMS-enabled Pill Authentication

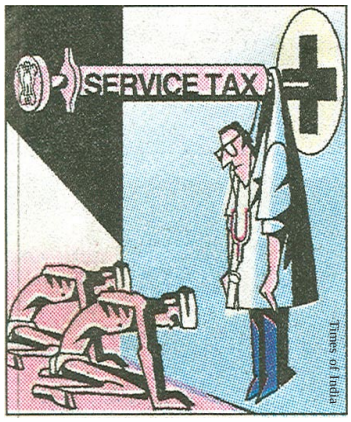
Soon, you will be able to know whether the drug is genuine or not by simply sending an SMS from your mobile, thanks to a new initiative by the Drug Controller General of India.

A unique identification number would be introduced for each drug. This will be printed on the label clearly to enable a common user to identify it. If one has a doubt on the authenticity of the drug either because of its different taste/shape or reaction, one can immediately SMS the manufacturer for a confirmation.

The proposed system is expected to protect a patient from serious risks of consuming spurious drugs. *(BL, 06.03.11)*

A Bitter Pill

Proposed service tax on healthcare is counterproductive



Perhaps the single worst idea in 2011's budget is to slap a five percent service tax on healthcare, which will put affordable medical treatment further beyond the reach of the common man. It is unfortunate that the contribution of the healthcare sector to the overall growth and development of the economy is grossly underestimated in India.

The public healthcare infrastructure in the country hardly inspires confidence. India has just 90 beds per 1,00,000 people as opposed to a world average of 270 beds. There are only 60 doctors and 130 nurses per 1,00,000 people against world averages of 140 and 280 respectively. Around 80 percent of Indians finance their health bills from their own pockets. With government hospitals and clinics poorly resourced, the private healthcare sector is crucial to providing medical facilities to the masses.

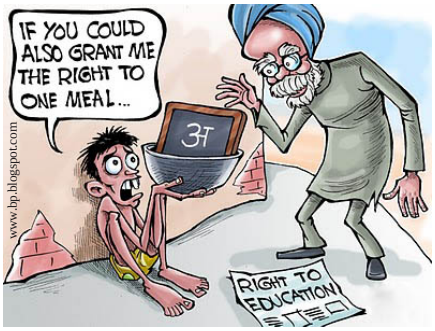
If the proposed tax is enforced, hospitals will have no other option but to pass on the burden to patients. With rural healthcare already in a shambles, the tax may disincentivise poor patients from seeking formal medical care.

The budgetary allocation for various national disease programmes has also been slashed by 14 percent over the last two years. Instead of burdening the sector with extra taxes it needs to declare healthcare an infrastructure industry. This will enable the sector to attract greater investment and bring quality medical services to the masses. *(ToI, 07.03.11)*

Lack of Political Will Hampers RTE Implementation

A year after the implementation of the Right to Education (RTE) Act, the dream of universal education still remains a distant reality for many children due to the lack of political will in the states. According to the National Commission for Protection of Child Rights (NCPCR), the chief monitoring body of the Act's implementation, only 13 states have notified their state rules.

A report taking stock of implementation of RTE in India said that while the NCPCR has been mandated with monitoring the implementation of the Act, the body lacks the capacity to do justice. The school management committees are the first line complaint mechanisms under the RTE Act which have not been formed in most states. This leaves parents and children without a visible place to go if their educational rights are violated.



The Right of Children to Free and Compulsory Education Act came into force from April 01, 2010 under which RTE will be accorded the same legal status as the right to life as provided by the Indian Constitution. Every child in the age group of 6-14 years will be provided eight years of elementary education in an age appropriate classroom in the vicinity of his/her neighbourhood. *(www.inewsone.com, 31.03.11)*

B-schools v. AICTE

At least five B-schools in Delhi and Mumbai are in discussion with others to form a consortium and approach the Bombay or Delhi High Court to either seek an interim injunction or reversal of the All India Council for Technical Education (AICTE) guidelines. Over 200 B-schools are scheduled to meet in Delhi to discuss the issue of *diktat* on admissions.

In December 2010, AICTE issued guidelines on post-graduate diploma in management (PGDM) courses. Among others, the one which is being strongly opposed by B-schools is that admission to all PGDM courses must be done through common entrance tests such as the Common Admission Test, Management Aptitude Test or examinations conducted by state governments. *(BS, 03.02.11)*

Bill to Curb Fraud in Education

The Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010 provides for the prohibition of certain unfair practices in technical educational institutions and universities and protects the interests of students admitted or seeking admission like the refusal to return or withhold, degrees, diplomas or refund fees, and charges a hefty penalty for misleading advertisements, while making the demanding of capitation fee a cognisable offence.

