PolicyWatch

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

Volume 9, No. 1 January-March, 2008

M&As and Corporate India

Business has been up in arms on the merger provisions of the new Competition Act, 2002 (amended in 2007) not just now, but ever since it was being debated. Now, it is not only the long period of a mandatory review, but how they will be applied, and by persons, who may just be under skilled and over zealous.

Their fears are well founded, but crying wolf can only complicate matters. We need to understand the new law in its full splendour, before coming to the conclusion that it will become a millstone around the necks of business. Other than promoting consumer interest, the law can actually promote business welfare too.

The objectives of the new law are to promote economic development of the country and to do so by dealing with market failures, advancing consumer interest and ensuring the freedom of trade for other participants in markets in India.

Its intent is clearly to promote economic democracy so that all players are able to function without any hurdles. The new piece of legislation is a behavioural law and not a structural one, as its predecessor, the Monopolies and Restrictive Trade Practices Act, (MRTPA) 1969 is.

Other than cartels and abuse of dominance, one cannot ignore the fact that mergers and acquisitions (M&As) also need to be regulated so that they do not end up in a potentially abusive position. That's the reason the law has provided for approval of mergers over certain high thresholds prior to their consummation.

The competition authority can also enquire into and order a division of a dominant undertaking, but that is always a difficult task, like unscrambling an omlette. Hence we do need a merger regulation, but one which will follow a 'rule of reason' (application of economic analyses included) rather than the 'rule of law' (pure legal) approach

Of the 106 competition laws in the world, nearly all have merger regulations. Most of them require mandatory notification, while very few provide for voluntary notification. Our new law is no different.

The ultimate test of how the new M&A regulations are applied will depend upon the quality, knowledge and skills of people who man the new authority, and that is where the crux lies. However, the 210 days period for review of M&As needs to be revised to 90 days, to the comfort of the industry, so that the whole law does not get into a logjam again.

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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*

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POWER

Electricity on Demand by 2012

Government has said the country will have electricity on demand by 2012 and it needs nuclear energy to meet future demand. According to the Power Ministry, 78,577 MW electricity generation capacity will be added during the 11th Five Year Plan (2007-12) period.

Further, the Government proposes to introduce a restructured Accelerated Power Development and Reforms Programme (APDRP) in the 11th Five Year Plan to cut transmission and distribution (T&D) losses with the objective of encouraging reforms, reducing aggregate technical and commerical loss and improving quality of supply of power.

(BS, 17.03.08)

Penalty for Power Overdrawal

In a serious bid to maintain grid discipline and discourage overdrawal of power by the northern grid, the Central Electricity Regulatory Commission (CERC) has increased the unscheduled interchange (UI) ceiling rate to Rs 10 per unit.

According to CERC, the existing UI ceiling rate of Rs 7.45 per unit, notified in April 2007, was not proving adequate for sufficiently discouraging power overdrawal. Therefore, it issued the order after receiving comments and suggestions from various state electricity boards (SEBs).

Further, CERC has modified the scheduling procedure for hydro-generating stations regulated by it through separate amendments in the regulations in which the possibility of making extra money on this account has been plugged.

(FE, 01.01.08)

Power Theft a Offence

Theft of power has been made a non-bailable offence in Rajasthan along with a revised provision for restoration of an electricity connection not before two years on the conviction for committing the offence twice.

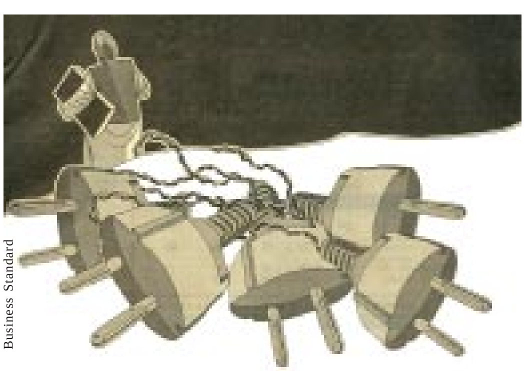
The fine imposed on a person found stealing electricity would be calculated on the basis of consumption by him for 12 months for all types of connections, such as domestic, commercial, industrial and agricultural. The fine will be double the amount of power tariff. The electricity connection would be cancelled immediately on the consumer being caught stealing power, and a first information report registered within 24 hours.

The Centre had amended the law on theft of power which provides for imprisonment up to three years or fine or both on the theft of power.

(TH, 18.01.08)

Sops for Mega Power Projects

In a bid to boost capacity creation in the 11th Five Year Plan, the Union Power Ministry proposes to further rationalise the existing mega power policy under which additional concessions may be given. This will be available to companies creating capacities of 1,000 MW and above for thermal power and 500 MW and above for hydel projects.



Business Standard

Referring to the ultra mega power projects where the government did hand-holding for capacities in excess of 4,000 MW, the Ministry said of the nine projects proposed three had been sold and efforts were on to bring at least one unit within this Plan period.

With orders being placed for 65,000 MW already, the Union Power Ministry was confident of completing all orders for additional capacity creation in the power sector in the 11th Five Year Plan by the end of the Plan period.

(TH, 16.02.08)

Debate on Energy Pricing

Concerned over 'distortions' that have crept into the country's energy pricing policies, Prime Minister Dr Manmohan Singh said a national debate was needed on the issue. Dr Singh questioned whether the country can afford to persist with the distortions that have long crept into its energy pricing policies.

Singh also questioned whether the country was encouraging overuse of resources through misdirected subsidies, and what were long-term costs of short-term benefits through such policies. He also posed a query on whether the country was hurting its future energy security needs by shirking the responsibility to grapple with the political challenges on hand.

(FE, 07.02.08)

Govt to Spend for Power

The Government has estimated a massive investment of Rs 2 lakh crore for systems augmentation, Rs 90,000 crore for Rajiv Gandhi *Grameen Viyutikaran Yojana* (RGGVY) and Rs 40,000 crore for revised APDRP during the 11th Five Year Plan period.

The Centre has made it clear that this would be in addition to Rs 3 lakh crore that is to add over 80,000 MW during the 11th Five Year Plan period, Rural Electrification Corporation (REC). The Government has asked investors to tap a large number of opportunities in systems augmentation, power distribution, rural electrification and metering.

(FE, 21.01.08)

Grievance Redress Mechanism

To reach out to consumers in its area of operation, power distribution company BSES is trying to strengthen its grievance redress mechanism. The company has launched a new initiative – *Bijli Vivad Samadhan Samiti* – to address the grievances of consumers.

These samitis would be constituted in all 19 divisions of BSES Rajdhani Power (BRPL) Limited. To be headed by a retired judge or eminent public figure and assisted by senior BSES officials, these cells will offer a platform for consumers with a grievance.

Consumers seeking redress will be required to submit necessary details of any billing or meter related issues including billing amount of up to Rs 5 lakh, new connection, additional load, defective meter assessment, change of category or excess load among other complaints on a prescribed form.

(TH, 12.02.08)

OIL & GAS

Why on a Priority Basis?

Petroleum sector regulator has questioned the Government on allocation of domestically produced natural gas on a priority basis. The regulator has said that any policy on sectoral allocation would "necessarily impede the free play of market forces".

The Government has already appointed an empowered group of ministers (EGoM) to spell out a gas utilisation policy. The policy would set a sectoral priority for the utilisation of the scarce resource.

The Petroleum & Natural Gas Regulatory Board (PNGRB) Act kept the pricing issue outside the preview of the downstream regulator. It entrusts the regulator to develop a fair and competitive market with a fine balance between the interests of consumers and companies.

(ET, 01.01.07)

States Oppose Mineral Policy

Five mineral-producing States have made complaint to the Centre that the National Mineral Policy 2008 intrudes into their rights over the minerals produced in their respective States and have demanded the setting up of a joint task force with representatives from the States and Centre to look into the issue.

The policy was tabled in the Rajya Sabha in March 2008. The new policy is in favour of multinational companies and focuses more on foreign direct investment (FDI) rather than protecting national interest.

The States are also opposed to the seamless transition from reconnaissance to prospecting to mining lease for bulk minerals as proposed in the policy. *(BL, 29.03.08)*

Petrol Price to Go Up

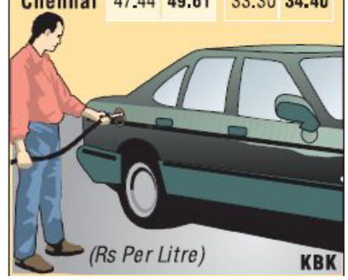
The Government decided to hike the retail selling prices of petrol and diesel by Rs 2 and Re 1 a litre, respectively. The decision will benefit oil companies by Rs 840 crore in value terms for the remaining part of the current fiscal.

Considering the political sensitivity of the issue, a decision on auto fuel price hike was taken by the Cabinet Committee on Political Affairs (CCPA), which left kerosene and cooking gas prices untouched.

It also decided to increase oil bonds issued by the Government to partially offset the impact of selling the four products below the cost price. The bonds will now cover 57 percent of the total under-recoveries from the current 42.7 percent. *(BL, 15.02.08)*

Hike in Fuel Prices

Feb 15, 2008	Petrol		Diesel	
	Old	New	Old	New
Delhi	43.52	**45.52**	30.76	**31.76**
Mumbai	48.38	**50.51**	34.94	**36.08**
Kolkata	46.86	**48.95**	32.87	**33.92**
Chennai	47.44	**49.61**	33.30	**34.40**



Independent Coal Regulator

The Government's plan to put in place an independent coal regulator has met yet another road block. The Central Electricity Authority (CEA) has suggested that instead of putting in place a separate coal regulator, the CERC should be vested with additional powers to regulate the coal sector.

The proposal has moved at a snail's pace ever since it was mooted about three years back. According to a Planning Commission official, CEA's suggestion has to be studied in detail before the Government takes a decision on the proposed coal regulator. Further, the official said that the Commission has been advocating a single regulator for the energy sector. As such if coal is aligned with the present functions of CERC, it would be a step in that direction.

(ET, 01.01.08)

No LPG to PNG Users

The Government has directed oil companies IOC, BPCL and HPCL to immediately block cooking gas (LPG) connections of consumers already using piped natural gas (PNG). It has suggested a centralised system of LPG supply for housing complexes that have more than eight units.

The move aims at resolving the cooking gas shortage. Oil Marketing Companies (OMCs) have been asked to focus on reticulated system in multi-storey buildings to reduce circulation/ diversion of cylinders.

It has been suggested to companies to compulsorily have reticulated system of LPG supply for any household cluster having more than eight flats. *(ET, 26.02.08)*

MIXED BAG

Water Council on the Anvil

To ensure better water supply in urban areas and make the sector attractive for private players, the State Government is thinking of setting up a regulatory body on the lines of Karnataka Electricity Regulatory Commission (KERC).

The State Urban Water Supply and Sanitation Council, which is to be the regulator, has been conceptualised as an "independent body" that will take over all the functions of the Government with regard to water and sanitation sector except the power to formulate policies.

Specific functions of the Council include providing technical assistance in forming schemes for every urban local body (ULB), updating water supply information system periodically, raising efficiency levels and discouraging over-exploitation.

(TH, 26.12.07)

Banks to Review Transaction

Banks have started reviewing their existing and possible future commercial transaction norms for small and medium sized enterprises (SMEs) although the issue of some of them misguiding a few SMEs in their exposure to derivatives products remains sub-judice.

According to sources, the earlier cordial relationship between banks and SMEs has turned cautious. SMEs now need to answer more questions for a simple transaction. For banks, SMEs have driven credit growth.

Earlier, SMEs had started voicing their protests as some banks had misguided them on how to invest in structured derivatives products, leading to huge losses. *(FE, 30.03.08)*

Closing Rural Branches

India has seen the closure on average of one rural branch of a scheduled commercial bank (SCB) every single working day for the last 15 years. In the same period, bank branches in urban metros doubled, opening at a rate of more than one every day.

The Reserve Bank of India's (RBI's) Handbook of Statistics on the Indian Economy (2006-07) shows there were 30,639 rural branches of SCBs in 2007. That is, 4,750 less than the number in 1993. In other words, an average of 26 bank branches shut down each month, or one every working day.

