PolicyWatch

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

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INSIDE THIS ISSUE

HIGHLIGHTS

"The reformer has enemies in all those who profit by the old order and only lukewarm defenders in all those who would profit by the new." **Machiavelli** in *The Prince*

Status of 'Right to Information' in India

Over the last two decades there has been a steady increase in public demand all over the world for legislation stressing on transparency, openness and accountability in governance. This demand is based on the rationale that official proceedings be not kept secret from the very people served by these. This demand was vindicated — by 2006, around 68 nations had responded positively through legislative action.

This piece of legislation is variously termed as 'freedom of information', 'right to information', 'information access' legislation or even 'sunshine laws' and 'open records'. First introduced in Sweden in 1766 it gradually spread to other parts of the developed world. Within the developing world Colombia introduced it in 1988 and other Latin American and Asian countries followed suit.

In the Indian context, this right is known as the 'right to information (RTI)' and refers to the right of every Indian citizen to access information under the control of public authorities. It allows citizens to inspect works, documents and records; take notes and certified samples of material; and obtain information in the form of printouts, diskettes, floppies, tapes and video cassettes or in any other electronic mode. The RTI lists out penalties for unresponsive behaviour on the part of public authorities. Another important feature of this Act is the provision for Information Commissions – independent high level bodies at both the central and state levels entrusted with the task of creating awareness among the unaware public about the importance of this Act in their lives as well as enforcing the right.

The RTI Act currently in force, however, suffers from a number of disadvantages: First, not only is the definition of 'public authority' unclear, specialised bodies or staff for identifying these have also not been listed. Thus, the common man with a valid complaint often does not file it. Second, the mandatory time limit of 30 days for providing information is a matter of concern as requests for information might vary in nature and demand imposed on the responding authority. Public Information Officers (PIOs), being dependent upon many other officials for gathering information, might not be able to cater to requests within these rigid time limits. Fourth, some citizens well versed in the provisions of this Act tend to file frivolous applications for monetary gains. Fifth, there is a need to impose differential fees, given that the time and expenditure involved in responses might vary widely across requests.

In other words, though this Act does bolster the democratic foundations of governance in India the text as well as implementation needs a lot of fine tuning. The glass looks better though when it is viewed as half full rather than half empty. Such a positive outlook also facilitates appropriate and quick adjustments.

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COMMUNICATION

A New Spectrum Policy

The Communication Ministry said the government was working on a new spectrum allocation policy. The current policy of allotting spectrum to operators has led to fragmentation.

Is my voice still breaking?

Indian operators have been given very little spectrum, compared to telecom companies in other countries. Spectrum is the radio frequencies on which all mobile communication signals travel.

Indian operators do not provide high-end offerings such as high-speed internet, video conferencing and interactive gaming on mobiles as they have not been allotted third generation (3G) spectrum.

(ET, 20.01.09)

Tata: Pan-India GSM Service

Tata Teleservices Ltd. (TTSL) is gearing up to launch its pan-India GSM service. The company made a strategic move by merging its passive infrastructure business (mainly towers) with tower company Quippo Telecom to create a strong telecom infrastructure company.

The merger with Quippo Telecom will create a Rs 13,000-crore entity with 18,000 towers, making it the second-largest firm, in terms of number of towers, across India.

As per the new arrangement, Quippo Telecom will hold 49 percent in the new entity, while Tata Teleservices would hold the balance in Wireless-TT Info-Services Ltd (WTTIL). However, Quippo Telecom will control the management.

(ET, 06.01.09)

Call Drops: Telcos Slammed

The Telecom Regulatory Authority of India (TRAI) has slammed mobile phone operators for not taking measures to address the issue of frequent call drops being experienced by cellular users across the country.

In a letter to all the mobile phone companies, the telecom regulator has expressed concern that the call drops were not just causing inconvenience to consumers but also leading to monetary losses to the subscribers.

The regulator has asked the operators to submit a detailed plan of action to improve voice quality.

(BL, 04.02.09)

Mobile Access Facilitates Growth

Making a strong case for increasing the mobile penetration, especially in the rural areas, a study by the Indian Council for Research on International Economic Relations (ICRIER) has found that mobile penetration facilitates economic growth.

The ICRIER report, which is a part of the series of studies on the socio-economic impact of mobile phones (SIM), demonstrates that mobiles aid the process by which disadvantaged groups, including the low-skilled labour force, enjoy the fruits of economic growth.

The study reveals that Indian states with 10 percent higher mobile penetration would enjoy an annual average growth rate 1.2 percent higher than those with lower teledensity. *(FE, 19.01.09)*

Consumers to Choose Operator

Consumers will soon get the freedom to choose their long distance telephone operator. The Department of Telecom (DoT) has decided to allow long distance players to sell calling cards directly to telephone users.

It has, however, not given its approval to a proposal to permit unrestricted Internet telephony and has referred it back to the telecom regulator. Once the calling cards are introduced in the market, subscribers can buy one from a retail outlet just like they buy a pre-paid mobile card.

The card will have a 16-digit coded number, which the subscriber, will have to punch it on his mobile or fixed line telephone. This will take the subscriber directly to the operator's long distance network from where the STD or ISD call can be made.

(BL, 02.02.09)

India Warned to Boost Internet

India, one of the fastest-growing mobile telephone markets in the world, is in danger of being left behind by other emerging markets, unless it takes urgent steps to boost its access to the internet, research sponsored by Vodafone, the UK telecoms company, has shown.

The research on the effect of mobile phones on the Indian economy comes ahead of an auction for third-generation (3G) spectrum and broadband wireless airwaves, originally scheduled for January 2009. The auction now faces delays over a change in its reserve price.

(FT, 20.01.09)

Mobile No. Portability by August

Union Communications and IT Minister A Raja said the DoT was planning to start mobile number portability (MNP) in major cities of the country by August 2009, and in the remaining cities by the end of 2009. Bids had already been invited for providing the MNP switches.

The minister said that the faster penetration of 3G would enable people to use the services with greater accessibility. *Bharat Sanchar Nigam Ltd.* (BSNL) currently had about 43 million mobile 2G connections, even as it was rolling out 24 million 2G lines and 5 million 3G lines.

He added that the country's teledensity had increased from 12.74 percent in 2006 to 34 percent in January 2009, showing a stupendous annual growth of about 50 percent. He said the government was aiming at 700 million telephone connections by 2012. *(BS, 23.02.09)*

TRANSPORT

SpiceJet, GoAir in Talks

Delhi-based low-cost carrier SpiceJet is in talks with the Wadia group-owned GoAir for either a merger or to acquire a controlling stake. Sources from both companies also said that SpiceJet recently made an offer to GoAir Chief Financial Officer G P Gupta to join the Delhi-based airline as chief administrative officer.

Apart from Delhi and Mumbai, GoAir currently flies to smaller towns like Goa, Jammu, Srinagar, Jaipur, Ahmedabad and Kochi. Industry experts said another advantage of a merger would be the fact that GoAir was looking at increasing its fleet to 20 aircraft by 2011, from five at present. SpiceJet has a market share of 11.8 and GoAir 2.4 percent. *(BS, 08.03.09)*

Delay-hit Railway Projects

Delay in implementation of infrastructure projects has cost the Indian Railways dearly with original cost of rail projects almost doubling in the delay period.

According to a report on central sector projects compiled by the Ministry of Statistics and Programme Implementation, Indian Railways' total project cost over-run shot up 93 percent to Rs 72,728.67 crore as in August 2008.

The delay in execution and completion of several railway projects range from a few months to as many as six years. *(ET, 17.01.09)*

DIAL to Impose ADF

In a major concession to the Bangalore-based GMR-led consortium Delhi International Airport Ltd (DIAL) that is operating and upgrading Delhi airport, the government has allowed it to impose airport development fees (ADF) on passengers that will help them raise up to Rs 1,827 crore over three years.

The move also means that the government has forfeited its share of revenue since DIAL has been allowed to levy ADF and not User Development Fees (UDF). Delhi Airport becomes the only airport in the country to be allowed ADF.

(BS, 09.02.09)

Transparent Air Ticket Pricing

In an effort to bring about greater transparency in domestic air ticket pricing, the government is to soon make it mandatory for airlines to show components as airfares and charges separately.

The Directorate-General of Civil Aviation will soon issue a circular to make it mandatory for airlines to show all the components separately not only on their advertisements but also their Websites.

The need for the circular is being felt as some airlines advertise tickets being available for free or Re 1. The passenger booking these tickets actually has to pay more as the taxes are not shown as part of the fare.

(BL, 23.03.09)

Caveat Emptor

Telecom Dispute Settlement and Appellate Tribunal (TDSAT) Chairman Justice Arun Kumar, who was flying back from Pune to Delhi, discovered the hard way that even bitter competition may not improve attitudes to customers.

His office had booked a business class seat on a Jet Airways flight but when he presented the ticket, he was told there were no business class seats on the flight. A long argument followed, but the Jet attendant was adamant – Justice Kumar would have to buy another ticket in order to fly economy.

Finally, however, he relented and endorsed the business class ticket, sparing Justice Kumar the need to buy an economy ticket. While applying for a refund of the difference between the cost of the two tickets from Jet's Delhi office, the TDSAT chief has lodged a complaint with the civil aviation ministry. *(BS, 22.01.09)*

NHAI to Fund Road Developers

In a bid to prevent work on road projects from coming to a halt, the government is considering a proposal to allow the National Highways Authority of India (NHAI) to extend working capital loans to developers.

The roads secretary and NHAI officials discussed the possibility of such a move with road developers. According to developers, the move may help them tide over the tight credit situation they face for projects undertaken by them under the National Highways Development Programme (NHDP).

Under the proposed model, NHAI will provide credit at a rate equivalent to the prime lending rate (PLR) of the State Bank of India plus one percent.

(IE, 11.03.09)

OIL & GAS

ADB Questions Oil Price Cut

The Asian Development Bank (ADB) has questioned the rationale behind the recent cut in petroleum prices by India, even as there may be another round of reduction in fuel rates shortly.

In India, retail gasoline prices were reduced by about 10 percent (Rs 5 a litre) and diesel prices by about 6 percent (Rs 2 a litre) on December 05, even though under-recovery by the oil companies in 2008-09 is estimated at some US$25bn.

(http://in.biz.yahoo.com, 15.01.09)

Rating of Fuel Economy of Cars

A new law requiring auto makers to get green ratings which will measure the energy efficiency of the cars they produce is planned by the 2009-end, But car companies are sceptical of the planned move, arguing that accurate quantification will not be possible because driving conditions vary from place to place.

The move is aimed at encouraging the production of vehicles with better fuel economy and allowing greater choice to buyers. A a representative of an auto company observed that the government should first focus on improving infrastructure so that congestion levels come down and traffic conditions get better. *(ET, 10.02.09)*

7-yr Tax Holiday for Gas Cos.

Petroleum Minister Murli Deora said that the government is working on granting tax incentives for companies on production of natural gas from oil blocks awarded to them.

The Petroleum Ministry is trying to get a seven-year tax holiday on gas production from oil blocks that would be awarded to bidding firms under the soon-to-be-commenced New Exploration Licensing Policy (NELP)-VIII.

Under the NELP Policy, potential bidders for oil blocks have been assured of a seven-year tax holiday on crude oil from the beginning of commercial production. Income-tax authorities have not allowed the same relief on gas production due to the lack of specific inclusion of the term natural gas in the Income-Tax Act.

(FE, 01.02.09)

Deregulating Retail Fuel Prices

With international crude prices remaining low, the government might consider deregulating the retail fuel prices to boost competition between the public and private sector oil companies.