The HRD Ministry has asked the public sector enterprise, the Educational Consultants India Ltd to give a project report on the maintenance and updating of a web page that could be dedicated to students abroad. *(TH, 03.02.11)*

• MICRO FINANCE •

RBI Norms for Microfinance

A RBI panel has recommended stringent regulations for microfinance institutions (MFIs) in order to get them do what they were originally set-up for-provide easy loans to the poor for income generation.

The recommendations, if accepted will temper the growth of MFIs as it restricts loan size and end-use. It will also compress the margins of MFI lenders because of caps on lending rates and competition from banks.

The report of the RBI board sub-committee also threw a lifeline to the MFI sector by allowing banks to relax loan repayment schedules of MFIs which pushed up the share price of SKS Microfinance by six percent. *(ToI, 20.01.11)*

MFI Act stays in Andhra

The Andhra Pradesh government does not intend to withdraw the AP Micro Finance Institutions Act, even if the RBI accepts the recommendations of the Malegam committee on the subject.

Rural Development Principal Secretary R Subrahmanyam said that the proposal of RBI supervision is unlikely to be effective since they do not have the machinery to do such a task and that the interest should be calculated on a diminishing balance. The government will not accept any recommendations that do not effectively protect the interests of SHGs and the poor. *(BS, 22.01.11)*

Regulator to Deal with MFIs

The government is actively considering establishing a regulatory framework to deal with malpractices of MFIs, accused of charging exorbitantly high interest rates and using unethical loan recovery practices.

Shashikant Sharma, Secretary, Financial Sector in the Ministry of Finance said that microfinance is an important plank in the government's agenda for financial inclusion. However, 'the sudden and rapid growth of MFIs has given rise to lending malpractices by some MFIs'.

A strong and effective regulation of the sector is therefore imperative to put an end to undesirable practices and put the sector on the path of providing inclusive growth. *(www.smetimes.tradeindia.com, 16.03.11)*

Car Makers under Scanner

International car makers, Honda, Hyundai and Volkswagen, have come under the scanner of the Competition Commission of India (CCI) for abusing their dominant market position by selling auto parts to customers at high prices.

The CCI has asked its Director General (Investigations) to probe a consumer's complaint against the car makers, who allegedly abuse their dominant position by making available spare parts only through their authorised dealers, who in turn sell them on high rates.

Normally, auto spare parts from Indian car makers are available with any retailer, not necessarily authorised, but the case is not the same with international car makers.

(ET, 14.03.11)

IRDA Out of CCI's Purview

Insurance regulator could seek immunity from the competition watchdog's authority on mergers in the sector, taking a cue from the RBI, which ensured that anti-trust laws will not come in the way of consolidation in the banking industry.

A proposal from the insurance watchdog is likely to find sympathetic hearing in the government. There are 23 life insurance companies and 22 non-life insurers in India. Industry experts opine this is far too many and see consolidation as inevitable.

The government had notified the much-awaited merger proposals under the Competition Act to be brought into force in June 2011. But the government accepted RBI's position that all aspects of mergers and acquisitions in the banking sector should be regulated by it and approved necessary changes to the Banking Regulation Act. *(ET, 08.03.11)*

CIL Moves CCI Against Cartel

State-owned Coal India has moved the competition watchdog CCI against explosive manufacturers, alleging that the players are forming a cartel while quoting bids floated by the coal PSU, thereby, killing its right to procure the product at a fair price.

Coal India's complaint comes within months of a similar complaint filed by the Explosives Manufacturers Association of India (EMAI) that CIL was procuring 20-22 percent of its requirement from a single explosives manufacturer without inviting bids.

CIL, which accounts for around 85 percent of the coal produced in the country, needs explosives to remove the soil layer covering coal deposits in mines. *(BS, 20.02.11)*

Onion, Cement Prices Hike

The CCI, constituted to promote consumer welfare through fair competition in markets, has received various complaints pertaining to the sudden rise in the prices of cement and onions.

The CCI cannot control the prices or inflation and it is not even its duty. But it can check that there is healthy competition in the market to safeguard the interests of consumers. The CCI have an investigation wing that carries out probe and issued notices to the party concerned.