However, branches in metros shot up from 5,753 to 11,826 in the same period. In other urban centres, the number climbed from 8,562 to 12,792 in this period, while also going up in semi-urban locations from 11,356 to 16,214. *(TH, 28.03.08)*

New Precedent for Credit Card

The Delhi High Court has set a new precedent for cases related to credit card disputes and harassment in the country. The bench of Justice Mukul Mudgal and SL Bhayana has provided interim relief to Citibank credit card holder Desh Deepak against whom the global banking major had filed a suit for recovery of Rs 3,61,431.72 on grounds that he had failed to make payments, despite being offered a structured payment plan.

As of now, the High Court has put a stay order on the verdict of the lower court. Though the matter is still sub-judice, it has possibly opened a can of worms, which can result in more stringent regulations being implemented in the credit card industry in the country. *(ET, 30.03.08)*

River Projects as National Assets

The Centre has declared 14 river projects as national assets for which it pledged 90 percent funding. Through these projects, water supply for drinking and irrigation will be improved.

Approving a Water Resources Ministry proposal, the Cabinet, at a meeting chaired by Prime Minister Manmohan Singh, decided that only 10 percent of the cost be borne by the States concerned. While the total estimated cost of the 14 projects is Rs 53,200 crore, the requirement will be Rs 7,000 crore in the 11th Five Year Plan.

Most of the projects identified for completion are the ones that have international ramifications or those that met the criteria but were dragging on due to non-resolution of inter-State issues. *(TH, 08.02.08)*

COMMUNICATION

Offering Mobile TV Services

The Telecom Regulatory Authority of India (TRAI) has proposed to bring in new operators for offering mobile TV services and has suggested that the Government should hold a bidding process for issuing licences.

While existing mobile operators will be allowed to offer mobile TV without having to take a new licence, they will not be given any additional spectrum for the purpose.

In its draft recommendations on mobile TV, the regulator also suggested that the policy should be technology neutral and the choice should be left to the service provider.

The regulator, however, said that technology used should be such that it allows subscribers to change the service provider without having to change the handset. *(BL, 02.01.08)*

Pay Rs 20 for Using any ATM

Customers will have to pay a maximum of Rs 20 for withdrawing cash from an ATM of another bank from March 31, 2008. However, balance inquiries will attract no charge with immediate effect.

The charge for cash withdrawal is only till March 31, 2009, after which it will become zero. Aiming to make all ATM usage free from April 2009, the RBI has said banks cannot charge for balance inquiries and capped the fee for cash withdrawals at Rs 20 per transaction, irrespective of the amount and the bank where the customer holds the account.

In a circular issued to all commercial banks, RBI also said that banks cannot charge their own customers for ATM usage, with immediate effect. This is the first instance of RBI fixing tariff for the use of ATMs. So far, banks fixed such charges on their own. *(ToI, 31.03.08)*

DVRs Next in DTH War

As new direct-to-home (DTH) competitors, such as Reliance Communications and Bharti get ready for a launch, another price war is imminent as both DTH and cable companies vie to offer consumers digital video recorders (DVRs).

A DVR is a device that allows consumers to pause, record, play back, rewind and fast forward their favourite television shows. DTH companies are expected to slash DVRs box prices by nearly half to Rs 7,000-Rs 8,000 per unit.

Meanwhile, Dish TV and Tata Sky have been announcing attractive price and packaging offers for their DTH services. *(BS, 20.02.08)*

Pesky Calls Unfair

Mobile operators have strongly opposed the decision of telecom regulator TRAI to impose penalties on them for unsolicited calls, saying the move is "unfair" and would discourage service providers which cannot be blamed for the nuisance.

"The service providers merely provide the pipes for the carriage of the calls and cannot be held responsible for such pesky, nuisance calls made by the marketing agencies", GSM lobby group Cellular Operators Association of India (COAI) and Code Division Multiple Access (CDMA) operators group Association of Unified Telecom Services Providers of India (AUSPI) said in a joint statement.

The statement said that the entire industry is completely discouraged by this regulation since the companies have been going out of their way and making all possible efforts to put in a system so as to enable the TRAI's unsolicited commercial communications (UCC) regulation to be effective. *(FE, 18.03.08)*

Freedom to Choose Operator

Telecom consumers may finally get the freedom to choose their long distance telephone operator. After a delay of more than four years, the TRAI is working on a paper that is aimed at introducing the Carrier Access Codes (CAC) in the country.

CAC is a system whereby every long distance operator is given a unique identity number. Subscribers can choose the long distance operator by prefixing the code allocated to that particular service provider. This system is expected to increase the competition in the long distance segment, which, in turn, could result in lower tariffs.

Once the CAC is allowed, stand-alone long-distance call providers will be able to offer very low rates to individuals. *(BL, 20.01.08)*

DoT Hits Out at TRAI

The Government has hit back at TRAI, advising it to check itself from passing comments on sub-judice matters like spectrum allocation. Some service providers, their associations and new prospective licensees have raised different related issues in the Telecom Dispute Settlement and Appellate Tribunal (TDSAT) and High Court.

"Therefore, it does not seem desirable for the regulator and the Government to engage in any correspondence at this stage on matters which are sub-judice", Telecom Commission Chairman Siddhartha Behura said in a letter to TRAI Chairman Nripendra Misra.

Misra had written two letters to Department of Telecommunication (DoT), accusing it of manipulating the recommendations of the TRAI and misleading various telecom stakeholders. In response, the DoT has sent a 3-page letter to the TRAI Chairman clarifying, point-wise, all the issues raised by him. *(BS, 27.01.08)*

Common Code of Conduct

The Apex Advisory Council for Telecom (ACT) in India has decided to form a common code of conduct for verification of mobile connections. The new code would be applicable across the country. If any dealer or retailer is found violating the norms, the entire industry would blacklist the retailer or dealer.

ACT, a joint council of the COAI and the AUSPI, has asked the DoT not to impose any penalty on the industry for at least six months as the new guidelines would automatically bring down the rate of non-compliance. ACT would also hand over the name of the black-listed dealers to the DoT and the concerned security agencies. *(ET, 26.02.08)*

TRAI to Regulate Broadcasting

The Supreme Court has dismissed Star India's petition challenging TRAI to regulate the broadcasting sector as well. The apex court dismissed the appeal even without accepting it.

Star India had challenged the judgement of the Delhi High Court, stating that the legislative amendment to bring broadcasting sector under the purview of the TRAI Act was bad in law. The Delhi High Court in its judgement had ruled that TRAI had the powers to regulate the broadcasting sector, to prescribe the tariffs at which the services are to be offered to the consumers.

(FE, 03.01.08)

Net Telephony Stays Free

We can keep using the likes of Skype, Yahoo and MSN to make free international calls as the law ministry has rejected a TRAI proposal that foreign Internet telephony firms be made to register in India, seek permission from the DoT and host their websites in the country.

TRAI's proposal aimed at bringing these companies in the ambit of the country's licensing framework and monitoring their activities. These recommendations were guided by the fact that foreign Internet firms did not pay any licence fee to the Government like the licensed Internet service providers (ISPs) do.

The DoT subsequently sought the law ministry's opinion to which the law ministry said that registration of any company was not envisaged by the Indian Telegraph Act for operating telecom services. *(FE, 10.02.08)*

The Financial Express

TRANSPORT

Railways Makes Profit

The Railways has made a profit of Rs 15,500 crore in the current fiscal, achieving an impressive growth rate of 12 percent, Union Minister of State for Railways, R Velu said.

He said the 'passenger friendly' approach of the Railways was presenting a 'promising picture' about the department. Velu said that he had written letters to all Chief Ministers asking the state governments to contribute for railway infrastructure development.

Safety of passengers was a prime concern for the railways. As part of the action plan to ensure safe journey, several measures have been introduced, he said. As many as 161 squads have been deployed at various railway stations. *(FE, 19.01.08)*

Shipyards in Coastal Stakes

The Government is planning to set up two international size shipyards in any of the coastal states of Karnataka, Kerala, Andhra Pradesh, Gujarat, Orissa and West Bengal. Both the East and West Coast would get one shipyard each.

The proposed shipyards would have the international capacity to build and repair ships up to the size of a very large crude carrier (VLCC), which has a carrying capacity of 3,00,000 tonne (DWT). The shipyard would be located in a place which has 10-12 metre water depth at the jetty.

The minimum land required for the shipyard would be about 1,500 acres, harbour of 2.5 km in length and water draft of 10-12 metre. The site should also be well connected with good rail and road network and in contiguity with a major port situated in the state. *(FE, 20.03.08)*

CAG Finds Flaws in VVIP

The much-touted acquisition of the Prime Minister's Office in the air has received a rap on the knuckles from the Comptroller and Auditor General (CAG), the country's premier watchdog agency.

The deal, for acquisition of the three Boeing jets for VVIPs to fly around the world, was the one of the United Progressive Alliance (UPA) government's first big ticket deals soon after coming to power in 2005. The CAG said that the deal was flawed as excessive payments had been made and competitors unfairly barred.

The acquisition process for the VVIP aircraft deviated from laid down procedures and well recognised norms of propriety. *(FE, 14.03.08)*

No Paper Air Tickets

The paper air tickets would be history as airlines across the world move to 100 percent e-ticketing from June 01, 2008. The International Air Transport Association (IATA) claims that penetration of e-tickets is already 93 percent. Further, it said that while a paper ticket costs US$10 to process, e-ticketing reduces that cost to US$1.

The industry will save over US$3bn each year by offering the passenger a better service. IATA believes it to be a win-win proposition. In India, the penetration of e-tickets is 91 percent, including foreign airlines.

Top foreign airlines, such as British Airways and Lufthansa are close to 95 percent, though Air India is slightly lower as it has to depend on agents in some countries. *(BS, 22.02.08)*

Aviation Policy Inconclusive

The meeting of the Group of Ministers looking into the civil aviation policy remained inconclusive and divided on the issue of lowering the norms for allowing more airlines to fly abroad. This is one of the issues which has to be firmed up before the policy can be finalised.

While one Cabinet Minister is said to have been in favour of lowering the existing norms, at least two other Ministers were against the move. At the moment, the Government has mandated that an airline should have a fleet of 20 aircraft and completed five years of domestic operations before it is eligible for international flights.

Now the feeling in some sections of the Government is that with the number of domestic airlines increasing and foreign airlines carrying a majority of Indians travelling abroad, the time was right to relax the existing norms for allowing more Indian carriers abroad. *(BL, 04.01.08)*

Flying a Costly Affair

Expectations of air travellers that privatisation of Indian airports will bring in efficiency and make air travel cheaper seem to be completely misplaced. User fees and recovery of infrastructure charges by concessionaires on fuel, baggage handling will be passed on to passengers, thereby increasing the cost of air travel.

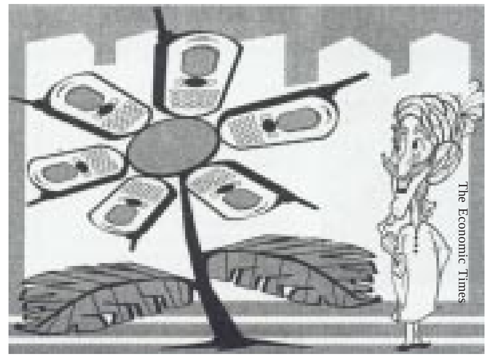
After the much-discussed user development fee of Rs 675 that every passenger using the new Bangalore airport will have to pay, the GMR group-promoted Hyderabad airport has written to oil companies saying it will impose charges of Rs 2,170 per KL of aviation fuel.

Oil companies have confirmed that they will pass on the cost to airlines. Airline executives said they would resist any increase in costs because margins in the business are already wafer-thin. The Federation of Airlines plans to take up the issue with the ministry of civil aviation. *(ET, 09.02.08)*

Economic Times

Reformers Have to Act

– Pradip Baijal


The Economic Times

If the power regulator learnt some lessons from the telecom one, the country could end up saving at least Rs 80,000 crore a year.

I have worked extensively in both the power and telecom sectors, and recently came across an article 'A Tale of Two Sectors: What can Indian Telecom Firms Teach the Power Industry About Reforms', which links both sectors in terms of regulatory experience It says, "The road to better infrastructure has been a bumpy one so far: while sectors like telecom have boomed and transformed the business landscape seemingly overnight, others, such as energy, have been highly visible failures. According to Boston Consulting Group experts and faculty at Wharton, the failure of power sector reforms and the success of the telecom industry underscores the importance of foreign investment and competition in India's infrastructure upgrade".