The private sector oil companies, which closed down a majority of their retail stations in 2008 due to skyrocketing crude prices, had been asking the government to free the retail fuel prices to provide a level-playing field *vis-à-vis* its public sector competitors. *(TH, 16.01.09)*

ONGC Oppose Discount on Crude

Having drawn flak in the wake of the Satyam scam, part-time directors appear to be taking their jobs seriously, particularly in the public sector.

Oil and Natural Gas Corporation's (ONGC) independent directors have questioned the discount on crude – given to state-run refiners under government orders – saying this is against the interest of shareholders, especially those with small holdings.

ONGC has been giving discount to cover one-third of the losses state-run oil marketers were suffering for selling fuels at government-capped rates even during oil's high run.

(ToI, 19.02.09)

Fertiliser to Switch to Natural Gas

National Fertilisers Ltd (NFL) and Gujarat Narmada Valley Fertilisers Company (GNFC) will benefit hugely from the Centre's new policy providing for a 'special fixed cost' reimbursement to enable conversion of their existing urea plants running on furnace oil into gas-based units.

The two listed state-owned companies plan to invest around Rs 4,800 crore over the next three years to change the feedstock of their four plants – NFL's Bhatinda, Nangal and Panipat and GNFC's Bharuch – from furnace oil to natural gas.

Apart from the energy efficiency savings mop-up, plants will also be entitled to a portion of the feedstock cost savings that was supposed to accrue solely to the Centre.

(BL, 12.02.09)

POWER

Incentives to Power Companies

The Central Electricity Regulatory Commission (CERC) announced incentives including higher rate of return on equity (15.5 percent) to power generation and transmission companies to invite greater investment in power infrastructure in the next five years.

CERC Chairman Pramod Deo said this would help power generating and transmission companies get higher profitability, thus attracting increased private investment. To give incentives on timely completion of projects, an additional return on equity of 0.50 percent would be made available to the projects, which are commissioned within the given time-lines.

CERC has done away with advance against depreciation, a development that may not go in favour of the power companies.

(TH, 21.01.09)

Power Capacity May Fall

The capacity addition in power during the Eleventh Plan (2007-12) could fall short by about 8,000 MW against the targeted 78,700 MW.

The targeted capacity addition of 40,000 MW in the Tenth Plan fell short by 20,000 MW. Capacity shortage, on the power front, has been there for years.

In 2003, the Electricity Act enabled the private sector to set up plants and sell power, but not much progress was made as transmission posed a major hurdle. *(BL, 13.02.09)*

Cos. Can Sue Power Suppliers

The Supreme Court has ruled that companies engaged in commercial activities can drag their electricity supplier to a consumer forum and seek damages for deficiency in services.

A bench of Justice Markandey Katju and Justice RM Lodha rejected a plea of Karnataka Power Transmission Corporation in which it had said a company using electricity for commercial purpose cannot approach a consumer forum against the utility.

The sale of power to a commercial consumer for a commercial purpose was outside the scope of the Consumer Protection Act, 1986, the state utility had argued. *(ET, 11.02.09)*

Govt. May Limit UMPP Number

The government may revive a proposal limiting the number of Ultra Mega Power Projects (UMPPs) awarded per developer.

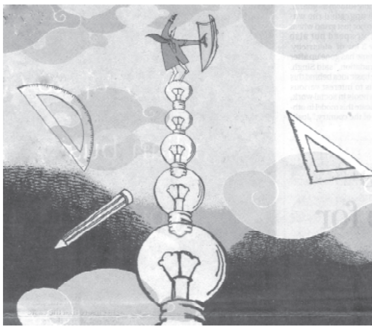
"We need to give a thought to the desirability and the feasibility to limit the number of UMPPs per bidder", said Jairam Ramesh, Minister of State for Commerce and Power.

UMPPs are the centre-piece of the government's attempts to add over 50,000 MW of power generation capacity through 13 such ultra mega projects that will come up through competitive bidding by private power developers. Much of this is expected to come up over the XIIth Plan starting 2012. *(BS, 01.02.09)*

India One Grid by 2012

Asserting that intra-regional transmission of power would resolve the power woes of power deficit States, the Central government announced that 'India One Grid' will become a reality by 2012 with the completion of the 765 kV Raichur-Sholapur link.

The government also said it would invest Rs 200 crore for setting up world's first online high-power equipment testing facility in the Western part of the country.



Business Standard

State Public Sector Undertakings (PSUs) – Damodar Valley Corporation, National Thermal Power Corporation (NTPC), National Hydro-electric Power Corporation and Power Grid Corporation of India – will form a special purpose vehicle (SPV) for this facility. *(TH, 30.01.09)*

MIXED BAG

Farmers Deprived of Low Interest

A large section of small farmers are not benefiting at all from the downward interest rate movement. Agricultural co-operative banks and regional rural banks, which are more active in deeper pockets of the rural economy, are forced to continue with the high interest rates, while offering investment credit for agriculture development and allied activities.

These two categories of banks are slated to channel investment credit to the tune of Rs 12,000 crore between them in 2008-09 and offer agriculture investment credit at an interest rate band of 11-13 percent a year.

(ET, 09.02.09)

Watchdog for Geospatial

With the increasing demand for geospatial data by the private industry, there is a need to have an independent regulator for geospatial affairs on the lines of insurance, telecommunications and the stock market.

The government is planning to set up a National Geospatial Data Authority, which would provide a level playing field to both government and non-government players.

In the process, the Centre is also considering bringing in a National Geospatial Data Authority Bill, to enable the creation of an ecosystem, to proliferate the applications of geospatial technologies.

(FE, 10.02.08)

Investor Grievances Redressal

Capital market investors will heave a sigh of relief if the Securities and Exchange Board of India's (SEBI) move to appoint ombudsmen for addressing their grievances comes through.

The ombudsman will be like a one-man court that will investigate and settle investor complaints. Appointing ombudsmen would be a significant move towards protecting investors' interest as the proposed authority will have powers to deal with complaints against all kinds of intermediaries and even listed companies.

Investors can approach the ombudsman only after they have tried to sort out their complaints with the intermediaries or listed companies directly but are not satisfied or their complaints have been rejected.

(BS, 22.02.09)

One Country, One Bank Account

While banking with several banks, keeping track of all the accounts can prove to be cumbersome. Life would be easy if a single account number gives you access to all banks.

Well, the Indian Banks' Association, at the behest of the Government, is examining the feasibility of a 'One Country, One Bank Account' proposal, whereby a single bank account is all that an individual would need to transact business at any bank in the country.

If the 'One Country, One Bank Account' proposal, currently on the drawing board stage, becomes a reality, it could revolutionise the way banking transactions are carried out in India. From 'Any Branch Banking' services being currently offered by individual banks, the Indian banking system would be graduating to 'Any Bank Branch Banking'. *(BL, 06.01.09)*

RBI's *Status Quo* on Rates

The Reserve Bank of India (RBI) did not lower any of its key interest rates, but bankers and economists are agreed that some easing soon is inevitable.

Elaborating on the third-quarter review of the monetary policy for the year, the Governor, D Subbarao, said India would grow at best by only seven percent in 2008-09, ending five years of 8.8 percent growth.

He said inflation, as measured by the wholesale price index, would fall to three percent by the end of March 2009 and that the global downturn would not be corrected before the end of 2009. *(FE, 28.01.09)*

ICWAI: Regulator for Auditing

The government should set up a regulatory body to supervise auditing and accounting practices, according to the Institute of Costs and Works Accountants of India (ICWAI).

An 'Accounting Oversight Board' should be formed, as a regulator, with powers to verify and take action on malpractices, if found, Kunal Banerjee, President, ICWAI, said.

A second audit, as proposed by the SEBI should adopt a different approach, by checking the efficiencies, costs and other activities, he said. *(BL, 07.02.09)*

SC: Address Water Crisis

The Supreme Court has directed the Centre to explore cheaper methods to solve the water crisis by undertaking scientific research on a war-footing.

The help and advice of foreign experts and/or Indian scientists settled abroad may also be taken, since the solution will help not only India but also foreign countries which are facing the same problem, some of which may already have progressed significantly in this area.

One of the main reasons for the acute shortage in the country was that most of the water conservation bodies were filled up in recent times by some greedy persons. *(TH, 29.03.09)*

Lights out

Yoginder K Alagh*

The power sector has done poorly in recent times. The regulatory apparatus needs an overhaul

Power tariff norms for the next quinquenium have been declared, and this puts a welcome end to the uncertainty surrounding a critical factor in infrastructure investment. But on closer reading, this declaration does not reflect too well on the ability of Indian policy making to signal incentives for efficiency, whether by encouraging sustainable growth in a nonrenewable resource sector or by giving a fillip to a sector that needs special stimulus in a slow growth period. Five years from now, this declaration will probably be as adversely commented upon as the 90s policy.

A 15.5 percent guaranteed rate of return on equity and a 0.5 percent incentive, this is going back to individual firm level pricing. This is a failed policy, even according to its architect, the then Finance Minister of India. It encourages inefficiency and corruption, specifically by keeping the link between the fixer and the one being fixed. The solution actually lies in rule-based systems devoid of such links. Fortunately, the availability tariff for grid transmission is still on. Even this was opposed by the parastatals and private power traders, but it had too long a history to be jettisoned.

On the power generation front, India's only professional power regulator SL Rao had released a very good Discussion Paper for power pricing, in his capacity as Chairman, CERC. Rao had argued for long-range marginal cost pricing for the sector. Some argue that this method incentivises expensive power, but they are quite wrong. The method not only takes into account the cost of green field projects based on competitive bidding, but also addresses the possibilities of expansion and modernisation.

The greatest advantage that this model offers is that all the benefits of efficiency accrue to the producer. This, in turn, gives powerful signals to modernisation, encouraging producers to save on costs by completing projects early and efficiently. From the perspective of the broader economy, this leads to large savings and replaces individual price fixing with a rule-based system. The government somehow finds it impossible to push the reform process via rule-based systems.

The performance of the electricity sector has been abysmal. Thermal capacity, which grew by 160.23 percent in the decade 1980-91, only went up by 60.70 percent in the next decade of reforms. The situation in the first half of this decade was worse. Sure a lot of claims are being made on behalf of recent policy initiatives, a very general habit since 1991. But most large projects are in serious trouble as far as financial closure is concerned, with the Tata Mundhra initiative being a notable exception.

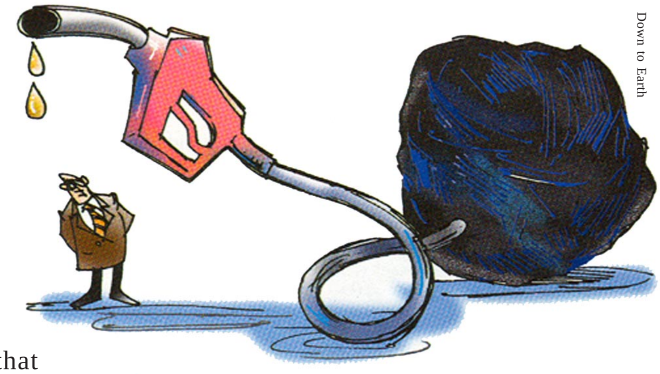
Actually, the entire regulatory edifice is in tatters. Rao has recently produced a paper for The Energy and Resources Institute (TERI), in which he provides plenty of evidence to show that almost all the regulators are retired civil servants, defying the original intent of the legislation placed before Parliament in 1996 to avoid this. The legislation required the setting up of a transparent mechanism for selecting professionally qualified persons, but it was later amended. The selection processes now are witness to many unseemly wrangles.

As Rao says, "Search, selection and appointment of regulators have so far been left largely to government servants and have resulted in filling most appointments with former government servants. The relative lack of commercial and enterprise expertise is unfortunate since there is no understanding on what state electricity enterprises must do to develop such cultures. Members invariably are appointed at an age when they are nearing retirement or have retired". Who will guard the guards?