After collecting the facts and data and hearing both parties, the investigation officer decides about the guilt. Then a final notice is issued and penalty is imposed.

(www.sify.com;21.02.11)

Banks Face Heat Over Loans

The RBI expressed its displeasure with a section of banks levying high prepayment penalty on foreclosure of housing loans. The Central Bank is also weighing options to tell banks to ease the burden on borrowers willing to prepay the loan fully, even as the CCI finds such penalty legally valid.

This issue has attracted absorbing debate after the CCI's ruling that imposing penalty for pre-closure of home loans is in tune with the existing laws. The commission has, in fact, set aside its investigation wing's observations that such clauses were anticompetitive in nature and hence contravention of some sections of the Competition Act. *(ET, 02.02.11)*

CCI to Check Malpractices in Biz

The CCI plans to take stringent action against the business outfits engaged in malpractices that undermine the interests of the consumers. Sectors like real estate, entertainment, cement, petroleum, steel, travel industry, healthcare and education are on CCI's radar.

CCI Chairman Dharender Kumar said CCI has settled 40 of the 150 cases received since its inception, with far-reaching implications for business, industry and the film world. It is now fully geared to play its stipulated role as an effective instrument in accelerating economic growth through the various spin-off effects of competition in the economy and ensuring the markets work for the benefit of the common man.

(BS, 22.02.11)

CCI to Approve Big M&As

The CCI has been empowered to scrutinise large merger and acquisition (M&A) deals and then either approve or reject them. In a much-awaited move, the Ministry of Corporate Affairs has notified the relevant provisions of competition law that will give the CCI powers to examine corporate deals beyond a certain value.

The Ministry has notified sections 5 and 6 of the Competition Act. The notification will be put up on the Ministry's website soon. The provisions will be effective from June 2011. According to the Act, companies involved in M&As should notify CCI about proposed deals as long as the combined annual revenue of the individual companies is at least ₹3,000 crore. *(ET, 05.03.11)*

CCI Needs to Think Out of the Box

– Pradeep S Mehta*

Food price inflation in India is not an isolated conundrum. The same can be witnessed in many other countries as part of a global phenomenon. Without going deeper into this phenomenon, let us review the simple case of the recent onion price rise crisis. It is a sensitive issue as the onion is a staple food item for Indians. In the past, the issue has led to downfall of governments

In fact, the production of onions did not fall below last year's production. Yet, due to vagaries of weather like heavy rains, some of the onion crop was affected. This led to traders encashing the situation by raising prices beyond normal increases. The government got into action by banning exports and raising imports, including phlegmatic imports from Pakistan. Furthermore, income tax raids were conducted on traders, and the Competition Commission of India swung into action to investigate alleged cartelising behaviour of traders. Reportedly, income tax raids did not yield any evidence of collusion or any other misdemeanour. Traders howled, and the raids stopped while new arrivals brought down the prices by and by.

The allegation that onion merchants were colluding does not hold much water. Existing high onion prices may not necessarily be the result of collusion among traders, which is necessary to prove a violation under our competition law. The simultaneous increase in the prices of onion across India is a phenomenon known as 'price parallelism'. Price parallelism is a mirroring effect where traders independently pursue their 'unilateral non-cooperative best response' in view of what other rivals are doing. Therefore, there is neither an explicit agreement nor a tacit understanding among the traders.

In a case in the US – Interstate Circuit, Inc vs US (1939) – the court accepted that collusion may be inferred from circumstantial evidence but warned against going too far. In a famous phrase, the US court argued that "conscious parallelism has not yet read

conspiracy out of the Sherman Act entirely". In short, parallel business behaviour by itself does not constitute a Sherman Act offence.

Even in India the position on price parallelism and collusion is the same. In ITC Ltd v MRTP Commission [(1999) 46 Comp Cases 619], it was held that three essential factors have to be identified to establish the existence of a cartel, namely agreement by way of concerted action suggesting conspiracy, the fixing of prices, and the intent to gain a monopoly or restrict/eliminate competition.

There have been instances where the MRTP Commission (the former competition authority) has tried to investigate cartels on suspicion of price rises or submission of collusive tenders in various industries such as tyre, sugar, yarn, plywood, cement, etc. However, they were not successful in proving the existence of a cartel because the evidence collected did not go beyond price parallelism.