What is the state of our power sector and reforms? I have done some back-of-the-envelope calculations with one of my erstwhile colleagues in the power sector who recently moved to the telecom sector, and have compared tariff levels resulting from large and new inter-state coal pit-head projects, and between good and bad regulation. I am convinced that present-day regulations (as per the Electricity Act 2003) lend immense powers to regulators to become the cause of the change and introduce efficiency measures, including more competition and open access in the network.

If competition and efficiency improvement programmes are not put in place by the regulators, the entire enabling provisions of the Act including open access will be negated and consumers will never benefit.

We generate 800 billion units of power per year, including captive power. Various experts would argue that the lack of reforms is leading to a loss of between Rs 80,000 crore and Rs 200,000 crore to the consumer/ economy every year. Adequate generation capacity is not being put up since distribution companies, due to a lack of appropriate reforms, cannot sell the incremental generation from new capacities.

Compare this with the telecom sector. Call rates from mobiles have gone down 32 times since the initiation of reforms ten years back and targets have been overshot by three times. The performance of the civil aviation sector is equally remarkable.

The cost of a thermal power plant was Rs 1 crore/megawatt (MW) in the mid-1980s. The power reforms of 1991 only privatised generation, leaving state utilities to buy power from these private power plants. The tariff was to be calculated by the Central Electricity Authority on the basis of a cost-plus formula, which collapsed without achieving much.

This is a typical problem with cost-plus schemes and regulation. They lead to costs getting heavily padded by operators and the corresponding tariffs exploit consumers. It may be recalled that there was explosive growth in the telecom and civil aviation sectors only after the regulator/government moved away from cost-plus tariff regulation to competition regulation.

The growth in both sectors was so huge that despite a fall in their share, public sector operators also grew at much higher rates than in the non-reform days. The Government has moved to mandatory competitive price-bidding generation in the power sector in 2006, showing great results as were evident in some bids. There has been growth in civil aviation and telecom as regulations insisted on level-playing field conditions.

The Central Government has passed a comprehensive legislation and notified competitive tariff bidding. It has also prescribed a 20 percent margin over the cost of generation both ways between different consumer classes to be achieved in five years, thus making transparent open access regulations a very simple exercise for central and state regulators.

Recognising that the electricity network is a unified network, the central regulator, under the Act has also been notified as the Chairman of the (central and state regulators') Forum of Indian Regulators (FOIR). It is simple for the central regulator to issue regulations with default provisions if the states do not follow open access and increase competition. It can also draw a five-year plan of reducing network subsidies to plus/ minus 20 percent and enforce it by controlling the dispatch of 40 per cent generation and by numerous other means empowering him in the Act.

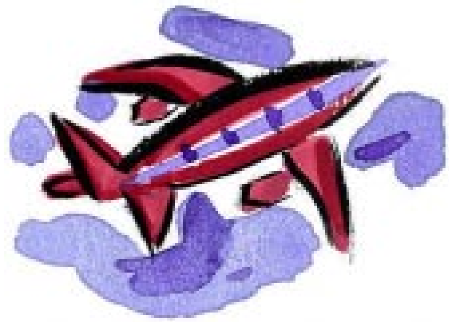
Unless supply in the grid increases, captive generation will keep increasing and the lack of open access will ensure this network is a broken one, as is happening now. Grid stations have 134,000 MW generation capacities and captive power plants, an additional 20,000 MW. On top of this, power plants with less than 1 MW capacity, which are not counted, have mushroomed and are estimated to add up to another 25,000-40,000 MW.

Parliament and the central government have done their jobs, by laboriously bestowing upon the central regulator large powers to act in the public good. If he chooses not to act, consumers lose more than Rs 80,000 crore and the country loses out on growth. The gainers are only the numerous mafia in the power network.

– Former Chairman of the TRAI. The article appeared in The Business Standard, December 01, 2007.

AERA Bill – Plugging the Gaps?

– Siddharth Murlidharan



The AERA Bill primarily aims to look at issues in tariff regulation, services levels & increasing competition in civil aviation. The first real challenge for AERA will be to establish dear communications with the DGCA, AAI, and civil aviation ministry, BCAS & CCI along with all the airport developers

The infrastructure regulatory scenario in India has, till date, been characterised by a distinct lack of coordination and a focus on short-term goals. This is primarily due to the slow progress of privatisation over the last 15 years, concomitant with the fears of replacing a state monopoly with a private monopoly. After the power and telecommunications sectors, 2007-08 will see the aviation sector wake up to the prospect of an independent regulatory authority – the Airport Economic Regulatory (AERA). The AERA Bill primarily aims to look at issues in tariff regulation, services levels and increasing competition.

Given that the privatisation process of the major airports in India started in June 2003, the regulatory infrastructure should have been in place much before. A conflict of interest was in evitable as the Airports Authority of India (AAI) then became both an operator and a regulator .In this changed scenario, an independent regulator is essential to evolve the policy, regulation and operational aspects and to provide transparency and fairness regulation, Regulation of aeronautical tariffs also is long overdue as the current tariff structure in the privatised airports is set on a case by case basis and can be highly skewed. In such an unstructured scenario, introduction of the AERA is a welcome move, given that activity in the airports sector is yet to reach peak levels.

The AERA Bill aims to plug the above gaps by regulating the tariff structure for aeronautical services, regulate the passenger services decide on the services levels at different airports and also encourage competition. However, initial discussions on the AERA Bill still leave a number of gaps and issues that need to be addressed on a priority basis.

Firstly, the entire airports sector is already crowded with number organisations. The first real challenge for AERA will be to establish clear communications with the Director General of Civil Aviation (DGCA), the AAI, the ministry of civil aviation, the Board of Control for Airport Security (BCAS) and the Competition Commission of India (CCI) along with all the airport developers. Clear and regulate interaction between all these organisations is important given that airport efficiency and security will not only depend on the airport developer but also on the AAI, the BCAS and AERA.

This problem is further compounded by the fact that a number of airports have already been privatised. Bringing these airports under the purview of the AERA may be difficult since they already have individual operations, management and development (OMD) agreements in place. Even before the AERA starts functioning, a clear communication process and role separation among the various organisations is vital.

Secondly, experiences of various countries with regulatory bodies and India's own countries with regulatory bodies and India's own experience in the power and telecom sectors have shown that there is a complete split between organisations handling the regulatory and policy aspects. Coordination can only occur when privatisation is effected after the regulatory aspects are put in place. If the AERA Bill is silent about issues such as landing rights, performance standards at airports will at best be sub-optimal levels. To improve competition among airlines in terms of routes and landing rights among others AERA needs to involve itself closely with the CCI. However, once the AERA begins functioning, having the CCI in the airports sector seems unnecessary and could be done away with.

A third aspect is that in the telecom sector when Trai was set up, it did not have any real powers with the help court overruling a number of decisions by Trai. This needs to be avoided in the case of AERA. Additionally, an unchallengeable dispute resolution mechanism will go a long way in ensuring that AERA does its job in an efficient manner.

The other area which needs to be looked into is the regulation of tariffs. As of now, AERA plans to look at revision of tariffs only once in five years. A far better method would be to model the tariff structure on the lines of the UK and Australian aviation sector where the tariffs are linked to the retail price index (RPI) of aviation products n a multi-year basis. This ensures that both airport developers and consumers are protected in case of a severe upswing and downswing of prices.

The AERA seems to have an arduous journey ahead due to the above three aspects. It is a positive step no doubt, but this needs to be taken forward on a proactive basis by the ministry of civil aviation. Else, it will merely remain a small step too little, too late.

– Deputy Manager, Feedbackvenuers. The article appeared in the Economic Times, January 03, 2008.

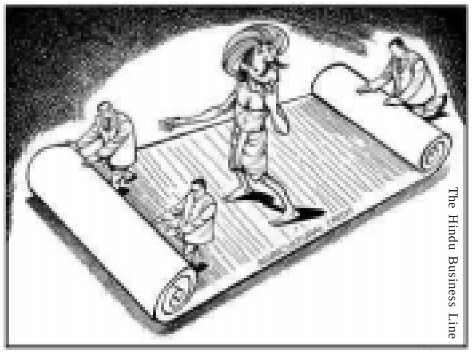
How Justified are Non-merit Subsidies?

– Pradeep S Mehta* & V V Singh**

The loan waiver for farmers was indeed a welcome announcement in the Budget by the Finance Minister. But the banking industry is asking a different question: Who will bear the burden? The question remains unanswered as it is an off-Budget item.

This is not an exception; subsidies, in general, remain off-Budget as only a small portion of them are explicitly shown in the Budget document. The total subsidy burden in 2007-08 is expected to be Rs 1 lakh crore, of which almost half is going to be off-Budget. But how justifiable are these subsidies for which government is afraid of making provision in the Budget?

Much of the justification for support pricing of foodgrains would weaken if the government brought the farmer closer to the ultimate consumer through better communication and transport facilities



In India, we find subsidy support for various goods and services, such as like food, fertiliser, petroleum, energy, irrigation, education, drinking water, and so on. The simple justification for such support is that the cost of providing these goods and services is so high that the common man cannot afford them. Much of the subsidy benefits go to the rich and undeserving in place of the poor.

What is worrying is that, instead of reducing the share of government expenditure, it has been increasing over time. Even when the original reason for putting a subsidy in place no longer exists, the Government simply does not have the courage to remove/reduce it for fear of losing votes.

Sensitive issue

Food subsidy has been a highly sensitive issue and, therefore, reducing or removing it constitutes a tough challenge for any government. At present, the food subsidy policy uses MSP-PDS operations to serve the conflicting objectives of ensuring remunerative prices to farmers and providing foodgrains to the poor at affordable prices.

This entails a huge gap between the purchase price and the issue price and, consequently, a large subsidy burden. In the future, this burden might rise as a rising MSP is not going to be accompanied by an increase in the issue price in the same proportion.

The PDS is also almost out of reach of the poor as it suffers from considerable leakage and management inefficiencies. Thus, benefits derived by the poor are negligible.

Alternatives to PDS

To improve on the inefficient system of delivery of foodgrains to the poor and, thereby, reduce the government's budgetary burden, food vouchers/stamps can be employed. Such vouchers/stamps can be issued to BPL families through the *panchayati raj* system/local government bodies for use in the open market. This would also improve consumer choice.

Support pricing, as it exists today, is of no use to the nation as it goes to the medium and large farmers, who produce for the market, and distorts the income distribution against small and marginal farmers, who produce only to meet part of their subsistence needs.

Much of the justification for support pricing of foodgrains would weaken if the government brought the farmer closer to the ultimate consumer through better communication and transport facilities. This would enable the farmer to get a higher price for his produce.

The fertiliser subsidy is indirect and much of the benefits accrue to the industry and large farmers rather than small and marginal farmers. The share of fertiliser cost in the total cost of inputs in agriculture being high, only large farmers get significant benefits from subsidies as they are the ones who incur a large expenditure on agricultural inputs. Providing direct subsidy only to small and marginal farmers can lead to a reduction in the budgetary burden caused by such subsidy as well as greater social equity.

Petroleum Subsidy

Petroleum subsidy has become a political issue. LPG and kerosene continue to be heavily subsidised. This subsidy benefits largely the higher income groups and proves to be regressive. Diesel subsidy can be considered to be an exception because of its use in agriculture and public transport but, increasingly, many from the higher income groups in urban areas are switching to diesel cars.

Strong political reasons prevent the Oil Marketing Companies from changing the price according to shifts in international prices. The Government, to compensate these losses, issues oil bonds to the OMCs, which is a further off-Budget liability for the government. The paradox of tax and subsidy on petroleum products is beyond understanding.

One way of reducing the overall subsidy burden is to abolish, or at least reduce the magnitude of, subsidies across the board and let the market do the rest. In the long run, efficiency and equity also require proper targeting of subsidies.

Proper targeting is easier to achieve if we move away from indirect subsidies to direct income support. Thus, providing vouchers/stamps would be a better option that will empower the consumer and increase consumer welfare.

* *Secretary General, CUTS International*
** *Fellow, CUTS Centre for Competition, Investment and Economic Regulation*
The article appeared in The Hindu Business Line, March 25, 2008.

A Stitch in Time Saves Nine

– Siddhartha Mitra

Rumour mills are agog with word of a cess to be levied by the government to write off debts of suicide prone farmers. After several insignificant attempts at farmer welfare, the government has come up with this populist idea just before general elections. It is not populism in itself that needs to be criticised, though. After all, incumbent political parties are in the business of offering sops to win elections. However, once a sop decision has been made, it is advisable to be imaginative in its provision and allocation of benefits.