* *Former Union Minister. The article appeared in the Financial Express, February 03, 2009.*

Deregulate Oil

Vikram S Mehta*



Government policy must encourage competition in the petroleum sector

The government should take advantage of the respite in oil prices and establish a transparent, predictable and durable mechanism for setting petroleum product prices. The fact that they have not done so yet may be because of politics but also perhaps because of a fundamental ambivalence towards competition in the petroleum sector. Certainly the twists and turns in pricing policy over the past several years have suggested that the government is not unequivocally supportive of the involvement of the private sector. Their policies have effectively emasculated competition. The purpose of this article is to urge the government to clear this ambivalence.

The generally accepted wisdom is that competition is desirable and that market forces foster innovation and efficiency. Competition is vulnerable to being undermined through collusion and cartelisation.

The central issue is not therefore whether there should be competition or not. Is it the substantive intent of policy? What does the government really want? Does it want private sector involvement and if so across the entire value chain from exploration and production to refining and marketing; or only in selective segments or does it wish to return to the command and control dirigsme of earlier years? Today there is too great a gap between rhetoric and reality.

The government's policy on competition was defined by the gazette notification of April 2002. The notification stated that the petroleum sector should be deregulated; that the administered price mechanism should be replaced by market-based pricing, and that private sector companies should be encouraged to invest across the entire value chain. There were conditions attached but the underlying message was clear. All companies – whether public or private – that met these condition would operate on the same playing field.

The notification has not been overridden by further cabinet decisions. It continues to define the current *de jure* policy. The *de facto* reality is, of course, very different. The government has reintroduced administered pricing of petrol and diesel and has not removed the subsidies on LPG and kerosene. This in itself does not skewer competition. All players can still be treated equally even under the current circumstances of re-regulation. Competition gets circumscribed when the rules of the game favour one group over another. This unfortunately is the case today.

The government has 'used' re-regulation to tilt the playing field towards the public sector. Thus for instance, the government companies are granted oil bonds to compensate them for the losses that they incur on account of the differential between the 'administered' selling price of products and the international cost of procuring the crude. The private sector does not receive any such compensation. The consequence has been the almost total retreat of the private sector from the oil products market.

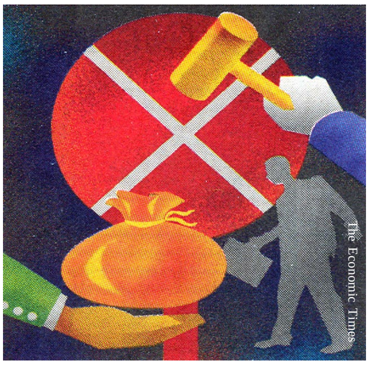
The price of international oil has currently slipped into our comfort zone. It is not, however, likely to remain there indefinitely. Anyone with a historical bent knows that the oil industry is cyclical and that prices will slip out again. No one knows when this might happen; nor at what pace. But everyone must realise that when it does happen, the government should not confront the same financial conundrum that it faced over the past several years. The hard truth is that if the government does not have a well-defined and clear policy for product pricing the next time oil prices starts to rise but instead responds in the *ad hoc* fashion that it has so far shown, the damage to the entire industry will be irremediable.

A clear policy mechanism cannot be derived unless the decision makers clarify their thoughts on the nature and extent of desirable competition. A related but equally important outcome of clarity would be to remove jurisdictional ambiguities surrounding the role of the petroleum regulators. Today there are two regulators—one for the upstream and the other for the downstream. Their roles and responsibilities have been explicitly set out but despite that there is still considerable 'noise' and tension between the ministry and the regulators. One gets the impression that whilst the government has appointed these regulators to foster competition, it remains reluctant to give them the tools and substantive freedom to secure that objective.

* *Chairman of the Shell Group of Companies in India. Abridged from an article that appeared in the Financial Express, February 03, 2009.*

No Bailout for Private Cos.

Post-Satyam, the government has prepared an unwritten rule that it will not bail out a private company in a competitive market place, with the sole exception of banks. This means that even if a company collapses due to sheer economic reasons and not for any fraud, the government will not extend a bailout package.



Montek Singh Ahluwalia, Deputy Chairman, Planning Commission gave reasons why a private company, other than a bank, would not be qualified to get a bailout with taxpayers' money. Bailouts in the case of banks are not uncommon, but the circumstances are very different.

These are regulated institutions, which take deposits from the public. All these factors justify government interventions. A private company, competing in a competitive market cannot be treated on the same plank as banks.

(ET, 25.01.09)

A Special Package for Textiles

A special package of Rs 325 crore for the employment-intensive leather and textiles export sector, fast settlement of duty credit scrip's for duty paid in export production and extension of such scrip's for import of even restricted items after payment of duty are the key features of the trade facilitation measures the UPA government unveiled.

The procedural simplifications would help prune high transaction costs to trade and industry. Special package for the twin sectors would be given for exports to be undertaken from April 01, 2009.

To boost agricultural and rural exports, a re-credit of four percent special additional duty, in case of payment of duty by incentive scheme scrip's such as *Vishesh Krishi and Gram Udyog Yojana*, Focus Product and Market Scheme would now be allowed. *(BL, 26.02.09)*

FDI Policy in Major Overhaul

Broad consensus is emerging on a proposal seeking comprehensive changes in the foreign direct investment (FDI) policy. This includes scrapping automatic approval in sectors that have FDI limits and in which ownership or control is shifting to a foreign company and a new definition for calculating indirect foreign equity.

The contours of the proposal were discussed after the Department of Industrial Policy and Promotion, under the Commerce Ministry, submitted a revised proposal incorporating concerns expressed by the Ministries of Telecom, Home and Information and Broadcasting. *(BS, 05.02.09)*

Business Warns on Loss of Jobs

India's labour-intensive export industries could see the loss of up to 10 million jobs over the next three months, as many struggling companies shut shop, amid plunging global demand and competition from other Asian rivals.

Ajay Sahai, Director-General of the Federation of Indian Export Organisations (FIEO), said industries such as textiles, gems and jewellery, handicrafts and low-end engineering products were reeling from lack of orders.

The FIE is appealing for government help, including a debt moratorium on repayment of term loans, an increase in the rebate paid to exporters against import tariffs paid on raw materials, and a tax exemption on profits from exporters. *(FT, 06.01.09)*

Govt to Deregulate SSI Sector

State governments should deregulate the small scale industries (SSI) as it remain under the grip of *inspector raj*, which causes maximum harassment to the entrepreneurs.

The SSI sector, which goes through inspections from excise, customs, banks, insurance, PF and record inspectors 16 years ago, is now subjected to many other inspections which include one separate inspector to monitor their register of employees, accounts, balance sheet and on taxation fronts particularly the service tax inspector.

Likewise, many more areas were added in which the sector is subjected to tedious inspections. There are about 13 million small enterprises providing employment to over 40 million people. *(BL, 09.01.09)*

India's GDP to Slowdown in 2009

The International Monetary Fund (IMF) projects India's economy to slow down to 6.25 percent gross domestic product (GDP) growth this fiscal and further to 5.25 percent in 2009-10, reflecting the 'deteriorating' global outlook.

This is lower close to one percentage point from the civil society organisations (CSOs) advanced estimates of real GDP growth at 7.1 percent for the current fiscal. This slowdown comes after India clocked an average growth of 8.75 percent in the past five years.

India should use the limited available fiscal space only for high-quality infrastructure and poverty-related spending and for bank recapitalisation if needed, the Fund said, adding that the general government deficit, covering the State's and Centre's deficit, is forecast to rise to nearly 10 percent of GDP.

(BL, 18.03.09)

UP to Privatise Sugar Mills

Uttar Pradesh, the second largest sugar producer in the country, is planning to privatise or completely sell-off 33 state-owned sugar mills in an effort to reduce the burden of the loss-making units.

VP Dube, Managing Director of UP State Sugar Cooperation Ltd, said that the previous attempt to sell-off the state-owned mills in 2008 was unsuccessful as the bids received were lower than the reserve price.

The corporation is in the process of appointing an advisory firm, which will suggest the route to be taken for disinvestment of the mills. Once the sale or privatisation process is completed the new owners would also get the reserve area or the cane growing area surrounding the mills.

(FE, 14.01.09)

Tax, Excise Duty Reduced

The government announced a reduction of two percentage points in the rates of excise duty and service tax, bringing relief to industry and *aam aadmi* in an atmosphere of economic slowdown.

The Central excise duty stands reduced from 10 to 8 percent while the service tax has been brought down from 12 to 10 percent. The rate of excise duty on goods attracting *ad valorem* rates of 8 and 4 percent will remain unchanged.

The rate of excise duty on bulk cement has also been reduced from 10 percent or Rs 290 per tonne to 8 percent or Rs. 230, whichever is higher.

(TH, 26.02.09)

Apply for Global Patents

With applications for patents from within the country growing seven times since 2000, the government is planning a massive modernisation and upgradation of Indian patent offices.

The number of patent applications filed at the four offices — located in Kolkata, Mumbai, Chennai and Delhi — have gone up from 4,824 in 1999-2000 to over 35,000 in 2007-08.

The official said India has witnessed a huge increase in patent applications after it signed the trade-related aspects of intellectual property rights (TRIPs) agreement and amended the patent law of the country in 2005. *(ET, 24.01.09)*

Poor's Share in Carbon Trading

In an effort, perhaps the first of its kind, to include rural poor in the current clean development mechanism, ratified under the United Nations Framework Convention on Climate Change (UNFCCC), the Rural Development Ministry has requested the Ministry of Environment and Forests to develop some "pilots projects" to secure valuable carbon credits.

This means that a significant chunk of more than 21 lakh works, mostly related to water conservation and afforestation, taken up under the UPA government's flag-ship National Rural Employment Guarantee Act (NREGA), would be eligible for carbon credits. *(FE 21.01.09)*

India Challenges NTB's at WTO

As economies around the world are resorting to trade barriers, India has begun the groundwork for challenging the curbs in developed countries at the WTO.

The trade policy division in the commerce ministry is collecting data as to what kind of non-tariff barriers (NTBs) are being created in the major global markets like the US and EU, so that they could be legitimately contested at the global trade regulator WTO.

However, a few trade experts feel that the credibility of challenge from India at the WTO could have been greater had New Delhi not taken steps like the ban on Chinese toys.

(FE, 15.02.09)

India Fares Better

Indian equity indices have fared better than their counterparts in developed countries in the past month. However, they have not done as well as the other Brazil, Russia, India, and China (BRIC) nations, which have logged positive returns in the past month.

"India's domestic growth story is still intact and in that sense India is better placed compared to other world economies", said Dharmesh Mehta, Head of Broking, Enam Securities.

According to analysts, the Indian economy has got a boost in the form of the stimulus packages announced by the government and to some extent oil prices, commodity prices and inflation are under control.

(BL, 27.02.09)

New Industrial Policy on Anvil

To boost private investment and create a more conducive business environment, the Uttar Pradesh government is preparing a new industrial policy for the next five years.

A high-level steering committee in this regard has already been formed under the UP Industrial and Infrastructure Development (IID) commissioner with representation from the industry.

Under the steering committee, different sub working groups have been formed for various sectors such as automobile, medical, and labour. UP is seeking private investment in several spheres such as power, education, medical, tourism, agriculture, infrastructure and transport. *(BS, 19.03.09)*

Fabindia's Stake in Retailer East

Fabindia, an Indian ethnic wear chain, has purchased a 25-percent stake in East, a women's wear retailer in the UK.

The purchase price has not been disclosed. The deal comes with an option wherein Fabindia can acquire the remaining stake in East in three years. Sunil Chainani, Fabindia's Finance Director, will join the board of East.