While escalating prices of onion cannot be attributed to cartels, probable reasons may range from demand-supply gap to hoarding of onions by traders. As per government's own version, price rise is due to hoarding and the country had enough stocks of onion. Further, overall impact of unseasonal rains on onion prices does not justify the abnormal prices either, as only about 20 percent of the crop was damaged. On the other hand, economic analysts hold poor agricultural productivity, transportation and inadequate investment in agriculture as responsible for the crisis.

Looking at the situation from various angles, one could see that surely there was some artificial shortage in the market along with other factors affecting onion price. This further aggravated the onion crisis. If seen from a common man's point of view, it only demonstrates a governance failure because onion is one of the most essential food items. Also, the spillover effect of high onion prices to other food products cannot be denied.

The government had very few available remedies to check this crisis immediately. The most effective tool is the Essential Commodities Act, 1955, which can be invoked by various states to check hoarding and black-marketing. In the long run, the government needs to invest more on growing essential food items such as onion. These included tightening the enforcement mechanism and resorting to imports while regulating exports much before the crisis could have deepened. The same can happen for other commodities as well, and hopefully the government can start planning well in advance, by taking proactive measures rather than indulging in a reactive manner.

* *Secretary General, CUTS. Vikas Kathuria of CUTS contributed to this article. Abridged from an article that appeared in* The Financial Express, *on March 21, 2011.*

Time to Fight Back Corruption

– Rajiv Kumar*

Corruption, that has been corroding our system over the decades, now threatens to derail the India growth story. It has perhaps already become systemic and according to the pessimists the rot is so deep and widespread that it is beyond repair.

While the rot is undoubtedly extensive and seriously damaging to brand India, it can still be reversed and the system saved from its pernicious impact.

While the industry and middle classes clearly suffer far less now from corrupt practices than in the pre-reform period, the poor still continue to suffer as a result of extensive mal-governance that characterises the delivery of public goods and services in nearly all parts of our country.

Onus on Governments

The onus for this corruption is clearly on the Central and state governments. This needs to be tackled urgently as mal-governance, is arguably the most important cause for the worsening internal security situation.

But the main sources of corruption today relate to either the allocation scarce natural resources like land, spectrum and minerals or to large scale government construction or procurement contracts. In all these cases, the government at various levels and specially the higher echelons of public authorities, and not the petty official, are involved and implicated.

On the other side of these transactions are either a new breed of fortune seekers or the larger corporations and not the small and medium sized entrepreneurs who instead have to deal with fending off the inspectors who harass them to enforce the non-enforceable statutory provisions.

The question must be whether there can be a push back against such a nexus and crony capitalism in a situation where all major constituents of our social fabric seem to be tainted.

The media, judiciary, including its highest ranking members, civil society organistions, the formations to whom we look for fighting against entrenched vested interests and corruption are sadly themselves often implicated.

Not a Banana Republic

Let's hope we are not yet a society or banana republic which has come to accept corruption as normal let alone glorify it.

www.extramirchi.com

It is important that all major constituencies and stakeholders in every sector pay greater attention to self-regulation and to weeding out the rotten apples from within their midst

It is therefore important that all major constituents or stakeholders in the country pay greater attention to self regulation and to weeding out the rotten apples from within their midst. There is an attempt now to shift the entire blame for corruption on to the Indian industry and there is growing talk in the public domain of ethical deficit in the Indian corporate sector.

The Federation of Indian Chambers of Commerce & Industry (FICCI) released a resolution, which among things states that, "Given FICCI's roots in nationalism, we are deeply concerned about the potential damage to brand India and the India story due to brazen acts of corruption by a select few. To preserve India's robust image and keep the growth story intact, FICCI calls for transparency, accountability and probity in our system of governance…Therefore, FICCI believes that anybody found indulging in corrupt practices either as payee or recipient, must be punished summarily in a fast tracked process."

Let us hope that other industry associations will follow this lead and also establish some self regulatory mechanisms like an ethics committee that will lay down some norms for their members and ensure their compliance. This will give Indian Inc the high ground from which it could demand higher standards of probity and accountability from the political and bureaucratic establishment and other social formations.

* *Director General, Federation of Indian Chambers of Commerce and Industry. Abridged from an article that appeared in* The Hindu Business Line, *on January 08, 2011.*

Learn, Localise, Lateralise to Grow

– Arun Maira*

India needs a new mantra for development, focusing on implementation and execution, not just on numbers


The Economic Times

Since the economic recession in the West, some observers have dared to say that the Emperor may be insufficiently clad. Economists have dominated the advisory councils of policy-makers. Now many people, even economists themselves, are questioning the foundations of their theories. We should know the whole truth before indicting economists. Milton Friedman is popularly known for the statement, 'The business of business is only business'. When he visited India in 1955, he warned Indian policy-makers about the dangers of their approach to development – too mathematically planned, too closed, stifling business. 'He told us so', commentators on India's economic history point out. And, thank goodness, we made the reforms in 1991.