Very often, populist measures that gift large amounts of money to the poor fail to reach the targeted population, resulting instead in inflationary pressure that erodes the popularity of an incumbent government.

Indebtedness has been touted as a major reason for the incidence of suicides, especially among the cotton growers of Vidarbha. However, to solve the problem, we need to address the roots of indebtedness. By just "waving off debts", as thank-you banners put it, the government would only relieve symptoms of a deeper malaise.

What is the root of the problem in Vidarbha? Lack of irrigation water. Farmers have been undertaking the hazardous task of cotton cultivation on unirrigated soil. While India's progressive integration with the global free trade regime has led to a decline in prices of many crops, including cotton, no corresponding increase in farm productivity has happened in Vidarbha that can neutralise the effect. With the cost of cultivation also rising, as prices of pesticides, seeds and labour go up, unirrigated cotton farming has been rendered unviable.

Vidarbha has had other problems, too, notably the alleged stepmotherly treatment accorded to this region by the state government ever since Maharashtra came into being. The sugarcane districts around Kolhapur, which cover only about five percent of the cropped area, receive a lion's share of the irrigation water supplied in the state, while cotton, with a much greater coverage, is almost denied any.

The Hindu Business Line

If the government does not do away with the primary reason for farmers' suicides – the unavailability of irrigation facilities for cotton – it would have to engage in fire-fighting measures at regular intervals by waiving debts

It is still not too late to enhance irrigation facilities for cotton through better conservation and efficiency in other uses.

Levying a cess to rectify matters may be justifiable. However, what the government proposes to do with the funds raised belongs to the realm of myopic policymaking. It would have been more advisable to spend the sum raised through this cess on both debt financing and investment expenditure.

I propose that only some part of the money raised be used to write off debt payments for the next five years or any such period. But at least 50 percent of the money should be spent on investments to benefit cotton farmers: irrigation projects, marketing infrastructure, warehouses and so on.

Here, one must realise that monitoring delivery systems is an important part of the investment process. Facilities provided on paper must actually be made available. A disturbing aspect of India's rural infrastructure is that very little survives the long chain of command, and there is no accountability along the way.

So, a direct system of proper feedback from the intended beneficiaries and monitoring of investment benefits needs to be put in place for the proposed project.

If the government does not do away with the primary reason for farmers' suicides – the unavailability of irrigation facilities for cotton – it would have to engage in fire-fighting measures at regular intervals by waiving debts. As a one-off, it might work. With debt payments written off over the next five years or so, suicide-prone farmers would be able to breathe easy for some time.

Five years should be enough time for the proposed public investment in agriculture to help turn farming more productive (as the saying goes, it is always better to teach a person to fish than to give him fish).

Above all, remember that sudden injections of large amounts of liquidity into the economy can be inflationary. A bout of inflation might wipe off some of the benefits of the original transfer. I would advise a good hard think.

– Director (Research), CUTS International. The article appeared in The Financial Express, February 25, 2008.

Selling Subsidised Cement

The cement industry in Tamil Nadu has agreed to sell subsidised cement to support the "economically weaker and middle class consumer". The industry has agreed to sell 20 lakh bags (50 kg a bag) of cement a month at a subsidised rate of Rs 200 a bag.

Cement now sells around Rs 240 a bag in the open market. Manufacturers and others selling cement said each company would pick up the districts in which it would sell the subsidised cement.

Government officials would identify the beneficiaries and issue permits. The manufacturers would directly deliver the cement to the buyer. *(BL, 10.01.08)*

India Inc to Curb Inflation

The Government wants India Inc to curb inflation and pass on benefits to consumers from the tax cuts in the Budget by keeping their prices steady. It has asked industry to be more competitive and hold the price line pointing out that the manufacturing sector significantly contributes in controlling inflation.

The Government singled out industries like pharma, two-wheelers, auto, buses, chassis and paper, which have benefited from the deep fiscal cuts announced in the Budget and asked them to hold the price line and try to lower them if possible.

With pressures of high growth, spiraling food, oil and commodity prices globally and slowing down of consumption patterns, the industry needs to become more competitive and hold prices. *(FE, 05.03.08)*

Revised Cap on FDI

In a major step to draw large-scale investment into critical sectors, the Government revised the cap on foreign direct investment (FDI) in critical sectors like aviation, petroleum & natural gas refining, commodity exchanges and a part of the financial sector.

The Government is trying to woo global investors to pump much more than the US$19.5bn received in 2006-07 to boost infrastructure.

However, the bureaus must be listed with a stock exchange. They would act as storehouses of financial information to help banks and insurance companies track the credit profiles of individuals and companies. *(FE, 30.01.08)*

Less Spending on R&D

That Indian companies do not spend enough on research and development (R&D) was underlined by industry experts in a conference on 'Global Challenges for Emergent India'.

R Seshasayee, Managing Director, Ashok Leyland, termed India Inc's R&D spend as "pathetic". He observed that the dot-com boom got 'brain power' a recognition as a factor of production.

It made entrepreneurs realise that it was possible to get good returns using brain power. This, in turn, underscores the fact that leveraging on intellectual property is a key means of achieving competitive edge. *(BL, 16.02.08)*

MNCs Drug Patent Claims

Around 358 of 413 drug patent applications for the disease in India are from top multinationals. The recent legal reverses suffered by multinational majors Novartis and Roche over patents for cancer medicine could be the tip of a huge iceberg.

With nearly 2.5 million patients, cancer is one of the ten leading causes of death in India. Data sources from the National Cancer Registry Programme show that over 700,000 new cases and 300,000 deaths occur annually due to cancer.

However, not all 413 applications will pass muster with the patent office, a patent expert warned. India does not give patents on drugs patented elsewhere before 1995. Tarceva is the first and only cancer medicine to get a product patent in India. *(BS, 24.03.08)*

M&As Lose Steam

With Tata Motors' acquisition of Jaguar and Land Rover brands from Ford Motor for US$2.3bn, India's cross-border acquisition reached US$4.9bn in 2008. However, the outbound deal size came down by 37 percent compared with US$7.8bn in the same period in 2007.

The mergers and acquisitions (M&As) slowed down in the 2008 with India's inbound and outbound deals at US$8.594bn, down 70.2 percent from US$28.805bn in the same period in 2007.

The inbound and outbound deal at US$8.594bn is 15.5 percent compared with the US$55.403bn total deal size during the calendar year 2007. The outbound deals are 21.9 percent of the total outbound deals of US$22.492bn in 2007, while inbound deals are 11.2 percent of the total inbound deals of US$32.911bn in 2007.

The Jaguar-Tata Motor deal is the top cross border acquisition by India and ranks fourth largest on record. *(BS, 30.03.08)*

Five-fold Rise in FDI

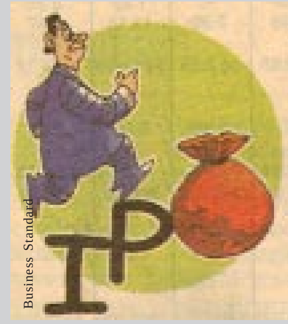
Gradual delicensing of sectors and ease in doing business for global Companies has led to FDI more than doubling its share in the total investments in India between 2003-04 and 2006-07 with inflows recording a five-fold rise in the last three years.

According to a year-end review of the Department of Industrial Policy and Promotion (DIPP), share of FDI has gone from 2.55 percent in 2003-04 to 6.42 percent in 2006-07.


www.images.com

"Due to progressive delicensing, only a handful of sectors remain within the ambit of compulsory licensing on account of safety, security and environmental concern", the DIPP year-end review showed. India has also improved in the World Bank's ranking of 'Doing Business 2008' to 120 in 2008 from 138 in 2006, the review report said. *(FE, 07.01.08)*

Do the Lacunae Deter Investors?



One factor that should worry businesses, especially the multinationals is intellectual property (IP) protection. There are continuing instances of domain hijacking of well-known trademarks in the cyberspace, and blatant dilution or infringement of popular brands being registered as trademarks in India.

The Indian Trademarks Act, 1999 provides for 'Relative Grounds' on which a trademark application can be rejected by the examiner of trademarks. One of the relative grounds on which a trademark application can be refused is 'the prior existence of similar or conflicting marks.

The 'reason' cited however is that the mark is advertised as 'Advertised Before Acceptance' meaning that though the examiner is not satisfied with the explanation stated by the applicant, the mark is allowed to be advertised, and later registered, provided that no objection is raised by any interested person within four months of such advertisement.

When a conflicting or similar mark is registered after the expiry of four months of advertisement the register of trademarks becomes impure; and this leads to unnecessary and expensive opposition/cancellation/litigation procedure between the parties overloading the already heavily burdened courts.

More worryingly, when IP law goes through these phases of field reality, the global investor wonders if his IP would be safeguarded in India at an affordable cost. *(BL, 18.03.08)*

Re-classify Steel as Essential

Peeved at steel producers repeatedly hiking prices, the Steel Ministry has asked Prime Minister Manmohan Singh to re-classify the alloy as an essential commodity, withdrawing Duty Entitlement Pass Book (DEPB) benefits from them and constituting a regulator for the sector.

Suggesting a series of fiscal measures against the steel producers for hiking prices of their produce despite repeated appeals, the Centre should withdraw export incentives offered to them in the form of DEPB scheme, which if withdrawn would hit the bottom lines of major steel producers by about Rs 600 crore.

The DEPB for the steel makers is slated to end in March 2008. The steel makers currently enjoy DEPB benefits of five percent in galvanised products, four in billets, six in TMT bars and four percent in hot rolled coils.

(BL, 20.03.08)

No to FDI in Retail

The Government does not intend to allow FDI in the retail sector because it wants to protect the interest of retailers. According to sources, International Council for Research on International Economic Relations (ICRIER) would submit its report on impact of domestic organised retailing on the unorganised sector by May 2008.

The study entitled, 'The Impact of Organised Retailing on the Unorganised Retail Sector' was commissioned in March 2007. It would cover "effect of organised retailing on small retailers and vendors in the unorganised sector keeping in mid the likely growth in the overall market and effect on employment".

Following the recommendations and findings of the study, the Government would discuss on the FDI policy on retail. *(FE, 14.03.08)*

SAARC for Cross-Border Treaty

In a move to boost to cross-border investments in South Asia, the South Asian Association for Regional Cooperation (SAARC) countries have begun discussions on an investment facilitation, promotion and protection agreement.

The SAARC Ministerial conference held in February discussed the broad contours of the treaty. It will take care of post-investment issues and identify measures needed to promote investments.

According to sources, some serious thinking has begun on finalising and implementing it. It may be noted that India recently opened its doors for investments from Bangladesh. Pakistan is the only SAARC member now which still remains on the banned list.

(ET, 20.02.08)

Reforming *'Inspector Raj'*

A committee headed by Planning Commission member Anwarul Hoda is expected to submit its report on reforming '*inspector raj*' to the Prime Minister's Office (PMO) soon. The committee is expected to recommend a number of measures to streamline the Acts, which come in the way of industrial growth.

The PMO along with secretaries of ministries concerned will discuss the report and its recommendations. The report is expected to suggest how to streamline the *inspector raj* without touching the Acts.

The report will also call for quality accreditation of the industry. By acquiring quality certificates, the industry gain the credibility thereby reducing the time taken in getting credits. *(FE, 08.02.08)*

Businesses to Play and Prove

The Prime Minister, Dr Manmohan Singh, has said business leaders must learn to play on the pitch they were given, and urged them to compete on un-level playing fields and prove themselves.

Dr Singh said that boys and girls from modest social and economic backgrounds who secured admissions in the best institutions of the world had shaped the image of Brand India across the globe.

"Across a range of professions, Indians have faced stiff competition on un-level playing fields and done well. They hold an example for our business leaders, who must learn to compete on an un-level playing field, and prove their mettle", Dr Singh said.

(BL, 10.02.08)

CORPORATE GOVERNANCE

SEBI Signs MoU with Pakistan

In a bid to facilitate mutual co-operation and exchange of information, the Securities and Exchange Board of India (SEBI) inked a bilateral memorandum of understanding (MoU) with the Securities and Exchange Commission of Pakistan (SECP). The MoU is aimed at facilitating cooperation on regulatory issues.