William Bissell, Managing Director of Fabindia, said, "The synergy between the two is apparent not only in the product but also in the approach and sourcing". *(ET, 07.01.09)*

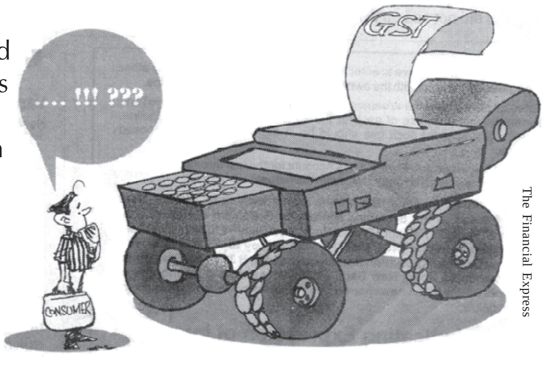
GST Provides Stimulus to Economy

The Goods and Services Tax (GST), proposed to be introduced from April 01, 2010, is likely to provide the requisite stimulus to the economy.

"GST would be the single-biggest measure after the elimination of licensing in 1991. This could provide the requisite stimulus to the economy during the present slowdown," the 13th Finance Commission Chairman, Vijay Kelkar, said.

It is already clear that a well-designed revenue-neutral GST will enhance the revenue buoyancy of the States in coming years.

(FE, 06.02.09)



The Financial Express

Are You Being Served?

Mythili Bhusnurmath*

Are you being served? No, this is not a reference to that long-running British sitcom of the 1970s and 80s, but about something more basic – customer service. That might seem an odd subject to bring up today, when companies, or so they tell us, are struggling with a slowdown in demand

Auto sales are down, durable goods' sales are down, demand for housing is down, airline passenger loads are down, there are hardly any sectors that seem immune. In such a scenario, you would expect it to be a buyers' market. You would think companies would be willing to go that extra mile to keep customers happy, because, as any marketing man worth his salt will tell you, a happy customer is unlikely to talk of his experience. But, an unhappy customer will relate his woes to anyone who will care to listen. And in hard times, when new customers are tough to come by, repeat customers are worth their weight in gold.

What does this mean? It means you would expect companies to pay much greater attention to customer service, especially after-sales service, than ever before. Yet, this is something a few corporates have internalised. Perhaps, it has something to do with the long period of expansion (till the recent slowdown) that saw companies expend all their energies in a mad chase for new customers. Perhaps, it has something to do with the Indian market long being a sellers market, where buyers had no choice, but to lump it.

In such a scenario, after-sales service was just not a priority. And, with the race for additional business becoming the name of the game, companies, typically, outsourced customer service. As far as companies were concerned, it was simply more convenient to focus on procuring new business and outsource after-sales service. In theory, this makes eminent sense. In practice, if customers are not treated well by the service centre, it is bound to boomerang on the company.

Let me illustrate with a recent example from the airline industry. Indigo Airlines is among the better of the low-cost airlines in the country. It prides itself in its customer service, on being on time and never fails to tell those flying with it that it has been voted the best low-cost airline, etc.

Sometime in the middle of November 2008, the airline scrapped its morning flight from Chennai to New Delhi. No intimation was sent by the airline to passengers already booked on that flight for subsequent days. The result? Two passengers who showed up at Chennai airport in time for the flight earlier in January 2009 found, to their dismay, there was no such flight. The ground staff was clueless and denied knowledge of the flight altogether.

After persistent questioning, it transpired the airline's call centre had made a couple of unsuccessful attempts on the contact's cell phone number provided, after which the airline unilaterally put them on a much later flight to Delhi. What was particularly galling was the attitude of the airline staff.

Far from being apologetic, a member of the staff asserted the airline had the right to cancel its flights. Sure! But, did it not also have the responsibility to ensure that those booked on the flight were informed? When asked why no SMS had been sent, the airline staff washed their hands off the matter saying that was the job of the call centre, not the airline!

Indigo is not an exception. Many private sector banks have lost a great deal of goodwill because of the actions of their direct selling agents and recovery agents. Nor are service industries the only ones guilty of such short-'termism'.

Take a straw poll and almost everyone will have a tale to tell of how companies were like April when they went to buy and like December after the purchase was made, if, God forbid, there was a problem requiring after-sales service.

Mobiles and computers are a case in point. These are often sold by franchisees, but the agencies do not want to sully their hands with after-sales service. The net result is, customers are often forced to run from pillar-to-post, if they have a problem.

If companies are serious about tackling the slowdown in demand, this must change. Like banks that securitised assets and parcelled them out to different investors and forgot their original borrowers – with dire consequences – corporates that ignore the principal-agent relationship inherent in outsourcing are making a big mistake. Will the slowdown force them to amend their ways?

* *Editor, Economic Times. The article appeared in the Economic Times, January 25, 2009.*

PPP in the Time of Slowdown

Arvind Mayaram*

Though the current credit crunch is the worst in 'working' memory, India's public-private partnership (PPP) projects still present the most attractive channel for equity investors as well as lenders


The Economic Times

In the recently concluded Infrastructure PPP Days organised by the World Bank Institute and the Asian Development Bank (ADB) Institute, the main theme of discussion was how to combat the adverse impact of financial meltdown on PPP projects.

Globally, there is rapid scaling back of hedge funds, private equity funds are in a wait-and-watch mode and holding back capital, currency devaluation is making foreign debt more expensive, investors are demanding higher returns and private investors are focusing on the largest, developed markets and good policy frameworks.

This is considered the worst credit crunch in "working" memory and has impacted every economic activity. However Infrastructure is still seen as part of the solution by all players, as it is in India.

The profile of infrastructure projects in India is not weak. According to William Streeter – Managing Director, Global Infrastructure & Project Finance-Asia Pacific, FitchRatings – who has rated many new infrastructure project loans in India , the pricing of project risks has varied over time and depends more on the availability of capital and the nature of sponsor-bank relationships than on a broader and more rigorous evaluation of operations.

This aspect has become more acute in the current financial scenario. Whereas domestic banks are still waiting to start lending, foreign funds are difficult to find. Whereas the Finance Ministry relaxed ECB norms recently, even if coupled with allowing IIFCL to raise Rs 30,000 crore through tax-free bonds, this may not be enough to get adequate finance flowing into infrastructure projects.

In the present scenario in India's PPP projects still present the most attractive channel equally for equity investors and lenders. What is required is to convince the investors and the lenders that PPP projects are a great opportunity for them. The two obvious impacts of the meltdown have been (a) liquidity crunch resulting in higher cost of finance and lesser leveraging; and (b) fear of demand downturn.

The increase in the cost of finance and lowering of equity to debt ratios is resulting in delays in financial closure and, in some cases, withdrawal of the developers from the project. Despite this, three factors make PPPs in India a relatively safe investment vehicle.

First, the competitive bidding process is fairly well-established and robust, even though process management by the government can be frustrating at times. This results in efficient 'price discovery', which indicates that project implementation is expected to be completed in time and at least cost. The only rider is that the project must not be overly dependent on real estate development for its revenue streams.

Real estate values are fickle and any downturn in real estate prices can quickly make a very attractive project sub-prime in nature. This can lead to committed lenders backing out and may require re-jigging of user fees and/or greater infusion of equity capital. The effect this would have on project cost would be a risk that the developer has to bear in the short term.

Secondly, the concession agreements in most cases factor in two contingencies that transfer commercial risk largely to the public sector: (a) In case of demand downturn, the number of years of concession gets extended; and (b) even in the event of concessionaire's default, the sponsoring authority (government) undertakes to pay 90 percent of the debt due in the event that the project itself does not take off.

This underpins the project with contingent government guarantees and ensures adequate returns on investment for the investor irrespective of the fluctuation in demand. It also gives the lender the comfort that in the event that the project itself fails — the probability of which is extremely low as infrastructure services that the project promises to provide will still be in demand — the lender shall still receive a significant portion of debt due from the government. This provision is not seen in most of the concession agreements around the world.

Thirdly, Viability Gap Funding scheme subsumes all costs that make a project unviable. The bidder bids for the grant to the project based on his calculation of the gap in project viability. As we have seen, one of the consequences of the financial meltdown is the liquidity crunch leading to higher cost of finance. In PPP projects, the higher cost of finance is also subsumed under the viability gap grant.

** Additional Secretary , Government of India. Abridged from an article that appeared in the Economic Times, January 13, 2009.*

Bribes Move Official Machinery

About 77 percent of bribes demanded by the country's official machinery are sought from citizens seeking delivery of services that they are entitled to. These bribes are demanded for functions as basic as getting a telephone line installed, obtaining customs clearances and ensuring payments for jobs already rendered.

By contrast, such bribes constitute only 54 percent of the inveiglements demanded by officials in India's chief competitor, China. These are the findings of a study conducted by the Business Registry for International Bribery and Extortion (BRIBEline) over 16 months from July 2007-October 2008. BRIBEline is an anonymous online reporting tool that collects data on bribe solicitations. *(FE, 25.01.09)*

Delay in Infrastructure Projects

High interest rates and credit crunch have delayed several infrastructure projects by up to six months, said a survey by the Confederation of Indian Industry (CII).

According to the Infrastructure Outlook Survey, around 85 percent of the respondents have expressed concern over the delay in financial closure of infrastructure projects being implemented by them.

Over 50 percent of the chief executives surveyed said that their projects were getting delayed by up to six months, while nearly 35 percent said the delays were more than six months. They expressed hope that the government would step up its proposed spending on infrastructure by additional 15 percent or more to stimulate the economy. *(BS, 25.01.09)*

India Ranked 75th by Forbes

India has slipped 11 positions to be ranked 75th in a list of world's best countries for business as the country lost ground in areas like trade freedom, technology, corporate tax rate and corruption.

The list, compiled by the US publication Forbes, ranks 127 nations on the basis of business climate in a country for entrepreneurs, investors and workers. The report said that India declined on the rankings on four metrics – trade freedom, technology, corporate tax rate and corruption.

In terms of trade freedom, India was ranked among the lowest at 125th position, while it was down to 118th on corporate tax rate front. In technology and corruption, the country slipped to 64th and 71st positions respectively. *(FE, 20.03.09)*

Bureaucrats on the Loose

In India, civil servants are dismissed only if they are convicted on a criminal charge or for breach of security. Former Cabinet Secretary BK Chaturvedi recalls the sacking of only three IAS officers in his 40-year career.

In India, a confidential career report by seniors is still the norm, although the Administrative Reforms Commission (ARC) has recently suggested performance appraisals instead. But the absence of punishment for non-performing government officers is at the root of the rot afflicting our bureaucracy.

The ARC has recommended career reviews and exit processes. "After 13 years, there will be a career review, which will generate warning signals. A further review after 20 years will take place, and those found incompetent will be asked to leave," said Veerappa Moily, chairperson, ARC.

The irony is that India's bureaucracy is one of the oldest among modern nation states, set up by its colonial rulers. Yet, ours is the farthest from reforms. The "iron frame of India", as the civil service was once called, is desperately in need of some shine. *(HT, 22.01.09)*

IPO-Cos. Weak on Governance

About 50 percent of the companies that have floated IPOs since May 2007 have weak corporate governance practices, rating agency Credit Rating and Information Services of India Ltd. (CRISIL) has found. The agency, incidentally, rated 29 IPOs during the period.

The report said that only about 10 percent of the 29 companies were assessed to have robust corporate governance structures. Corporate governance practices were average in 25 percent of the companies.

CRISIL's IPO grading is aimed at providing guidance to investors on the fundamentals of companies and are significant in case of lesser-known companies. *(FE, 20.02.09)*

78,000 Women Die in Childbirth

A woman dies every seven minutes in India, says the latest United Nations Children Fund (UNICEF) report. According to the report, 78,000 women die annually in India due to complications arising out of pregnancy and childbirth.