Friedman had said more than that, though. He began his memorandum to the government of India with a warning that, "There is a tendency not only in India but in most of the literature on economic development to regard the ratio of investment to national income as almost the only key to the rate of development…In the opinion of this writer, this seems a serious mistake…In any economy, the major source of productive power is not machinery, equipment, buildings and other physical capital; it is the productive capacity of the human beings who compose the society. Yet, what we call investment refers only to expenditures on physical capital; expenditures that improve the productive capacity of human beings are generally left entirely out of account."

The dominant paradigm of economics (and planning), to which Friedman had alluded, is growth of the numbers and by numbers. Whereas another paradigm is development of the people and by the people. In this paradigm, development is focused primarily on people. Indeed, India's 'demographic dividend' – and consequent growth in the size of India's GDP that economists foresee – cannot be predicated only on the large numbers of Indians. In an ongoing public debate among Indian economists, Jagdish Bhagwati and Arvind Panagriya are leading one side, and Amartya Sen is the talisman on the other. Both sides agree that development requires growth in the size of the economy as well as human development. The argument is about means and ends. As Friedman suggested, acceleration of human development must be the precursor to economic growth, rather than a later outcome of it.

India needs innovations in its architecture for implementation designed around three 'L's. First, Localisation. Government programmes are too centralised with detailed designs determined by a controlling body in the Centre or in the states. One size cannot fit all. When the design does not fit a local need, there will be wastages and poor outcomes. The government must be for the people and of the people. It must be by the people also: because participation by the people in planning and execution is required to produce useful benefits.

The second 'L' is Lateralisation. Vertical silos that separate government departments and schemes must be cut through. Also, organisational boundaries between the public sector, private sector and the voluntary sector must be bridged to create working partnerships. The formation of lateral partnerships across many boundaries is required to produce results more effectively.

The third 'L' is accelerated Learning. Local teams must learn to design good solutions and to implement them. States must learn how to enable more devolution. And the Centre must learn how to support the states to accelerate improvement in human development and economic growth. Local bodies can learn from each other, and the states from each other.

The pace at which Indian institutions learn and change will determine how much longer India will take to improve its human development indicators. Starting with similar or even lesser endowments, the nations that learn faster and implement faster, develop and grow faster, too. The final caution is this. Just as the capacity of the physical infrastructure must increase to support the pace of economic growth, tardy change of institutions and development of human capacity will be constraints on sustainability of India's growth.

* *Member, Planning Commission.*
Abridged from an article that appeared in The Economic Times, *on March 14, 2011.*

Outgrowing Infancy

– Shubhashis Gangopadhyay*

There are two news items about the current negotiations going on about the proposed India-Europe free trade agreement that deserve some reflection on everyone's part. One is about the possible impact of the agreement on luxury, or higher-end car prices in India; the other was a case filed against the European Commission, by the Corporate Europe Observatory (COEb), a lobby watchdog. Let us consider them one at a time.

Competition in the Indian automobile sector should be encouraged for the widest efficiency gains

It appears that the currently high 40 percent duties on luxury cars may be agreed down. If duties on luxury cars are reduced, and the automakers pass on the tax cuts to consumers fully, then prices of imported luxury cars will come down quite a bit. Many who were thinking about buying these cars may now decide to buy an imported car even if it costs a little more.

I am immediately reminded of two events that everybody in, and around, my generation has experienced. One was the advent of the Maruti car and the other was the entry of small car manufacturers such as Daewoo (now out of production) and Hyundai into the Indian market. For many, many decades, the Ambassador and Premier Padmini continued with producing the same model with little or no change in their design or accessories.

People waited for months to get delivery of their cars and the car manufacturers made no investments in new models or in expanding capacity. They said they were doing all this to keep prices low. And, they also made us believe that they were not making enough profits at these low prices to make any new investments for technological upgrades to their car. Then Maruti 800 came on the scene. Suddenly, Hindustan Motors, instead of making losses at the advent of competition, started making changes to the more than 40-year-old Ambassador to make it more attractive.