The agreement would help establish a general framework for cooperation and consultation and mutual assistance between the regulators of the two countries. SEBI had earlier signed similar MoUs with regulatory bodies of 13 countries, including the US, China, Malaysia, Singapore, the UAE, Nigeria, Vietnam, Indonesia and Taiwan. Besides, it has received letter of intent for mutual cooperation with Hong Kong SFC. *(TH, 29.01.08)*

SEBI, AMF to Promote Transparency

The SEBI and Autorite des Marches Financiers (AMF), the stock market regulator of France announced terms of cooperation and collaboration in order to promote efficient and transparent capital markets in India and France. The collaboration between the two authorities would include promotion of mutual regulatory understanding.

The regulators would organise seminars in both countries to provide an in-depth presentation of their regulatory regimes. There would also be study visits, public conferences, visits of delegations, internships and improved cooperation in cross-border securities enforcement matters.

The increased cooperation between the AMF and SEBI is significant in the context of the enhanced presence of emerging markets in an increasingly globalised world. This would enable greater focus on investor protection in a disclosure-based global regime as also enable greater cooperation of the industry in the two jurisdictions to promote capital formation. *(BS, 08.02.08)*

Threat to Art Funds

The SEBI has threatened both civil and criminal action against companies that launch art funds without first registering with the markets regulator. SEBI has cautioned that an art fund is deemed to be a collective investment scheme (CIS) and that presently no entity offering such investments has been registered. The SEBI advisory has stated that any art fund is considered a CIS, as defined by The SEBI Act, 1992.

According to The SEBI Act, no person shall sponsor or cause to be sponsored or cause to be carried on a CIS unless he or she registers with the board in accordance with regulations, the regulator has stated. The SEBI advisory goes on to state that "for such violations, appropriate actions, civil and criminal, under The SEBI Act may be taken by SEBI against such funds or Companies". *(FE, 13.02.08)*

E-GOVERNANCE

E-complaint Registering System

In order to improve the availability of essential medicines at affordable price across the country, National Pharmaceutical Pricing Authority (NPPA) has initiated an online complaint system whereby the drug regulator, having the required information (about a medicine), can initiate redressal process without any time loss.

The format available on NPPA's website is designed to send complaints on issues relating to overcharging, counterfeit drugs, non-availability or shortage of any medicine. Having filled the required inputs in the format (available at the website of NPPA) anybody can send the complaint to us and the authority would take action within 30 days.

The regulator has also announced a cash prize of Rs 1,000 for each complaint that is found correct. The measure is likely to bring us more complaints thereby strengthening our monitoring process even in remote places, the source added. *(FE, 28.02.08)*

Widening Digital Divide

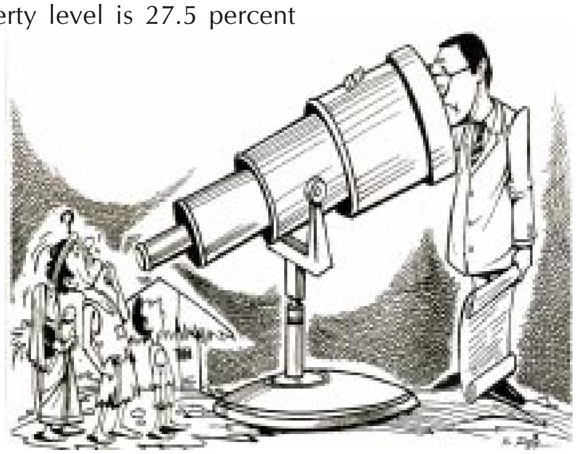
In spite of the growing Internet connectivity, increasing awareness of the Right to Information (RTI) Act and a spurt in the funding of e-governance programmes, the digital divide between the Government and its citizens only seems to be widening in India with the country's e-Government readiness ranking falling to 113 from 87 in 2005.

While the Indian Government may have been actively pursuing the concept of e-Governance for the last two decades, other countries, it seems have been more proactive. According to the UN e-Government Survey 2008, India has slipped 26 places in the last three years and has been overtaken by countries like Maldives (ranked 95), Sri Lanka (101) and even Iran (108), which have themselves slipped below their 2005 rankings.

The UN e-Government Survey measures the progress made by various UN Member states in providing and implementing e-Government policies to enhance public service delivery. It uses e-participation and web assessment as two broad categories to rank these countries on the basis of e-information, e-services and e-tools provided by their governments to meet the growing needs of transparency and accountability voiced by their citizens. *(HT, 24.03.08)*

Survey on Poverty Estimation

A new survey based on income data has found that India has less poverty than estimated by the Government's National Sample Survey (NSS). According to the survey, 'How India earns, spends and saves', about 214 million people in India are poor. In contrast, according to the two sets of poverty estimates provided by the NSS using consumption expenditure data, the country's poverty level is 27.5 percent according to the 30-day data and 21.8 percent on the basis of the 365-day data.


The Hindu Business Line

The latest survey has been carried out by Max New York Life and the National Council of Applied Economic Research (NCAER) using state-wise expenditure poverty lines (EPL) for 2004-05 as defined by the Planning Commission to calculate the poverty ratio based on the income data. The incidence of income poverty in rural and urban areas is estimated to be 21.7 and 18.7 percent, respectively. *(BS, 07.02.08)*

Checking *Inspector Raj*

The process of liberalisation of the Indian economy has helped check '*Inspector Raj*' in the country across sectors by over 50 percent with the exception of small scale industries, said Association Chambers of Commerce and Industry of India (ASSOCHAM). In an assessment of over 17 years of liberalisation against the *Inspector Raj*, number of inspectors in the food processing industry has halved from 100 over 16 years ago to less than 50.

"The Unified Food Law enacted in 2007, which consolidates nine laws, is responsible for reducing the number of inspectors in the food processing industry", ASSOCHAM said. Before enactment of the Law, the industry was subject to multiple inspections for weighing, ISI, corporation, health and hygiene. *(FE, 04.01.08)*

Billionaires' Can Erase Deficit

India can get rid of its fiscal deficit in a flash if the country's 53 billionaires gave away just about 10 percent of their net worth, while wiping off revenue deficit would require a little over four percent!

According to a list of the world's billionaires released by the US business magazine Forbes, India has as many as 53 billionaires – the highest in Asia. Together, these billionaires have a combined net worth of US$340.9bn, which is over ten times India's estimated fiscal deficit for the fiscal beginning April one.

According to the Budget Speech, the fiscal deficit for 2008-09 is estimated at Rs 1,33,287 crore (about US$33.3bn). Even as such levels of philanthropy is not known among businessmen, the combined plan and non-plan expenditure outlined in 2008's Budget proposals is just a little more than half of the total wealth of these billionaires. *(BL, 06.03.08)*

Increasing Global Jobs

There is some evidence that the benefits of economic growth may be trickling down to India's poor. The International Labour Office (ILO) 2008 Global Employment Trends report shows an "impressive" poverty reduction in South Asia.

Extreme working poverty fell by 20 percent in a decade, the greatest decrease of any region of the world. However, the proportion of working poor remains high, with eight out of 10 workers, 478 million people, in this category. Only sub-Saharan Africa (SSA) has a higher proportion.

South Asia, led by India, also created the maximum number of global net jobs in 2007. East Asia – led by China, Japan, Korea – generated much fewer of the global net jobs during the same period. Developed economies and EU created only four percent of the jobs in 2007. *(ET, 25.01.08)*

Slow Net Connection

High bandwidth prices and an artificial choking of available capacities are making quality of Internet services in India among the worst in the world. According to data collected by Internettrafficreport.com, India had an overall index of 74 and a response time of 253 milliseconds.

Countries like the US have an index of 98 and a response time of just 13 milliseconds. Response time is the time taken for a packet of information to reach from one point to another. The higher the response time the slower will be the Internet connection. Higher index, on the other hand, indicates faster and more reliable connection. Even developing countries, like Mexico and Peru have a higher Internet index than that of India. *(BL, 10.03.08)*

Core Sector Growth Falls

The impact of weak industrial production growth in December 2007 was reflected in the index of six infrastructure sectors, which grew four percent during the month, less than half the 9 percent growth in 2006.

The six core sectors account for nearly 27 percent of the Index of Industrial Production (IIP) that saw December growth drop to 7.6 from 13.4 percent in the same month of 2006.

Experts opine that the decline in IIP growth will continue, which means the core sector index will follow suit. Data released by the Commerce Ministry showed that apart from coal, which grew a healthy 8.9 over 2.9 percent in 2007, the growth rate in all the other sectors fell. *(BS, 14.02.08)*

Regulator for Higher Education

The National Knowledge Commission (NKC) said many of its controversial recommendations – particularly in the realm of higher education – were an attempt to shed the excess baggage from the past and not aimed at facilitating the Government's withdrawal from the social sector. "Education is the responsibility of the Government like health. The Government cannot walk away from it", said NKC Chairman Sam Pitroda.

With regard to the proposal to set up an Independent Regulatory Authority for High Education (IRAHE), it was said the idea was not to do away with the University Grants Commission (UGC) but streamline its functioning.

Pitroda said the Commission was only a "catalyst" in the Government's mission to make education a central instrument for achieving rapid and inclusive growth. With recommendations finalised on 20 different sectors of knowledge, he said that NKC had embarked on a process of engaging with State Governments in as many subjects in their jurisdiction. *(HT, 20.01.08)*

India Can Sustain 9% Growth

Prime Minister Manmohan Singh has expressed confidence that the country will sustain economic growth of nine percent in the medium term. The Central Statistical Organisation has forecast 8.7 percent growth in the gross domestic product (GDP) in the current financial year. The investment and savings rates, at 38.5 and 37 percent of GDP, respectively, are at historic highs.

Singh said sustained development was not like going to be a free dinner party but required sound macro-economic policies designed to raise savings, investment and productivity. The challenge, he said, was to get the policy right.

"If we can get politics and prices right, the economy would be on surer ground for sustained growth. That is not just a challenge for political parties. It is equally a challenge for those who are in the business of shaping mindsets". *(BS, 15.02.08)*

Left Says Yes to Capitalism

Reformist communist Buddhadeb Bhattacharya has said there is no alternative to the capitalist system if industrial process is to be carried forward in Left Front-ruled West Bengal. "We say humbly that after assessing everything there is no way out but to follow the capitalist path", he said, putting to rest the likelihood of adopting the socialist model of development by the world's longest serving democratically elected communist government.

Bhattacharya, whose reform process and policies of farmland acquisition for industry triggered violent protests in 2007, is a strong votary of reforms to keep pace with the capitalist global economy. Smarting from the backlash over farmland acquisition for various projects, Bhattacharya said his government would take utmost caution in future before such acquisitions.

(FE, 04.01.08)

Wave of Economic Nationalism

The Commerce and Industry Minister, Kamal Nath, has expressed concern about the new wave of "economic nationalism" sweeping the West and reiterated the demand for developed countries to take on board concerns of the developing bloc in global trade parleys and on issues of climate change and investments.

"Be it the outcry against outsourcing, the hostile posturing to acquisition bids by companies from emerging markets, or the tightening of immigration norms for individuals belonging to the emerging economies, these are all measures that would in the final analysis hurt the very countries that initiate such measures", Nath said. *(BL, 22.01.08)*

India in Global Affairs

The British Prime Minister, Gordon Brown, has supported India's bid to claim a greater place on the world stage. He said India's rapid growth meant it should play a greater role in international affairs and have a permanent seat on an expanded UN Security Council. "We can and must do more to make our global institutions more representative", he said.

Brown was visiting New Delhi with a large delegation of British business leaders after spending two days in China. Terming the engagement as "a partnership of equals", Brown also highlighted India's growing involvement in international mergers and acquisitions. He also noted the success of British telecommunications company Vodafone Group PLC in India.

(BL, 22.01.08)

Government Blocking RTI

Down to Earth

India's information watchdog has said the government is coming way your right to know. the Chief Information Commissioner, Wajahat Habibullah said the old mindset should be changed for effective implementation of the RTI Act. "In certain areas of the Government, there is hesitation to provide information", he said.

Habibullah said that the judiciary barring those of the Supreme Court and the Delhi High Court has been slow in implementing the Act to provide information to the ordinary public. The impact of the RTI Act was visible in many cases where the government moved courts in a bid to keep the information secret. People are feeling empowered and that is why they want to know more and more about matters affecting them.

(HT, 27.03.08)

Advisory Co. for PPP

Plans are afoot to set up a company for providing advisory services to Central and State Governments for structuring public private partnership (PPP) projects.

In this context, the Planning Commission Deputy Chairman, Montek Singh Ahluwalia, said that in order to streamline and accelerate the process of project formulation, the respective governments should set up dedicated corporate entities for providing advisory services to the Government departments, seeking to structure PPPs.