As per the UNICEF's report entitled, 'State of the World's Children (2009)', under-five mortality rate has gone down from 117 per 1,000 live births in 1990 to 72 in 2007. However, maternal mortality is still close to the 2001-03 figures of 301 for every 100,000 live births, which is way off the desirable target of 109 by 2015. *(HT, 15.01.09)*

World Bank Criticises NREGA

The World Bank has described the much-acclaimed National Rural Employment Guarantee (NREGA) scheme of the UPA government as a policy barrier hurting economic development and poverty alleviation.

Various schemes of the Indian government like NREGA, watershed programmes and schemes for development of small and medium towns are acting as policy barriers to internal mobility, the bank said in its World Development Report 2009.

The report said economic benefits of migration are not always recognised by policy makers and, in fact, two forms of policy have been attempted in India to counter migration. *(ToI, 16.03.09)*

Why Labour Reforms are a Must for Job Creation

Jaideep Mishra*

The sluggish industrial growth implies structural rigidities in the economy, as per a recent, Indian Council for Research on International Economic Relations (ICRIER) working paper entitled, 'The Missing Middle'. For broad based, read inclusive economic growth, what's suggested is rapid increase in relatively unskilled, labour-intensive manufacturing.

In tandem, what's called for is stepped up productivity in agriculture, for raising living standards right across the board. The paper reiterates the point that India's apparent comparative advantage in services does not preclude the need for a buoyant manufacturing-growth phase.

It then outlines the glaring policy hurdles holding back the sustained growth of labour-intensive manufactures.

The paper does take note of the accelerated growth rate of the past several years – especially the last five years or so, higher productivity levels generally and the consequent improved living standards.

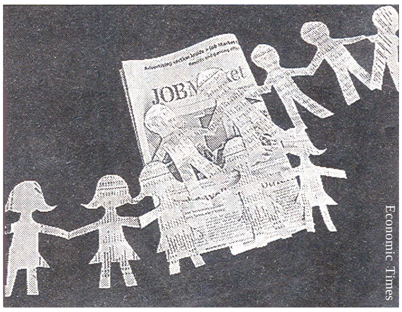
But if the recent growth patterns persist in the medium term and beyond, the paper says that India is at "risk of bifurcating the economy", with those benefiting from growth and others quite "left out".

Specifically, while services output and employment, including the information-technology enabled variety, have grown at a fast clip, the failure of manufacturing output and employment to likewise grow more rapidly has meant "too many bottled up in the rural sector".

The growth of overall labour productivity that would have taken place if the shift of low-productivity marginal farmers to unskilled-labour-intensive manufacturing jobs had been more rapid, has not really happened. Hence the "missing middle" in the populace.

What's recommended is sustained growth of unskilled labour-intensive

While output and investment have grown in the organised sector of the Indian economy, employment has not. The labour productivity of firms in the informal sector is known to be about one-fifth that of the formal sector.



manufacturing, which, together with fast-paced growth of productivity in agriculture (which would in part result from shifts to labour-intensive manufacturing), would bring about "inclusive growth."

The world over, economies posting rapid growth have initially – and for a prolonged length of time – experienced an increased share of output and employment in manufacturing and other industrial activities.

The study notes that even in the heady 1990s, the only developing Asian economies that were "sufficiently advanced" to experience a drop in the share of employment in manufacturing were Taiwan and South Korea.

In contrast, the increase in the share of manufacturing employment in India was a "minuscule 0.3 percent"– far below what other countries experienced during their rapid growth phases.

As the paper elaborates, estimated industrial output in India fell from 28 percent of total output of goods and services or gross domestic product (GDP) in 1990, to 27 percent of GDP in 2004. By comparison, Chinese industrial output went up from 42 to 46 percent of GDP over the like period.

This is not to imply, of course, that the Indian economy ought to develop along the same lines, or that the Chinese growth pattern is "optimal". Besides, it is not really more rapid growth of services in India that explains the difference.

During the period, the services sector in India is estimated to have grown from 41 to 52 percent of GDP while Chinese services grew from 31 to 41 percent. The difference is clearly due to the slower growth of industrial output and employment in India than in China.

Also, the relatively low contribution of high-income services to output here and its disproportionate demands on education and skills induces further distortions. Meanwhile, unskilled labour-intensive manufacturing makes economic sense mostly in mass-production, large-scale settings.

Yet our business and labour regulation remain a major deterrent to mass production, the paper points out.

It is true that the economic reforms since circa 1991 have reduced the burden of red tape, bureaucratic delays and other rigidities to a significant extent, but India still ranks well down the list of countries whose regulatory climate is "business friendly".

The paper adds that India has an unusual distribution of firms by size. The reason, in the main, it is averred, is the difficulty of starting a new business, which seems to deter start-ups.

Given the failure of organised employment to sufficiently grow, it would suggest an alternative growth path, with a higher labour-capital ratio.

This in turn calls for "a relaxation" of some of the more restrictive labour laws pan-India, the paper proffers. A more flexible labour market would require sound compensation benefits, scope for retraining, and the like.

* *Columnist, Economic Times. The article appeared in the Economic Times, March 19, 2009.*

No Change in Tax Structure

Montek Singh Ahluwalia, Deputy Chairman, Planning Commission ruled out the possibility of any further change in tax structure in the current fiscal. He said that the government has already taken enough fiscal measures to boost the domestic economy.

"We feel whatever has been done is sufficient and have not proposed another stimulus package for this financial year. Whatever has been done so far should be implemented", Ahluwalia said in a conference organised by the Federation of Indian Chambers of Commerce & Industry (FICCI) on January 21, 2009.

(ET, 22.01.09)

Need for Better Learning Model

"The three challenges – excellence, expansion and accessibility – have to be addressed to improve educational standards in the country", said Sam Pitroda, Chairman, National Knowledge Commission. There is a need for a better model of learning and change of content as only a low percentage of graduates meet the requirements of the industry. Moreover, they lack soft skills.

He said that a large number of professors and teachers do not research and many researchers do not teach and it is crucial that this situation changes. It is essential that universities are connected, and there is research and development collaboration and resource sharing and interaction among them.

(BL, 14.02.09)

Infra Growth Neutralises Slump

Finance minister Pranab Mukherjee has said an increase in domestic demand and supply by spurring the development of infrastructure could help the country to tide over the current economic recession.

"We all agree that domestic demand and supply will have to be increased to tide over the current economic crisis for which infrastructure needs to be developed and rural economy strengthened", Mukherjee said at a function to lay the foundation stone for an East-West Metro corridor in the Salt Lake Stadium.

The Centre has approved procurement of 1,200-low floor and medium-floor buses for Kolkata and another 100 for Asansol to improve the public transport system.

(FE, 22.02.09)

Wrong Policies Lead to Crisis

Former Union finance minister Yashwant Sinha said the current economic slowdown one was witnessing in the country has been the direct fallout of mistaken domestic policies, global recession as well as India having become an "unsafe" destination as a result of the recent terrorist attack on Mumbai.

"It has been the direct fallout of domestic policies which were perhaps mistaken policies and we could not anticipate global developments, as a result of which we have been hit very hard", said Sinha.

The global financial crisis only came as a final blow for domestic resource mobilisers who found that international financing opportunity had been shut too, he added.

(FE, 18.01.09)

China, India Continue to Grow

China and India will continue to grow though quite a bit slower than it is today. This, according to Economics Nobel Laureate Amartya Sen, is not only good news for the Chinese and the Indians, but also for the rest of the world too amid global recession.

"China and India also have a lot of trade between themselves – it is more important for India than it is for China. The Chinese are already the second largest trading partner of India, will probably overtake the US within two or three years. But, I would not draw from that a conclusion that China and India will drive the world economy", Sen said. *(TH, 19.02.09)*

Contagion Works Both Ways

"The world is passing through a difficult time. More so, the developed world", said C Rangarajan, MP, Rajya Sabha. The industrially advanced countries are now officially in recession, having had two consecutive quarters of negative growth. It is not known at this stage how long will this recession last and how deep will it be.

The impact of the financial crisis is felt by the developing economies as well. Growth is slowing down in all these countries. India's growth rate in the current year will be around seven percent as compared to nine percent in the previous year.

Prospects for 2009-10 do not appear to be better than that for this year. While in the current year, the first half escaped the impact of global recession, in the next year the impact will be felt throughout the year. Globalisation spreads both prosperity and distress. The contagion works both ways. *(ET, 04.01.09)*

Satyam, a Blessing in Disguise

With Rs 7,800-crore fraud at Satyam Computer leaving India's IT sector gasping for breath, Infosys Chairman Nandan Nilekani sees the fiasco as a blessing in disguise, as it will make authorities enforce better regulations and auditing mechanisms for the industry.

Nilekani said he was appalled at the scam, which would have larger ramifications on the image of India's software sector. "The Satyam-scam not only hit hard the company's stakeholders, but also had a larger impact on people like me, who have been promoting the Indian software brand and the enterprise in this country", he said. But he also hoped there is a silver lining to this episode.

(ET, 23.01.09)

How Systems can Minimise Corruption

V Raghunathan*

We have come to accept with equanimity – and therein lies the danger – that we are among the most corrupt countries in the world. If you have had anything to do with any of our government institutions, whether central, state, regional or provincial, the one unremitting common denominator you find is corruption

Have you ever wondered why and how institutions like IIMs, IITs and a few other institutions of excellence have remained 100 percent corruption-free, despite being government institutions?

In any case, here, when I say these institutions are 'corruption-free' what I is mean that the probability that a student gains admission by means other than the admission criteria laid down is zero — not virtually zero, but zero. It is important to understand how these islands of integrity survive in this ocean of corruption, because that may be our only route to pulling our other institutions from the morass of corruption.

The systems and processes of admissions in these institutions are such that even a corrupt head of the institution wanting to oblige a political heavyweight, cannot influence the process of selection of the students. No one individual, or even a clique of powerful individuals can make a dent in the processes that govern the selection of students in these institutions.

Fortunately, even a pliant head of institution, most keen to oblige the powers that be, cannot do so for the simple reason that he is in fact powerless. So when this head of institution tells the powers that be that, sorry, he cannot do anything to ensure the admission of the latter's ward, he is not just taking a moral posture. He is telling the truth.

Of course, the nice thing is, when you belong to such an institution, the moral posturing comes automatically. Everybody believes in fairness. Everyone knows that his statement of inability to influence is also backed by the system. And that helps enormously.

The systems in these institutions ensure rigid compliance. What is interesting is that these systems are not rigid in the sense that they stymie individual initiatives or do not allow for situational exigencies. They do. And yet, the systems are such that the basic integrity is in no way ever compromised.

We have seen glimpses of what a rigid system can do to curb corruption — namely, in the Right to Information Act. The right to information by itself does not take away anything from the decision makers and yet, it enforces a degree of transparency, which in turn curbs corruption. But unfortunately, its very success seems to be the reason why the government, politicians and judiciary want to furiously backpedal on it.

For the same reason, we must push for electoral reforms in the form of transparent and tax deductible contributions to political parties. The ad hoc system of underhand collections in the name of the party can help politicians line their own nests liberally before their party's. The parties virtually set 'targets' of collections in return for party tickets and positions.

The politicos in turn set targets for those serving under them, they in turn set further targets down the line and the system cascades down all the way to a point where the police sub-inspector or even the constable may have 'targets' based on where he is posted. That is the reason politicos stoutly resist electoral reforms.

That is also the reason they resist giving the option "None of the above" to the electorate, so that if enough number of people vote for that option, all the candidates stand disqualified. And these are all the more reasons why, as a people, we must fight for such systemic improvements. We have seen many other instances where introduction of proper and transparent systems have minimised corruption.