And, let us not forget the Japanese either. All the way till almost the end of the 90s they continued selling the Maruti 800, which, in the late nineties, was at least two decades old. Once Daewoo and Hyundai came in, they immediately introduced newer models and since then they suddenly found an attractive and growing market that justified newer models.

Both these experiences are worth recalling now. In the first case, India was still a highly controlled economy; in the second India had already undergone major reforms for close to a decade. Opening up to competition is something that new entrants like; it is also something that incumbent companies hate.

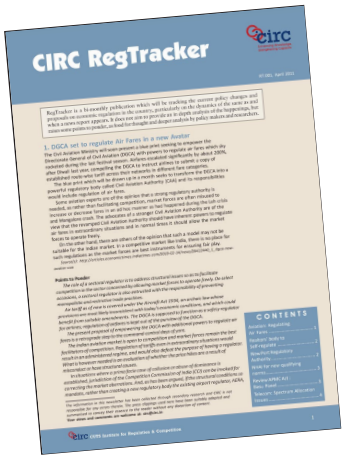
In India, we know that industry associations are being consulted. Of course, we are not surprised since, thanks to the Nira Radia tapes, we are now aware that without the explicit or implicit connivance of Indian corporate groups even ministers cannot be sure of their ministerial berths.

It is important to emphasise that this is not the fault of democracy or the free market. Instead, it is the fault of the government and the intellectuals in the world's largest democratic free market. They are giving democracy and free markets a bad name because they have forgotten what either actually means. First, we must learn from our own experiences. Second, we, who are so quick to refer to other countries for doing whatever we do, should learn from what COEb has done to the European Commission.

* *Research Director, India Development Foundation. Abridged from an article that appeared in* The Financial Express, *on February 26, 2011.*

CIRC's RegTracker

A new publication to encourage informed debate in the economic regulation space


CIRC RegTracker

This is the very first issue of a new bi-monthly publication from CUTS Institute for Regulation & Competition (CIRC), the CIRC RegTracker.

This newsletter will be tracking the current policy changes and proposals on economic regulation in India, particularly focusing on the dynamics of policymaking and its implication for growth and competitiveness. This publication does not aim to provide an in depth analysis of the happenings, but hopes to raise some points to ponder, as food for thought and deeper analysis by policy makers and researchers.

Furthermore, during this period, news report in the Mint on April 06, 2011 says that the government is mulling the creation of a Fertiliser Regulator. It is a ludicrous proposal as the goods sector needs to be regulated for standards etc., by dedicated institutions, such as BIS, and market abuses to be dealt with by the Competition Commission.

Not as ridiculous but equally inane is the proposal to turn the Director General of Civil Aviation into a Civil Aviation Authority with additional powers to regulate air fares, which is reported in this newsletter. While this proposal conforms to the current fashion of creating more regulators and regulatory institutions to deal with issues which can well be handled by the existing institutions. Or is it another move to create more parking lots for retired/retiring bureaucrats.

Fed up with the governance deficit the Public Accounts Committee in its controversial report on the 2-G scam has suggested that retiring secretaries should be debarred from joining a tribunal, non-governmental organisation or a firm by providing a cooling disconnect for three years.

The other policy issues discussed in the newsletter pertain to real estate, ports, roads, warehousing and telecom sectors.

This issue can be accessed at: http://circ.in/pdf/CIRC_RegTracker_April2011.pdf

BRIEFING PAPERS

Regulatory Reforms in the Civil Aviation Sector
Challenges to Competition

This briefing paper examines how the regulatory framework and competitive environment has evolved after the deregulation and whether the existing scenario is conducive to development of the sector, in particular, and the economy, in general. Few policy recommendations have been articulated to promote competition in the sector.

www.cuts-ccier.org/icrr09/pdf/Briefing_Paper-Regulatory_Reforms_in_the_Civil_Aviation_Sector.pdf

Competition and Regulation in the Indian Port Sector

The briefing paper tries to explore the regulatory and competition scenario in the Indian port sector and gives the regulatory scenario on ports, particularly the general regulatory framework governing port operations. It takes a look at the nature of competition in the sector, where some players are identified together with some measure of market shares.

www.cuts-ccier.org/icrr09/pdf/Briefing_Paper-Competition_and_Regulation_in_the_Indian_Port_Sector.pdf

SOURCES

BL: The Hindu Business Line; **BS:** The Business Standard; **ENS:** Express News Service; **ET:** The Economic Times; **FE:** Financial Express; **HT:** Hindustan Times; **TH:** The Hindu; **ToI:** Times of India

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.