He said a number of State Governments also had pleaded for advice in the structuring and implementation of PPP projects by way of technical consultancy. He said the proposed company would not be Government-run or managed.

(BL, 17.01.08)

Information Leads to Jail

Industries, trade and commercial establishments, even individuals and households, be careful! The Government might put those behind bars on providing false information about business or any other data that the Government might ask to submit.

The Standing Committee on Finance reviewing the Collection of Statistics Bill, 2007 has suggested that the Bill should have provisions for simple imprisonment as per the Indian Penal Code in case any one wilfully provided false information to the Government or any public sector authority or if an employee working under the Act failed to keep inviolate the secrecy of the information.

The Parliamentary panel observed that the existing provision of mere monetary penalty of Rs 1,000 for individuals and Rs 5,000 for companies was too meagre to deter anyone from making false statements. *(FE, 18.03.08)*

No Interference Please!

The Supreme Court has said that the policy decisions of the Government should not be interfered in a routine manner unless the policy is contrary to the provisions of statutory rules or of the Constitution.

In matter of policy decisions or exercise of discretion by the Government so long as the infringement of fundamental right is not shown, Courts will have no occasion to interfere and the Court will not and should not substitute its own judgment for the judgment of the executive in such matters.

In assessing the propriety of a decision of the Government, the Court cannot interfere even if a second view is possible from that of the Government. *(ET, 28.03.08)*

New Drug Policy

A ministerial panel reviewing the new drug policy is likely to decide against expanding the scope of price controls in the sector beyond the current level. It is likely to keep the share of price controlled brands in the market at the current level of about 20 to 25 percent. The panel, however, is likely to go in for a major reshuffle in the list of drugs under control.

The indications are that the panel will bring under price control all the 354 essential medicines that account for about 7,000 formulation packs in the market. This is in accordance with a Supreme Court order which said the Government should evolve appropriate pricing criteria to ensure that essential drugs do not go out of price controls. *(ET, 09.02.08)*

Penalty for Missing Targets

The Government is likely to curtail Central Public Sector Enterprises (CPSEs) decision-making power if they miss their annual targets. These public sector units may lose certain powers to take financial and administrative decisions, including those in the areas of M&As.

The new norms would be applicable for all CPSEs, including the navratnas like ONGC, IOC, NTPC and BHEL.

The company's would also have to face penalty for delay in submitting performance evaluation report, audited accounts, balance sheets and any type of data that the department may require from time to time.

(ET, 08.01.08)

Ban on Surrogate Liquor Ads

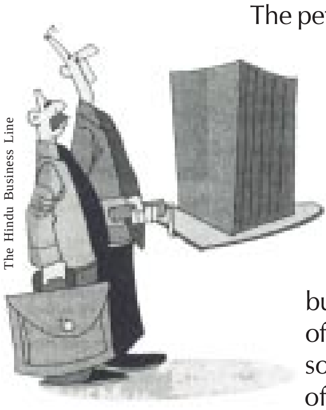
The Government has issued a notification banning surrogate advertising of liquor companies in print, electronic and outdoor media.

"The notification was issued on February 25, 2008, amending the Cable Television Networks Rules, 1994 to the effect that no advertisement shall be permitted which promotes directly or indirectly, sale or consumption of cigarettes, tobacco products, wine, alcohol or liquor", said Information and Broadcasting Minister P R Dasmunsi.

The Minister also added that even the Press Council of India has laid down the norms for journalistic conduct under Article 13 (2)(b) of the Press Council Act 1987, stating that "no advertisement shall be published, which promotes directly or indirectly production, sale or consumption of cigarettes, tobacco products and other intoxicants". *(BL, 18.03.08)*

Accommodating Commissions

Having appointed various regulatory commissions, the hunt is now on for space to accommodate them. The Competition Commission was created way back in 2003 and it is now looking for 70,000 square feet of office space within a 10-km radius of the Supreme Court. Currently it functions out of a small office in a commercial complex in South Delhi.



The Hindu Business Line

The petroleum regulator similarly, had no office and a public sector undertaking (PSU) oil-company was asked to make some space for it. The regulator has now been forced to shift to unfashionable trans-Yamuna, and a building belonging to another OSU oil company so that the original one can be refurnished.

The telecom regulator, after finding its building sealed a year ago, moved to a temporary office in an MTNL building and has now located some land on which to build a permanent office. *(BS, 11.02.08)*

Jolt for Bureaucracy

The India Rejuvenation Initiative (IRI), a forum for probity in public life, will release piecemeal over the next six months, lists of those it believes are the 10 most corrupt bureaucrats and police officers in each state. The forum is ready with its Uttar Pradesh list, will release the Maharashtra list early February, and is finalising the Madhya Pradesh, Punjab and Haryana lists.

According to IRI sources, they will submit substantive evidence to establish that the named officers amassed more wealth than their known sources of income. Further the source added that IRI would pressurise the government to take action against these officers.

Senior serving and retired civil servants had formed this group in 2006, which has been working for the past year, identifying the most corrupt bureaucrats and police officers through wide consultation and consensus as well as collection of legally sound documentary evidence.

(HT, 18.01.08)

Reducing Regulators in India

The National Commodity and Derivatives Exchange (NCDEX) Chairman has favoured reducing the number of regulators in the country, in order to cut down the cost of regulation and to increase their performance.

Noting that emerging Markets witness a constant change in regulatory requirements, NCDEX's Managing Director, P H Ravikumar pointed out the need to review the performance of regulators by the Parliament on a periodical basis.

Besides, Ravikumar also highlighted the need for a unified regulator for the large Companies in the country with pan-India presence and operations in different sectors.

(FE, 22.01.08)

'Product Liability Clause' in Law

The proposed consumer protection law provides for strict penal provisions against such companies selling substandard products. Under the critical 'product liability clause' in the proposed legislation, errant companies would have to compensate consumers monetarily, besides replacing the sub-standard product.

The proposed law would benefit customers who buy any kind of consumer product, including electrical appliances, electronic goods, IT and telecom products and food packaging devices, amongst others.

The Consumer Affairs Ministry is in the process of setting up a National Consumer Protection Authority that would subsequently replace the Monopolies and Restrictive Trade Practices Commission (MRTPC) for addressing consumer grievances. The proposed authority would be a quasi-judicial body aimed at delivering speedy justice unlike consumer courts where justice is delayed and can take several years. *(ET, 07.01.08)*

Parliamentary Round Up

President Clears Ordinance

The Forward Contracts (Regulation) Amendment Ordinance to provide autonomous status to the commodity market regulator Forward Markets Commission (FMC) has been promulgated by the President.

With the enactment of the ordinance, the FMC will now have 'search and seizure' rights, besides power to levy penalty, regulate intermediaries such as collateral manager, a clearing house, introduce options trading and derecognise and supersede associations. If an intermediary fails to enter into an agreement with the client as prescribed by the FMC, he shall be liable to a penalty of up to Rs 5 lakh. *(BL, 09.02.08)*

New Company Law Bill

The new Company Law Bill, undergoing finishing touches, will be introduced in the monsoon session of Parliament. According to official sources, there were a lot of complications in the Bill that were being worked upon.

According to sources, the Bill is with the Law Ministry and they (law ministry) are tweaking the bill to give it a final touch. The new Bill will replace the existing Company Act 1956. According to Corporate Affairs Minister Prem Chand Gupta, the new law will promote good corporate governance and lead to effective protection of investors.

(TH, 17.02.08)

Right to Education Bill Soon

The Government will soon introduce the Right to Education Bill, 2005 in Parliament guaranteeing free and compulsory education to every child aged between 6 and 14. The Bill is being opposed by States for its huge financial implications. The draft was circulated to the States but the Ministry has not received a positive response.

Efforts have been made for long to bring all States on board before the Bill is introduced for, it is they which have to implement it. The Minister has written several letters to the Chief Ministers. *(TH, 16.02.08)*

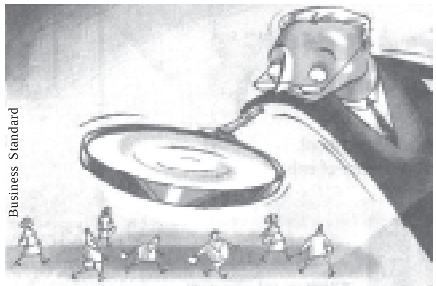
Law to Regulate Micro Credit

The Micro Financial Sector (Development and Regulation) Bill for regulating the operations of micro credit agencies is on anvil to give these agencies the freedom to operate within the ambit of the law. The non-profit agencies engaged in micro credit operations would be controlled mildly and the proposed legislation would help these operators grow stronger.

According to Finance Minister P Chidambaram, the micro credit agencies, along with non-governmental organisations (NGOs), post offices and civil society organisations (CSOs) would be the drivers for achieving the goal of inclusive development, to which the UPA Government at the Centre was strongly committed.

(TH, 03.02.08)

Cement Cartel under Scanner



In yet another blow to cement producers, MRTPC found Cement Manufacturers Association (CMA) and nine others including ACC and Birla's Grasim Cement, guilty of having acted in concert to raise the price of cement bags in Jabalpur (Madhya Pradesh) during 2000 and 2001, and directed them to refrain from fixing prices of cement through such 'arrangements' with the apex association.

The complainants, Naresh Grover and Sarabjit S Mokha had alleged that they had come across minutes of a meeting held on July 05, 2000 amongst respondents (in Jabalpur) wherein the cement producers took a concerted action to fix the cement prices "artificially" and also decided to control the quantity of cement flowing in the market by suspending production and dispatches either from dump or from factory to direct dealers for five days in July 2000.

In addition, taking advantage of an order requiring cement producers to register themselves with the Bureau of Indian Standard (BIS), cement producers declared closure of their factories for a specified period, resulting in reduced supply of cement and escalation in prices. *(BL, 04.03.08)*

Meet on Competition Act

Cartels and monopolies do exist in the Indian economy in various sectors, Prem Chand Gupta, Union Minister of Corporate Affairs, said while addressing a conference on the Competition Act. The sectors, which the Minister mentioned in this context were cement, tyre, transportation and civil aviation.

Representatives of the legal and corporate sectors said that the 2007 amendments to the 'Competition Act 2002' would be a stumbling block in the way of Indian companies when it came to global M&As.

The amendments that invited criticism were those related to mandatory prior notification of an M&A or restructuring deal (instead of voluntary notification asked for earlier); and the time period for approval of deals from 90 to 120 days. *(BL, 06.02.08)*

Action for Overpricing

The MRTPC has initiated action against Indraprastha Gas Ltd for overpricing after its investigative arm DGIR recommended measures against the compressed natural gas supplier.

Admitting a report by the DGIR, the MRTPC has started judicial enquiry against the company by issuing notice of enquiry. DGIR had found IGL taking "undue advantage" of being the sole supplier of natural gas in the National Capital Territory, thus deriving "unreasonable profits".

The DGIR also pointed out that IGL's reserves and surplus have increased approximately 293 percent in the last three years. *(FE, 14.03.08)*

Steel Price Hike

The forging industry has threatened to approach MRTPC against steel manufacturers' move for increasing steel prices. The Association of Indian Forging Industry (AIFI) has also given a memorandum to the steel ministry seeking its support to get manufacturers to bring down steel prices at a more rational level.

"The rise is almost 33 percent in the past eight weeks, which has hit the forging industry. If this continues, we will have to approach MRTPC", AIFI said.

It also said that if buyers refuse their shipments, the forging units would have no other option except to put their units for sale. *(ET, 31.03.08)*

Airlines Under MRTPC Lens

Cracking its whip on low-cost airlines, anti-monopoly watchdog MRTPC has initiated an investigation on possible cartelisation by such fliers. Taking a *suo moto* action, the MRTPC has directed its investigative arm DGIR to probe the role of carriers along with their umbrella organisation, Federation of Indian Airlines (FIA), in fixing the fares.

The Commission is suspecting that by using the FIA platform, the carriers have eliminated fair competition in the sector and deprived travellers from low-cost promotional fares.

The Commission directed the DGIR to submit a preliminary investigation report within 90 days. According to sources, the Commission is of the view that after that price arrangement, fares offered by no-frill airlines, such as Deccan, Spicejet, Go Air and Indigo have vanished. *(Rediff News, 05.02.08)*

Unfair & Unjust Conditions

ICICI Bank and its insurance arm ICICI Lombard, have come under the scanner of MRTPC for imposing "unfair and unjust" conditions on the insurance cover provided to the credit card customers. Admitting a report of its investigative unit DGIR, the MRTPC has issued 'notice of enquiry' against the two companies.