As the world's largest democracy, we owe it to ourselves to recognise corruption for the rot that it is, eating away our innards. We need systemic solutions.

* *CEO, GMR Varalakshmi Foundation. The article appeared in the Economic Times, February 28, 2009.*

Good Intentions to Go Nowhere

Pratap Bhanu Mehta*

Fragmentation of power is allowing all kinds of small groups to hold up economic policy. It is also generating a great sense of nervousness on a whole range of security and communal issues that will affect business climate

The Times of India

The performance of governments should not be judged only on the contemporary numbers, but also on the extent to which they bequeath predictable structural problems for the immediate future. On one yardstick, the United Progressive Alliance (UPA) has had a great performance: the highest rate of growth over a five year period, buoyant government revenue, high agriculture growth, massive expansion of outlays on income support programmes and the social sector. But on another measure the luster of this performance seems considerably diminished when put in a longer perspective. Much of these gains were due to a fortuitous turn of circumstances rather than policy.

In terms of economic policy the UPA has very few reforms to its credit. The introduction of value added tax (VAT) was certainly a major achievement, one that allowed states and central revenues to remain buoyant. Part of what economic reform means is the reduction of arbitrary discretion in the way in which the government intervenes in the economy. There is relatively little rationalisation of subsidies. On this front the UPA was shamefully arbitrary. The large boost to special economic zones (SEZs) was nothing more than an arbitrary intervention in real estate markets.

Telecom policy has remained a mess and laboured under insinuations of corruption. While there was some movement in the power sector, it was considerably slower than needed to be the case. By leaving the door open for renegotiating the financial terms of the mega power projects, the government has raised serious doubts about the financial costs of these projects. PPP's were the government's big mantra.

But the way PPP's have been executed has had two adverse and contradictory consequences. First, in some cases it has actually slowed down the building of infrastructure. But second, by allowing all kinds of charges to be introduced after the agreements have been executed, the government has also violated fairness and transparency.

It is not entirely clear for instance, why a tax cut at this point would have been good from the point of view of stimuli. After all in some ways there are implicitly stimulus related things that have been taking place: pay commission hand outs, income support through expansion of National Rural Employment Guarantee Act (NREGA), restructuring of farmers loans. The very same people who are arguing for tax cuts are also arguing that people are actually holding onto plenty of liquidity and can spend or invest it because of uncertainty. For this reason the government was wise not to rush into tax cuts.

Higher education, one area critical to employment generation and future growth, has been throttled even more by misconceived regulation and public mismanagement. The rush of new institutions being announced, from central universities to IIM's will, because of serious design flaws, exacerbates problems instead of resolving them. In primary education, it is still something of a scandal that a good Right to Education Bill has not been passed, and fiscal provisions have not been made for the costs such a bill would entail.

But the blunt truth is that in five years the government has not been able to lay out what the architecture of the health system should look like. The biggest intellectual weakness of the UPA has been its inability to think through design issues with any degree of seriousness. These five years were a golden opportunity to transform the architecture of service delivery in India.

We know that effective economic governance in the coming years will require taking difficult decisions on a whole range issues. Given the options we have, the UPA may return to power; the elections are going to be hard to predict. But there is no better indictment of this government than the fact that even after five years of spectacular growth, it has not been able to consolidate and enhance its own power.

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* *President and Chief Executive, Centre for Policy Research, New Delhi.*
Abridged from an article that appeared in the Financial Express, February 22, 2009.

Separate Act for Public Safety

Demanding justice for the victims of the Uphaar tragedy and initiating a citizens' campaign for public safety, the Association of Victims of the Uphaar Tragedy held a public demonstration opposite Uphaar cinema at Green Park Extension.

The demonstration was aimed at mobilising people from all walks of life to put pressure on the Government to bring in a separate Act for protection of life and safety in public places and set up a National Public Safety Commission.

(TH, 20.01.09)

The Times of India

Move to Curb Courier Cos' Power Shelved

The Government has withdrawn the proposed amendments to the Indian Postal Act. The Department of Posts (DoP) would redraft the Bill once again and send it for the Cabinet's consideration.

The Bill was also facing strong objections from the courier companies, as it proposed to curtail their power in sending and receiving mails and parcels.

The scrapped Bill had a provision which restricted courier companies to handle delivery of documents and letters below 300 gm weight. The Bill had also proposed a universal service obligation fee for courier companies on the lines of those paid by the telecom service providers.

(ET, 30.01.09)

New Code to Shield Software

The government plans to introduce a legislation empowering software makers in their fight against the sale of unauthorised copies of their products, as it looks to crack down on rampant piracy in the country where nearly three-fourths of the software used is pirated.

An amendment to the Copyright Act to be introduced in the Parliament will make it illegal to break the security code of all kinds of software from operating systems and games to multimedia players.

The proposed law will also make it punishable to access computer networks and websites without authorisation. These provisions will help software makers to take preventive steps to stop piracy. *(ET, 06.01.09)*

Money laundering Law Passed

A Bill aimed at effectively combating money-laundering, terror financing and cross-border economic offences was passed by the Parliament.

The Prevention of Money Laundering (Amendment) Bill, 2009 seeks to ensure a legal framework to check such crimes. The Minister of State for Finance PK Bansal assured that the government would not be found wanting in taking action against those indulging in money-laundering. The new law seeks to check use of black money for financing terror activities.

The Bill, after becoming an Act, will address India's international obligation and empower the enforcement directorate to search the premises immediately after the offences are committed and police have filed a report.

(FE, 24.02.09)

Warehousing Act Delayed

The enactment of the Warehousing Development & Regulation Act (WDRA) scheduled for notification on March 01, 2009, is likely to be delayed 2-3 months because of uncertainty over appointment of the regulator.

The government has appointed Viswanath Chirravuri, resident commissioner of Andhra Pradesh Bhawan, as joint secretary of the Warehousing Development and Regulation Authority, the authority constituting the Act, under the Department of Food and Public Distribution (DFPD) to look at the regulatory aspects of the Act.

The notification will make the warehouse receipts issued by credible agencies negotiable, enabling farmers to trade their commodities without carrying them physically.

(BS, 02.03.09)

Bihar to Introduce Anti-corruption Bill

The Bihar government is likely to introduce an anti-corruption bill in the State Assembly, after Chief Minister Nitish Kumar's admission that corruption has been a big hurdle in State's development.

All corrupt officials including serving and retired government officials will come under its ambit after the bill is passed by the State Assembly.

The proposed bill will enable the State to confiscate assets of government officials against whom cases of possessing disproportionate assets have been filed and charge-sheets have been submitted in the court of law.

(TH, 03.03.09)

Drug Cos. Oppose Licensing Agency

The proposed Central Drug Authority (CDA) Bill, likely to be passed in the Parliament, is posing a threat to about 5,000 small drug-making units, the association of these players said.

The Bill has proposed the Centre would take over from the States the authority to clear manufacturing licences of pharmaceutical companies, to ensure high standards. This would mean additional expenses for the small players, as they will have to come to the Centre and comply with stringent regulatory norms to get permission for manufacturing. *(ET, 07.02.09)*

Govt. Frames Media Guidelines

With ever increasing number of players occupying the media space, coupled with the introduction of more new-age mediums, the government is now mulling over a proposal to set up a commission to frame comprehensive guidelines encompassing all forms of media.

The recently concluded Consultative Committee meeting of parliamentarians, chaired by Minister of State for Information and Broadcasting, Anand Sharma, while discussing the repercussions of media coverage after 26/11, called for a comprehensive approach to lay out codes for the entire media. *(BS, 15.02.09)*

Laptops to Enhance Education

India is planning to produce a laptop computer for a knockdown price of about US$20, having pioneered in 2008 the Tata Nano, the world's cheapest car, for Rs 1,00,000 (US$2,050) a vehicle.

The project, backed by New Delhi, would considerably undercut the so-called "US$100 laptop" designed by the Massachusetts Institute of Technology of the US.

India's US$20 laptop would also undercut the EeePC, made by Taiwan's Asustek. The EeePC was the first ultra-cheap, scaled-down laptop launched worldwide through commercial channels. *(FT, 02.02.09)*

Haryana: Smart Cards for PDS

Haryana is ready to join ranks with the Union Territory of Chandigarh in introducing smart cards for the Public Distribution System (PDS).

The Haryana State Electronics Development Corporation (Hartron), is ready to launch the pilot project for smart cards in three districts – Sonepat, Kaithal and Panchkula.

The total cost of the project is estimated at Rs 137 crore and will be funded by the Centre. With this, the 53-odd-lakh families staying in various districts of Haryana will no longer have to stand in long queues to collect their ration. *(FE, 20.01.09)*

'Solar Cities' of India

Gurgaon and Faridabad all set to become Green Cities. Gurgaon and Faridabad in Haryana have been selected for development as solar/green cities under a scheme of the Union Ministry for New and Renewable Energy.

The project aims at a minimum 10 percent reduction in projected demand for conventional energy at the end of five years, which could be achieved through a combination of energy efficiency measures and enhancing supply from renewable energy sources.

This 'Development of Solar Cities' programme was developed during the 11th Plan period to enable/empower urban local governments to address energy challenges at the city level.

(www.egovonline.net 10.02.09)

RTI Act Norms Must for NGOs

The non-governmental organisations (NGOs) that are substantially financed by the state government directly or indirectly would have to compulsorily follow the Right to Information (RTI) Act norms for granting their grants.

The government said that all the substantially financed NGOs working under the departments falling in preview of RTI should appoint public information officers (PIOs) and first appellate authorities and should make necessary arrangements for their training.

As per the Section 4 of the RTI Act NGOs are bound to declare information related to them and available with them. Also they have to follow all the norms related to the offices of the PIOs and first appellate authorities.

This latest government order means that all the NGOs would have to create their websites and display all information about them, apart from providing the information to citizen seeking them. *(HT, 14.03.09)*

Centre to Empower Consumers

The government is framing a law to empower consumers to sue manufacturers and service providers, who dupe them by concealing information that could influence their purchase decisions.

Under the proposed law, such companies will also be prosecuted for not issuing receipts of purchases. The penalty will be equal to the value of the product or the service, along with the interest. The note proposes to amend the Consumer Protection Act 1986.

The proposed move will also define 'unfair contract' to protect the weaker party from incurring losses arising out of such unfair trade practices. *(ET, 03.03.09)*

EIA Norms for Infrastructure

The government is all set to relax the Environment Impact Assessment (EIA) norms for infrastructure, housing and IT projects to expedite flow of funds and speed up implementation.

According to sources, this is being done as it has come to light that problems relating to land acquisition and the difficulties in obtaining an environment clearance were the main reasons that delay projects in these sectors. *(FE, 24.02.09)*

Energy Policy Receives Nod

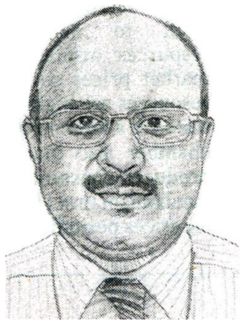
The Union Cabinet gave its nod to the integrated energy policy, which seeks to chart out a road map for energy security, to achieve sustainable growth over a reasonable period.

The policy, prepared by the Planning Commission, is aimed at optimal exploitation of domestic energy resources, while exploring and acquiring assets abroad, to attain energy security for the country.

The Home Minister, P. Chidambaram, said: "India needs to sustain an economic growth of at least nine percent over the next 25 years if it is to eradicate poverty and meet its larger human development goals".

(TH, 27.12.08)

Should Competition Law Focus on 'concentration'?



Globally, most competition regulators put greater emphasis on concentration or market share, while deeming which all combinations should fall within its ambit.