DGIR said that certain terms and conditions concerning the insurance cover on credit cards were not conveyed to the customers at the time of issue, but only mentioned in the welcome kit booklet.

DGIR while noting that some conditions were "unfair and unjust to the consumers said that customers were denied insurance claims on the ground that cards were not used two times within 90 days from the accident day. *(BS, 18.03.08)*

Probe against Chemists' Cartel

Fair trade practices watchdog MRTPC has ordered an inquiry into the suspected cartel formed by chemists and wholesalers to pressurise drug makers to stop selling products to big retail chains.

Taking *suo moto* cognisance, the Commission directed its investigative arm Director General of Investigation and Registration (DGIR) to look into the issue. It also asked DGIR to probe the role of chemists' body called All India Druggist and Chemist Association. *(FE, 07.03.08)*

House Too 'Busy' to Work

"A shocking waste of time, considering that each minute of Parliament costs the exchequer Rs 26,035", says a 'Citizens Report on Governance and Development 2007', brought out by the National Social Watch Coalition (NSWC). Expressing concerns over "trivialisation" of the legislature, the report notes that time lost due to interruptions has doubled. Time lost in the 11th Lok Sabha was pegged at five percent and by the 12th, it had gone up to ten percent.

By the 13th Lok Sabha, time lost due to protests had shot up to 22.4 percent. In 2006, non-financial business took up nearly 40 percent of the Lok Sabha's time and over 50 percent of the Rajya Sabha's time. Also, there was a rise in absenteeism among MPs, with attendance in the fourth, fifth and sixth sessions of the 14th Lok Sabha ranging from 33 to 62 percent.

The story does not end here. The attendance at meetings of committees, other than the financial and standing committees, was poor. The average attendance in 19 such committees varied between 33 and 86.6 percent, says the report. Even Bills were dealt with in a "callous manner". For instance, an important Bill, like the one on the SEZ Act, was introduced on "a day that was occupied with long debates on the RTI Act and passed after less than two hours of discussion", says Jagadananda, convener, NSWC.

The report also notices a perceptible decline in the quantity and quality of questions raised. Calling for reforms in the workings of Parliament, the report feels such reforms must come "from within". *(FE, 29.06.07)*

No Work, No Pay

Few questions like how can members of Parliament (MPs) decide their own salaries and why they are paid for the day when the House is adjourned without transacting business will now be put forth by Speaker Somnath Chatterjee, in a courtesy to RTI applicant, CP Rai. The government has also informed Rai that there would be an independent permanent mechanism for revising salaries, allowances and pension of MPs.

Rai wanted to know that why there is no commission of secretaries to decide salaries and allowances of MPs, similar to the one for the Central Government employees. As of now, Parliament decides on the salaries and allowances of its members. He had also sought a reply from Lok Sabha Secretariat on why 'no work no pay' rule is applied for MPs for the days when the house is adjourned for the day. Rai also wanted to know what steps the secretariat has taken to recover the amount paid to MPs for such days.

He even quoted a letter written by the former Lok Sabha speaker Manohar Joshi stating that there should be rule of procedure for MPs of 'no work no allowance'. "By this way there will be public opinion that when MPs do not take allowance for not doing any work, the employees will also not go to strike in future, and if they do so then they will have to accept no work no allowance", Joshi said in the letter. "Allowances are paid according to the provisions of Salary, Allowances and Pension of members of Parliament Act 1954", Additional Secretary in Lok Sabha Secretary SK Sharma told Rai. *(HT, 16.06.07)*

Chak De, a Rallying Cry

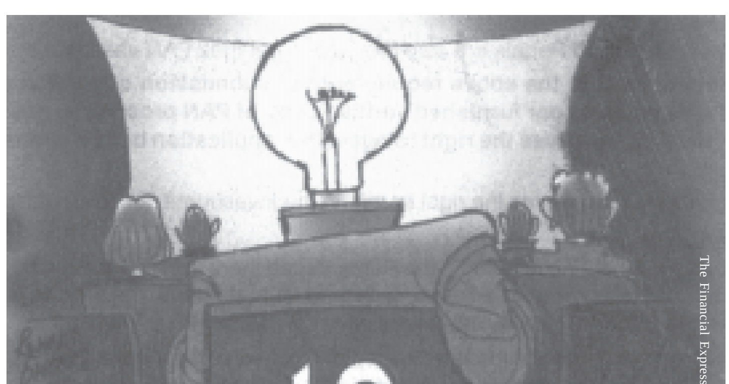
Bollywood star Shah Rukh Khan's film *Chak De India* seems to have become the country's rallying cry after MS Dhoni and his boys waltzed to Cup victory at the 20:20 jamboree. Even IT Companies are taking a cue from the film, using it to impart management lessons to employees. The film strives to string together national interest, team spirit, hard work and discipline as a recipe for success, and that's what workplaces need to flourish.

TCS has initiated a movement called 'Propel' that is used for employee group meetings and sharing of ideas. "After screening Hollywood flick Babe and then Lagaan, we will soon evaluate *Chak De* for our management development programme", said Thomas Simon, vice-president, HR, TCS.

Bollywood has caught the fancy of the corporate world for the same reasons management schools picked up movies like Corporate, Krrish and most recently *Chak De*. In the Munnabhai series, Gandhigiri brings in the importance of ethics and morals at workplace. Budding managers can learn from Bhuvan of Lagaan by emulating his leadership qualities, his capacity to spot and groom raw talent, and self-confidence.

Employees of NIIT Technologies watch movies during induction, while managers take the staff out periodically to watch a movie as part of a team-building exercise.

Indraneel Ganguli, head, brand and media relations, Satyam, said, "Films, especially those like *Chak De,* have got that extra bit of space in our heart and mind and are far better than a simple powerpoint presentation". *(FE, 26.09.07)*



Challenge is to Tackle Issues Related with Government

– Gajendra Haldea

Investment in large infrastructure projects would, therefore, need to be structured on sound commercial principles and legal structures that rely on competition and credible regulatory practices, thus enabling financially viable projects that deliver efficient and affordable services to users

Infrastructure deficit in India is widely recognised as a constraint on growth. Congestion on highways, ports, airports and railways has increased, as have power shortages.

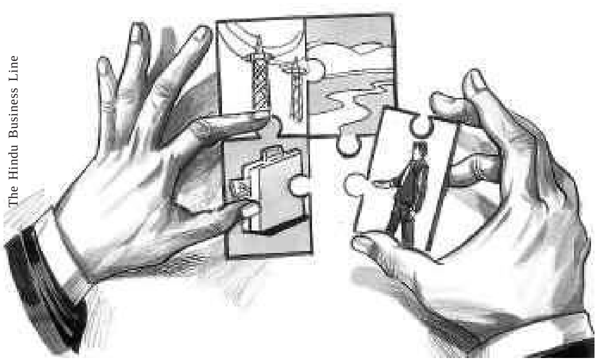
They impose additional costs and constraints, which, in turn, compromise the competitiveness of the agriculture, manufacturing and service sectors in the domestic as well as global markets. This widening deficit is characterised by the fact that the demand has grown much beyond the anticipated levels and the creation of infrastructure has persistently fallen short of the targets set by the government.

Efficient infrastructure is also a critical input for broad-based and inclusive growth aimed at improving the quality of life, generating employment and reducing poverty across regions. China and other East Asian economies have been investing over 10 percent of their GDP in infrastructure as compared to about five percent in India.

The 11th Five-Year Plan (2007-12), therefore, aims at ramping up the investment levels to about nine percent of GDP by the year 2012. In absolute terms, the investment of about Rs 8,71,450 crore (US$218bn) during the 10th Five-Year Plan would have to rise by 2.4 times to Rs 20,60,193 crore (US$515bn, at an exchange rate of Rs 40 during the 11th Five Year Plan.

This would amount to an annual average of 7.65 percent of GDP. Without an effort of this order, GDP growth rate of nine percent could be compromised. Investment in irrigation, rural roads and in the water supply and sanitation sectors will have to be made from budgetary resources.

Given the allocations required for social sectors and rural infrastructure, the resources available for funding large infrastructure projects would be increasingly inadequate. Not only would public sector undertakings be required to enhance internal generation and raise market borrowings, greater reliance would have to be placed on Public Private Partnerships (PPP) in infrastructure projects.



The Hindu Business Line

As compared to 20 percent during the 10th Five Year Plan, the share of private sector would have to increase to 30 percent during the 11th Five Year Plan.

'Business as usual' projection of total investment in infrastructure during the 11th Five Year Plan is about Rs 14,05,059 crore or US$351bn. To raise this level to the projected Rs 20,60,193 crore would constitute an enormous challenge for the government. The prospects of achieving this level would largely depend on the steps that it is able to take for creating an enabling environment.

The ability to raise resources for large infrastructure projects would depend critically on a regime that would enable recovery of economic user charges where risk allocation is clearly defined.

Investment in large infrastructure projects would, therefore, need to be structured on sound commercial principles and legal structures that rely on competition and credible regulatory practices, thus enabling financially viable projects that deliver efficient and affordable services to users. Since 70 percent of the projected investment would have to be raised from internal savings, market borrowings and private investment, commercialisation of infrastructure is inevitable.

The key challenge would lie in addressing governance-related issues. These would include introduction of competition, elimination of the dominance of incumbent government entities, reform of regulatory institutions and standardisation of documents, procedures and processes.

On the one hand, there is huge demand for infrastructure. On the other hand, there is enormous appetite among investors and lenders to finance infrastructure. If only the barriers can be removed, the infrastructure story would come into full bloom.

– Adviser to Deputy Chairman, Planning Commission. The article appeared in The Economic Times, January 06, 2008.

What's Holding India Back?

"The tiger is under grave threat", India's Finance Minister, P Chidambaram, intoned at one point in his budget speech on February 29, 2008. He was referring to the stripy animals that prowl the country in declining numbers. But India's tigerish economy, which has grown by nine percent a year on average over the past three years, is itself under threat.

In many ways India counts as one of liberalisation's greatest success stories. For years, it pottered along, weighed down by the regulations that made up the licence raj, producing only a feeble "Hindu" rate of growth. But over the past 16 years it has been transformed into a far more powerful beast. Its Companies have become worldbeaters. Without India's strength, the world Economy would have had far less to boast about.

Sadly, this achievement is more fragile than it looks. Many things restrain India's economy, power cuts and rigid labour laws. But an enduring constraint is even more awkward: a state that makes a big claim on a poor country's resources but then uses them badly

The State's Cage

It is not unusual for a country's bureaucrats and politicians to be less efficient than its businesspeople; and the Indian civil servant, with his forms in triplicate, has been a caricature for so long that it is easy to forget the impossibility of many of the jobs involved. But India's 10m-strong civil service is the size of a small country, and its unreformed public sector is a huge barrier to two things a growing population needs.

The first is a faster rate of sustainable growth: the government's debts and its infrastructure failings set a lower-than-necessary speed-limit for the economy. The second is to spread the fruits of a growing economy to India's poor. By the government's own admission, most development spending fails to reach its intended recipients. This is bound to stir up resentment – and risks causing a backlash against business.

Take the public finances. The Government is predicting a budget deficit of 3.1 percent for the current fiscal year and 2.5 percent next. But these numbers are artificially low. They omit the states' deficits and also most of the cost of fertiliser and fuel subsidies. Other big emerging Markets have been less complacent, leaving India in the worst fiscal shape of the lot.

If growth slows, so will tax collection – and India's vigour may be ebbing already. Growth of nine percent now looks more like a cyclical peak than a permanent achievement: bottlenecks throughout the economy mean it cannot go faster without setting off inflation.

The government's other boast is to have fostered "inclusive growth". In his budget, Chidambaram duly handed out extra money to a long list of worthy schemes, from school meals to rural road-building. But as he himself conceded, outlays and outcomes are not the same thing. Standing between the two is an administrative machine corroded by apathy and corruption. The Government's subsidies fail to reach the poor, its schools fail to teach them and its rural clinics fail to treat them.

One indication of officials' resistance to change is Chidambaram's new proposal to erase the debts of 30m small farmers. This loan waiver may be costly and crude, but it has one big virtue: it transfers money to relatively poor people at the stroke of a pen, bypassing the cumbersome machinery of the state.

Unleash Peepul Power

Reform has not completely petered out. The Government has called for more independent scrutiny of public programmes and better monitoring of the money it hands out to some 1,000 schemes. It also plans to experiment with "smart cards" for the poor that could cut out bureaucratic middlemen. But administrative reform needs to go deeper—if only to prevent the public sector throttling economic growth.

The Government's debt burden leaves it short of money for infrastructure. It is reluctant to free banks, pension funds and insurers to serve the market better, because it needs them to buy its bonds. The miserable record of its social spending deprives firms of well-nourished, well-schooled workers, and saps the political will for reform. State governments are left scrabbling to appease rural disgruntlement rather than investing in efforts to lift the productivity of land and labour.

The tiger may be the animal most Indians associate with their private sector; but a more apt symbol is the peepul (sacred fig) tree. Revered by many, the peepul has a habit of making room for itself, poking up through roads, sometimes smothering its rivals. India's dynamic private sector has shown a similar skill. But if the next government again flunks reform, it could be the peepul itself that is smothered.

– The article appeared in The Financial Express, March 10, 2008.

Public Service Delivery the Issue

– Kala Seetharam Sridhar

There is a need to place the Tata 1-lakh car idea in the context of other changes happening in the economy. Consumer disposable incomes are constantly rising, with India's per capita gross national income rising from US$460 in 2001 to nearly US$820 in 2006.

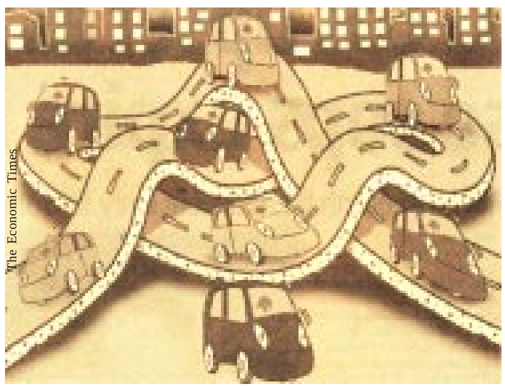
Further, it has become unsafe to ride two-wheelers. It is also not comfortable to ride two-wheelers in places that are exposed to extreme temperatures. Currently, India sells only 1.4 million four-wheelers, whereas China sells 5 million and the US sells over 10 million four-wheelers.

Under these circumstances, is it a sensible idea to restrain consumers from buying or using the 1-lakh car, once it is rolled out? The desire to have one's own personal transport is indeed always cherished, and cannot be easily displaced by the concern of environmentalists. Rather, as disposable incomes rise and as the number of vehicles increase steadily, it is the government's job to step up relevant infrastructure accordingly.

First, while the relationship between spending and service delivery continues to be elusive, there is no question that expenditure on public services, such as roads has to be stepped up, to free them of potholes, humps and bumps, and enable better utilisation. While per capita outlay on roads and bridges by India's states increased from Rs 194 in 2002-03 to Rs 228 in 2003-04 representing an 18 percent increase, paved roads as a proportion of the total length of roads in India, was only 47 percent, compared with 78 percent in China, as of 2002.

Second, a common argument is that public transport should be preferred over private transport, which the 1-lakh car seems to exemplify. There is a big role for state governments to play in providing and improving mass transport systems, because it is only as an exception that local governments operate mass transport.

One should also observe state transport corporations run public transport in several other cities, such as Jaipur, Lucknow, Chandigarh and Surat. In a few cities such as Pune, where the municipal corporation provides the service, they are more often than not in a sorry state, as with the Pune Municipal Transport, which has an inadequate 900-odd fleet, with 50 percent of the buses being more than 10 years old, resulting in nearly 15 percent of the fleet being inoperable on any given day.



The Economic Times

Several NGOs and environmentalists have criticised the Tata Motors' Rs 1-lakh car on environmental grounds, even though the car satisfies the Bharat-III and Euro-4 emission norms. This car has indeed put India's automobile industry in the global limelight and has the potential of fulfilling for the common man what liberalisation promised – consumer durables of great utility at an affordable price

While public economics and public finance are rife with instances of optimal taxation theory and policy, revenue increases and the excess burden of a tax, what has been ignored is a bias in favour of public expenditure, which is much needed. Indeed, it does not matter by how much public revenues increase as long as public service delivery continues to be dismal.

Nobel Laureate Amartya Sen gave a public lecture on inequality in public services. As he rightly pointed out, ever since the reforms started, public revenues have grown faster than the country's GDP, but public services have not significantly improved. This does mean that we need to do much more to understand what the optimal level of public expenditure on various services such as roads and public transport would have to be. For this, the desirability of various services by customers needs to be examined.

Finally, why blame the 1-lakh car alone, India's large cities are quite automobile oriented as of now. There is very little walking space for pedestrians and no bicycle paths. As available literature shows, this is not an easy task in developing countries where such users are quite heterogenous in nature. Some are high-income casual walkers and cyclists, whereas others have to depend on such modes for their living.

Because of their nature, some interfere with the rush hour of the motorised traffic, but others do not. In either case, unless cities make allowance for such pedestrian spaces, senior citizens, and the vulnerable are left out of the benefits of urbanisation. To enable their integration into these benefits, cities need to plan for walking space for pedestrians and bicycle paths, as part of their city development plans (CDPs). While CDPs are now required under the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) as part of the broader vision for cities, city planners need to plan for more pedestrian-friendly policies, so commuters might be tempted to walk more and use vehicles sparingly.

All this means that much more needs to be done to step up public expenditure and improve public services, such as roads, public transport, specifically making it more affordable, convenient, safe, frequent, along with designing other spatial policies, rather than blame an entrepreneur who has tried to make the car more affordable, and our lives a little easier.

– Fellow, National Institute of Public Finance and Policy (NIPFP). The article appeared in The Economic Times, January 23, 2008.

Exaggerated Difficulties

– Sukumar Mukhopadhyay

Going by the data in the World Bank's 'Doing Business 2008', India's a very tough place to do business. India is ranked 111th, for instance, when it comes to starting a business; 165th when it comes to the ease of paying taxes, 112th for registering property, 79th for trading across borders, 36th in terms of getting credit, 134th for getting licences, 177th when it comes to enforcing contracts, and so on. That is, India's not much better than sub-Saharan Africa and Afghanistan. India's rank is 120th and countries like Zambia, the Kyrgyz Republic and Kazakhstan have higher ratings.

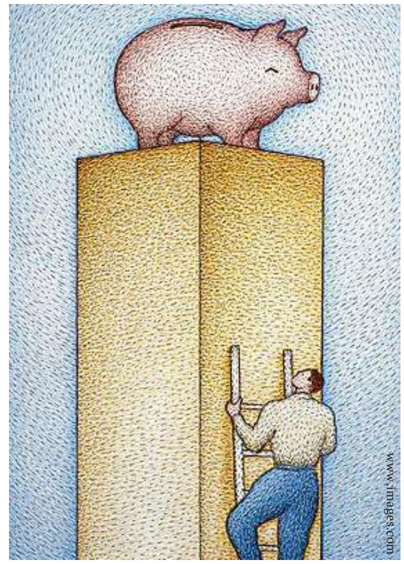
While the data collection effort is impressive, it loses sight of several important factors. Some of these have been listed below:

- Almost all the problems such as buying land or registering a property being talked of are really entry-point problems – they do not continue to pose problems for doing business over a period of time. An MNC, on entering India, registers the land only once, gets its line of credit and banking relationship at the very start, applies for licenses, and so on … this does not have to be repeated time and again. And while it is true that the tariff has 500 exemptions (this is one of the reasons for the tax score being so poor), most MNC manufacturers have just one or two lines of products, and so they are concerned with only these exemptions. It does not mater to them that the tariff has 39 exemptions in the chemicals chapter or 66 exemptions on the agricultural side or 25 exemptions for small-scale units.

- While discussing tax reforms and comparing India with other countries, what really matters to an MNC is the particular rate of duty for its product and a particular exemption which is settled right in the beginning when it starts business. When Hyundai came to India in the early 1990s, the finance ministry provided a clarification on an exemption which the company was supposed to avail of – once this was done, Hyundai continued to pay the same rate of duty for the lakhs of cars it manufactured by importing parts from abroad. How is Hyundai concerned about the multiple rates of duty in multiple chapters of the tariff book? In any case, a licence is hardly necessary these days since practically everything is under Open General License (OGL).

- When it comes to labour laws, the report's perception is that one cannot hire and fire in India – since the US has hire-and-fire, it is ranked the top on this list. Indeed, the problem is one of attrition. At the slightest hint, highly-trained employees just give up their jobs and get something better. The analysis in the report holds true for brick and mortar industries like jute and cement whereas MNCs are in sophisticated business such as Information Technology, banking, manufacturing consumer goods for conspicuous consumption such as TVs, air conditioners, music systems, telecommunications, and so on.

- Highly-trained engineers at a low cost are available in India. India has got a store house of highly-trained English-speaking engineers, financial experts and technically qualified people who are many times cheaper than equally qualified workers in the US or Europe. That is the reason why MNCs are coming to India and even to China. Well-trained technical people are obviously not available in Kyrgyzstan or Afghanistan or sub-Saharan Africa.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- India offers a huge market. So, while it may be true that it's easier to set up business in Singapore or New Zealand, MNCs can't get as big a market there. The so-called entry point problems are really a small part of 'doing business in a country'.

- Special and favoured treatment to foreign investment in India. Each state in the country goes out of the way to give special treatment to foreign investment. Chief ministers are looking to meet foreign investors these days, The Advance Ruling Authority for direct and indirect taxes gives foreigners a binding decision on tax liabilities though the same is not available to Indians. So MNCs are in a far better position when it comes to doing business in India as compared to Indians.

In any case, there are few instances I can recall of companies coming to India and then going back because of the so-called difficulties. It is surprising that countries like Azerbaijan, Kyrgyzstan and even West Bank and Gaza which have no security at all have been placed higher than India in the ranking on the ease of doing business. Reports such as this one which get good coverage in the media just serve to do damage to India. Surely this is not the intention of chambers of commerce that sponsor such studies?

– Former Member, Central Board of Excise & Customs. The article appeared in The Business Standard, January 06, 2008.

ReguLetter

The January-March issue of the CUTS C-CIER newsletter ReguLetter encapsulates the "Dealing with Abusive Monopolies" in its cover story (extracted from the INCSOC Briefing, 'Consumers Demand Action Against Abusive Monopolies). It presents the consumer's view to curb dominance of firms and suggests future approaches for a more equitable market place.

The lead story is followed by regular sections focusing on news, views and policies related to corporate restructuring, regulations of utilities and finances, corporate governance etc. of different countries in particular, the developing nations. Besides, annual roundup of competition laws, mergers & acquisitions, corporate issues etc. is another highlight of the edition.

A special article by Heather Irvine highlights the need for companies trading in South Africa to maintain an effective competition law compliance programme which educates employees about the Competition Act.

About a Competition Law dwells on the competition scenario in Vietnam, the institutions of competition law in the country and the scope of improvement in the law.

This newsletter can be accessed at:
http://www.cuts-international.org/pdf/reguletter1-08.pdf

CIRCular

CIRCular a quarterly newsletter of CUTS Institute for Regulation and Competition (CIRC), carries a brief analysis on the Competition, Regulation and Development Research Forum (CDRF) project. The first research cycle has been over and the second research cycle would be organised on the theme of 'Institutional Issues covering Political Economy and Governance Constraints in Implementing Competition and Regulatory Regimes in the Developing World' and will delve into the institutional issues and problems related to the constraints discussed, catalogued and analysed in the first cycle and also seek solutions to the highlighted problems.

Special article by VV Singh entitled, 'Competition Regime and Quality of Regulation in India' Stresses upon the good quality regulation which not only leads to better economic and social outcomes but promotes the credibility of the regulatory agency and the trust of economic agents in it. The section 'News & Views' carries glimpses of the events and activities of CIRC during the period.

This newsletter can be accessed at:
http://www.circ.in/pdf/circular10_jan-mar08.pdf

Forum

Will you be kind enough to send print copies of Reguletter, policy briefs etc. for use in our small but most sort after library. The publication entitled "Competition and Regulation in India 2007"edited by Pradeepji is most sought after by all activists. All are delighted to go through its contents frequently.

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SOURCES

ET: The Economic Times, **BS:** Business Standard, **TH:** The Hindu, **BL:** Business Line, **FE:** The Financial Express, **HT:** Hindustan Times, **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.