The Competition Act, expected to be operationalised soon so as to supersede the archaic Monopolies and Restrictive Trade Practices (MRTP) Act, is seen as an attempt to make the Indian laws more contemporary and bring them in line with the modern anti-trust laws.

But there seem to be a few niggling areas of concern, such as whether deals that not long ago raced at a fiery pace may now meet with obstinate speed-breakers.

The new Act deals with the challenges of monopolies and seeks to ensure the sustenance of competition for the benefit of industry and consumers, concedes Prasanto Sengupta, Director, Corporate Finance, KPMG India.

Excerpts from the interview:

The Competition Act deals with various situations under which competition may be adversely impacted, but the one on combinations (M&As) has attracted the maximum attention. Why so?

M&As have been a huge growth engine for India Inc. over the last 3-4 years. M&As have resulted in Indian companies acquiring skill, creating better scale and deriving resultant efficiencies. By introducing a 'size of person' test in the regulation relating to 'combination' under the Competition Act, the number of M&As which will come under the scanner of the Act will be reduced. However there are still certain areas of concern.

Do you fear that the Competition Act, once it becomes operational, can stifle M&As?

The regulations put a premium on 'size of person' *vis-a-vis* 'concentration' for deeming which all combinations should be referred to the Commission. The regulations are applicable to any M&As above a certain size, in terms of turnover and assets, of the acquirer and the acquire. This will make a large number of M&As fall within the ambit of the Act, even if they may hardly have any impact on competition. Globally, most competition regulators put a greater emphasis on concentration, while deeming which all combinations should fall within its ambit.

What about the time period?

The time period of 210 days is way too long and is not necessarily in harmony with other regulations. Under the Act, the acquirer has to inform the Commission of the proposed combination within 30 days of the board of directors' meeting approving the acquisition or execution of agreement. After this there is a waiting period of up to 210 days, for the combination to be effective. If the Commission deems that a combination adversely impacts competition, then it has the powers to order reversal of the same.

Can there be an alternative?

There is a need to introduce a shorter timeframe for approving combinations, which *prima facie* do not impact competition. The Chairman of the Commission has spoken about a short and a long form – the short form for such combinations, which the combining entities believe are unlikely to impact competition and can be approved within 30 days. The same is yet to be incorporated.

Don't we already have some kind of competition regulation already in place, in certain industries?

Yes, as for example telecom, where most M&As have benefited the consumer, with continuously falling tariffs. So, for a telecom combination, with the introduction of the Competition Act, the multiplicity of approvals will increase. Telecom is a shining example of an industry where regulated competition, avoiding both a free-for-all as well as monopolies, has resulted in the creation of great value for both business enterprises as well as consumers in India.

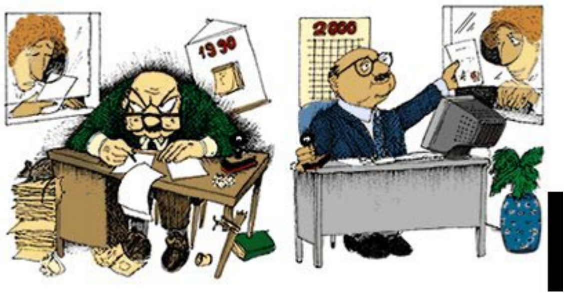
How the Commission will address the talent issue and also the current crisis?

The Competition Commission will need to attract the best talent from the market. Judging whether or not a combination impacts competition, quickly and professionally, will require a significant investment of efforts by the Commission. The Commission would need to create a quality database across industries and companies and the best talent to interpret the same and respond to the filings of the entities.

As for the stressful times, such as what we witness today, a combination may be necessary in spite of any negative impact on competition, in the greater interest of the economy. Under the takeover code, there are special provisions for stressed situations; the Competition Act is, on the contrary, largely silent on this point.

– Excerpts from an interview with Prasanto Sengupta, Director, Corporate Finance, KPMG, India by D Murali that appeared in the Hindu Business Line, November 13, 2008

e-governance in All Spheres



The Second Administrative Reforms Commission (ARC) has asked the Centre to prepare a clear road map with a set of milestones to transform the citizen-government interaction at all levels to the e-governance mode by 2020.

It has also asked all organisations and departments of the Union and State governments to identify e-governance initiatives which could be undertaken within their functional domain, keeping the needs of citizens in mind.

ARC Chairman Veerappa Moily said the role of the Centre and state governments would change completely once the e-governance project was in place, making governance more transparent and accountable. *(TH, 25.01.09)*

First e-Court Launched

The first model e-court in the country has been launched by the Gujarat High Court. It has started functioning on a pilot basis providing tamper proof authentic audio-video recording of proceedings with multi-point video conferencing facilities linking the courtroom, central jail, the police commissioner's office and the Forensic Science Laboratory.

This project is an initiative of the Central government and was set up with technical support from the Technology, Information, Forecasting and Assessment Council (TIFAC), the Centre for Advanced Computing and National Informatics Centre.

(www.egovonline.net, 11.02.09)

Govt. to Adopt e-Tenders Online

Delhi government's decision to put all tenders online is facing a major deadlock, as departments are not willing to put the tenders online. The Public Works Department (PWD), and the Irrigation and the Flood Department have been floating all their tenders on the e-procurement website.

The Information Technology (IT) department has issued orders making it compulsory for each department to post tenders online. Even the department of Information and Publicity has been instructed to ensure that all tender advertisement is put online before it is cleared for publication.

(www.egovonline.net, 06.02.09)

Google to Low-cost Healthcare

Soon, a simple online search on Google or Yahoo will help save on your medical. The government is planning to provide comprehensive details of all commonly used medicines and their cheaper versions on the Internet to enable both doctors and consumers make an informed choice.

The idea is to promote awareness about low-priced unbranded generic drugs available in the market, while keeping a check on big pharmaceutical companies that push their branded medicine with huge promotional expenses. 780; *(ET, 09.03.09)*

E-registry of Mortgaged Homes

In a bid to overcome the menace of home loan frauds, the Indian Banks' Association (IBA) proposes to set up a committee to work out the modalities for establishing a central electronic registry that will of Financial Assets and Enforcement of Security Interests (SARFAESI) Act, 2002.

With banks regularly falling prey to frauds being committed in home/mortgage loan using fake sale/title deeds, the IBA committee is expected to fast track the matter relating to the registry. *(BL, 12.03.09)*

e-Governance in Panchayats

The Union government has proposed a Centrally Sponsored Scheme for e-governance in *Panchayati Raj* Institutions (e-PRIs).

The proposed scheme will bring about improved service delivery through the *Panchayats* and enable greater accountability of government to the community through use of Information and Communication Technology (ICT).

The Department of Information Technology has included e-Governance for *Panchayats* as a Mission Mode Project (MMP) under National e-Governance Programme (NeGP). All village and block *panchayats* will be provided with ICT infrastructure with broadband connectivity.

(www.egovonline.net, 20.02.09)

CAG REPORTS

e-mitra Scheme Ineffective

e-mitra scheme was launched to provide a large number of services to the citizens on one stop basis, it suffered from insufficient and ineffective implementation as many of the participating departments were not fully prepared to implement it. They were not providing requisite services relating to collection of application and grievances to the citizen, CAG said. *(HT, 13.01.09)*

SEBI, IRDA Flout Norms on Surplus Funds

The Securities and Exchange Board of India (SEBI) and Insurance Regulatory and Development Authority (IRDA) are flouting Finance Ministry instructions by parking their surplus funds generated through fee charges, penalties, among other things outside the government accounts. The CAG highlighted that SEBI and IRDA practice on parking of surplus funds were inconsistent with constitutional provisions. *(BL, 22.02.09)*

Restructuring of Government's Accounts

The Controller and Auditor General (CAG) has pointed out some serious fallouts in the accounts of some government departments. It has pointed out misuse of funds. These funds have not been spent seriously by implementing agencies leading to some unspent amount in the accounts. *(ET, 21.02.09)*

Needed Better, not More, Regulation

Rajat Kathuria*

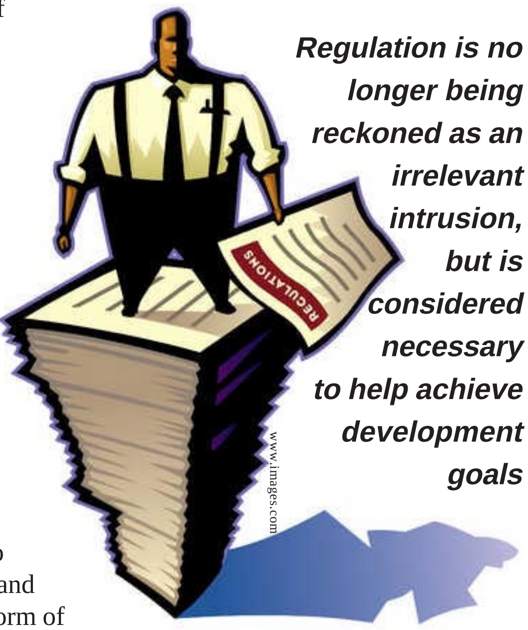
Adam Smith's famous discussion of the organisation of production in a pin factory articulated the advantages of division of labour and the economic gains from large-scale production. But Smith expressed considerable scepticism about the relative efficiency of that particular form of business organisation we now call the corporation in which management and ownership are separated.

His observation on the corporation reads thus: "The directors of such companies being managers of other people's money than their own cannot be expected that they watch over it with the same anxious vigilance with which the partners in private co-partnerships frequently watch over their own". (*The Wealth of Nations*.)

Managers as agents

One way to think of managers in large corporations is as 'agents' paid by the shareholders. The principals or owners employ the agents to act as stewards on their behalf. Agents, however, do not share the same interests as the principals who employ them. They may, for example, seek to use the company's assets for their own private benefit.

So the corporation has developed instruments to mitigate these "agency costs". Managers agree with owners to submit themselves to auditors, to answer to boards and to take part of their pay in the form of bonuses. All these things help, but still do not eliminate the principal agent problem in the corporation.



Regulation is no longer being reckoned as an irrelevant intrusion, but is considered necessary to help achieve development goals

Boards are often the creatures of management. Disclosure is limited to what is required by law and shareholders are a diverse and disjointed group and usually find it difficult to take any action. Free to spend other people's money, managers and directors squander it.

In early 2008, following an extensive survey, *The Economist* found that instead of returning cash to shareholders, managers typically spend too much money on favourite projects, reckless diversification, and extravagant indulgences.

L' affaire Satyam

The recent Satyam episode in which a family that controls India's fourth largest software services company with a 8.6 percent stake, worth US$275mn, decided to spend US$1.bn of reserves and fresh borrowings to acquire two sister companies in the realty and infrastructure businesses is probably just the tip of the iceberg.

In Satyam's case, shareholders responded angrily and the management had to withdraw the deal, but not before significant shareholder value had been destroyed. This is not the first time that corporate governance has come under attack in India for its laxity.

Another frequently cited manifestation of the failure of corporate governance is the huge compensation given to top executives compared to the average pay packet. And the disparity has been growing.

Regulating executive pay is perhaps out of the question, since it represents the price of attracting and retaining talent. Self-regulation also does not seem to be working and is unlikely to.

Perverse incentives

Consider what happened during the recent financial crisis in the US. The system prevalent on Wall Street rewards managers for "appearance of profits", rather than on accounting performance, thereby creating perverse incentives for those who are managing other people's money. When the dubious investments turned toxic, the investors lost, but the managers kept their bonuses. These ill-gotten gains — money for nothing — are in small part a result of lack of proper oversight, but in large part a result of greed. One fallout of the financial crisis has been the general acceptance of increased regulation, even in a *laissez faire* economy such as the US.

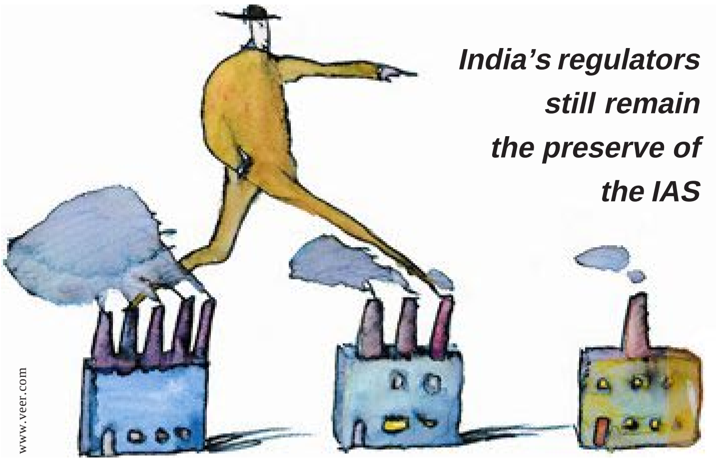
Regulation is no longer being reckoned as an irrelevant intrusion, but is considered necessary to help achieve development goals. Economy after economy has agreed to bail out struggling corporations and injected much needed fiscal stimulus in their economies. This is bailout season.

In judging whether corporate India is serious about reforming itself, CEO pay and performance of independent directors remain the acid tests. India's notorious past with respect to regulation does not inspire confidence in how this will be done. But one thing is clear: we need to regulate better and, at the same time, ensure that regulation does not degenerate into control.

* *Professor, ICRIER, New Delhi. Abridged from an article that appeared in the Hindu Business Line, December 24, 2008*

Regulatory Capture

A K Bhattacharya*



One of the reasons why the Sixth Pay Commission (SPC) had substantially raised the salary for chairmen of all the regulatory bodies was to make that job a little more attractive for professionals and experts from the private sector. The time has now come to check out if the government has indeed used the better pay package for its regulators to widen the choice and attract private sector people.

A few weeks ago, the UPA government selected Dhanendra Kumar, a retired IAS officer, as the chairman of the Competition Commission of India (CCI). There were many candidates in the fray, but most of them belonged to the civil service.

By next Monday, a new chairman of the Telecom Regulatory Authority of India (TRAI) will be in place. Nripendra Misra will complete his three-year tenure on March 21 and the government's search committee is expected to complete its job in a few days and an announcement is likely before the week ends.

Once again, a large number of the candidates in contention for the Trai chairman's job are civil servants belonging to the IAS. Only one of the candidates belongs to the private sector. Will the government's search committee make a departure by recommending a non-IAS officer for the job? This appears unlikely.

Civil servants get upset when questioned on why only serving or retired IAS officers are selected to head the many regulatory bodies that have been set up in the wake of economic reforms. At present, there is only one regulatory body, the Directorate General, Hydrocarbons (DGH), which is not headed by a serving or a retired IAS officer. V K Sibal worked in a public sector oil company before taking charge of the DGH.

Nobody can, of course, argue that IAS officers are not competent to lead a regulatory organisation. Given their exposure to the manner in which the government machinery functions and the need for a regulator to understand the working of the government system, IAS officers have a definite advantage over professionals or experts from the private sector. But that should not rule out the possibility of private sector professionals with requisite experience in a sector from performing equally well in leading a regulatory organisation. Indeed, attempts were made in the past to get private sector professionals to head regulatory bodies. These moves, however, did not bear any fruit because the salary offered to a head of a regulatory body was not attractive enough for a private sector professional.

The SPC took note of this feedback and made amends. Ironically, however, the enhanced pay package has made the job of a chairman of a regulatory body even more attractive for the IAS officers, particularly for those who are approaching retirement. And only a few applications have come from private sector professionals. In sharp contrast, several secretaries to the Union government were interested in heading the Competition Commission of India. The list of candidates being considered for the Trai chairman's post also has several secretaries, including even the finance secretary.

No doubt, the situation under the UPA regime has become a little better than in the past. During the Vajpayee government, bureaucrats approaching retirement were shortlisted and expected to head regulatory bodies once they superannuated. The post of the chairman of the Central Electricity Regulatory Commission remained vacant for several months till A K Basu, an IAS officer, retired and took charge. Similarly, Dipak Chaterjee was identified to head the Competition Commission of India just before he was due to retire as commerce secretary. The UPA regime has not seen such instances of keeping a job vacant so that a bureaucrat of its choice could take that up after superannuation.

Yet, the concern that the SPC sought to address remains valid. What should the government do now? It may be time now to create a pool of experts, selected from both the IAS and private sector professionals, which could be used by the government's search committees to identify the chairman of a regulatory body. The search committee, which at present is largely influenced by the ministers concerned, will then be able to act more independently and have a larger pool of talent to choose from.

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* *Columnist, Business Standard. The article appeared in the Business Standard, March 17, 2009.*

The Fall of the Holy Trinity

Arvind Panagariya*

The UPA government arguably had the best economic team, raising the hope that it will go ahead with economic reforms. However, the 'holy trinity of reformers' failed to live up to expectations

Future historians will, no doubt, applaud Dr Manmohan Singh for his contributions to building a modern economy as finance minister and to freeing India of nuclear apartheid as prime minister. But they will also record the setback to reforms during his tenure as prime minister.

The National Democratic Alliance (NDA) had contested the general election in May 2004 on a pro-reform platform. Therefore, many in the Congress interpreted its defeat as the rejection of reforms by voters. Prospects for reforms under the incoming Congress-led UPA looked bleak.

Yet, when Sonia Gandhi decided to step aside in favour of Dr Manmohan Singh as prime minister, reform advocates saw a ray hope. As finance minister under Prime Minister Narasimha Rao, Dr Singh had earned the title of the chief architect of India's economic reforms. The appointments of P Chidambaram and Montek Ahluwalia as finance Minister and deputy chairman, Planning Commission, respectively, completed what many came to call the "holy trinity" of reformers.

Sadly, however, reforms did not takeoff. The Common Minimum Programme (CMP) the UPA negotiated with its allies ruled out key labour-market reforms at the outset. As for many other reforms, Sonia Gandhi held back Dr Singh's hand. She had him appoint the National Advisory Council (NAC) under her chairmanship with statutory powers to oversee the implementation of the CMP.

The National Rural Employment Guarantee (NREG) Scheme, UPA's flagship policy initiative, was crafted entirely in the NAC. The legislation on special economic zones, another important UPA accomplishment, was stripped of its key labour-market reforms embedded in the original NDA Bill.

For his part, early in the term, former finance minister Chidambaram made the completion of the ongoing pension reform a high priority. Five years later, the Pension Fund Regulatory and Development Authority Bill still awaits passage in Parliament. Further opening of the insurance sector, another item on the finance minister's list of reforms from the outset, has suffered the same fate.

The greatest disappointment from the UPA has come in the area of infrastructure. The need for building the country's roads, ports and airports at an accelerated pace had been well recognised when the UPA came to power; undertaking this task did not require any controversial legislation; and the UPA had the unusual opportunity to build on the success the NDA had already achieved.

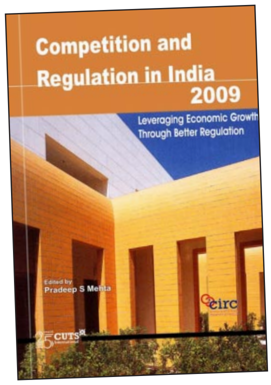
When the UPA came to power in May 2004, it had a solid base on which to build. By all indications, the UPA was keen to seize this opportunity. It moved swiftly to appoint the Committee on Infrastructure on August 31, 2004. But sadly, through Committee on Infrastructure, the Planning Commission became a major obstacle to progress.

Notwithstanding the fact that the NDA had given out hundreds of successful contracts for work on thousands of kilometres of road and that even UPA had issued 33 contracts for work on 2,000 kilometres of roads in its first few months using the documents it inherited from the NDA, beginning in early 2005, the Planning Commission forbid the National Highway Authority of India from issuing new contracts until the Committee on Infrastructure came up with its new "Model Concession Agreement" (MCA).

In June 2004, economist Shankar Acharya wrote about "good men" in the UPA Cabinet — Dr Singh, Mr Chidambaram and Mr Ahluwalia — arguing 'it would be difficult, perhaps impossible, to conceive a stronger economic top team.' Four years later, in September 2008, when he returned to the theme of "a few good men" assisting god look after India, his list had shrunken: this time around, it only included Dr Singh from the original list for securing the nuclear deal against all odds plus the newcomer Dr Y V Reddy who had served with great distinction as the governor of the Reserve Bank of India.

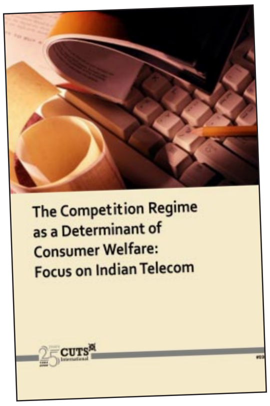
* *Professor at Columbia University. Abridged from an article that appeared in the Economic Times, March 26, 2009.*

Competition and Regulation in India, 2009
– A Curtain Raiser



India Competition and Regulation Report, 2009 tries to examine the evolution of regulation/regulatory problems from a political economy perspective and assess the quality of regulation in terms of the suitability of content for tackling market failures, the effectiveness and independence of the regulator and the extent to which the set of sector regulations fosters competition. This study is an important contribution towards enriching the available literature in the public domain and encouraging a dialogue to promote a healthy and competitive environment as evolving an appropriate regulatory culture is always a learning curve.

This Monograph can be viewed at:
http://www.cuts-ccier.org/icrr09/pdf/Competition-Regulation-India-CurtainRaiser09.pdf



The Competition Regime as a Determinant of Consumer Welfare: Focus on Indian Telecom

This Monograph elaborates on the concept of consumer welfare which has been concretised and delineated in the form of consumer rights and examines how such rights can be furthered through a competition regime. It evaluates the formulation and implementation of Government policies in India, which have affected the pursuit of competition and consumer welfare enhancement. The Monograph also offers a case study of the telecom sector in India that examines competition issues that are juxtaposed against an evaluation of the extent to which the mentioned consumer rights are being satisfied.

This Monograph can be viewed at:
http://www.cuts-ccier.org/pdf/Comp_Regime_Determinant_of_Consumer_Welfare.pdf

Consumer Participation in Electricity Regulation: Rajasthan Experience

This briefing paper examines the status of consumer participation in the regulatory reform process in the electricity sector with special focus on Rajasthan. It concludes that though necessary steps were taken by the regulator in certain cases, due to lack of capacity to understand complex issues, consumer participation did not produce the desired results. The paper lays emphasis on the need to make consumers aware by organising training programmes, seminars to ensure that they get the right support from the regulatory bodies.

This Briefing Paper can be viewed at:
http://www.cuts-ccier.org/RESA/pdf/Consumer-Participation-Electricity-Regulation.pdf

Forum

Political Economy of Regulation in India

I am sorry to have missed attending this important roundtable due to unavoidable reasons. From the summary of the deliberations I can say my congratulations to you for bringing out detailed analysis of regulation efficiency and independence.

V S Ailawadi
Former Chairman
Haryana Electricity Regulatory Commission

SOURCES

BL: Business Line, **BS:** Business Standard, **ET:** The Economic Times, **FE:** The Financial Express, **FT:** Financial Times, **HT:** Hindustan Times, **IE:** Indian Express, **TH:** The Hindu, **ToI:** Times of India

The news/stories in this Newsletter are compressed from several newspapers. The sources given are to be used as a reference for further information and do not indicate the literal transcript of a particular news/story.