PolicyWatch

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

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HIGHLIGHTS

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

Jalan Committee Report

Stifling Away Competition


www.google.com

The Bimal Jalan Committee was appointed in February 2010 to deliberate on governance, ownership, listing of bourses and other issues. The Committee came out with a report on '*Review of Ownership and Governance of Market Infrastructure Institutions*' in November 2010. The report makes important recommendations pertaining to market entry norms, fund raising and market exit, which are critical determinants of the state of competition in this relevant market.

An intense debate concerning competition amongst stock exchanges has followed the publication of the report. It has been alleged that the report is aimed at helping the National Stock Exchange (NSE) retain its monopoly for the next five years at least and also work at permanently eliminating any competition. During public meetings, NSE's competitiors – the Bombay Stock Exchange (BSE) and the MCX Stock Exchange Ltd (MCX-SX) – has voiced that if the recommendations of the Committee are accepted then they may be starved of funding and become inconsequential.

The first debate on ownership started in 2002 with Kania Committee. Nearly 19 stock exchanges complied with this requirement by reducing the ownership of brokers to 49 percent and increasing public ownership to 51 percent. It was natural to expect Jalan committee to take into account the progress made by recommendations of Kania committee and then suggest the path for taking exchanges to the next level – for making exchanges independent for their resources as they get into new realm of expansion and technology absorption to become globally competitive. However, sadly, the committee has taken the stock exchanges back to the era of a controlled economy as against the spirit of liberalisation and globalisation that has been pursued since 1991.

Indian capital markets, which due to lack of competitive environment, have not been able to create a new generation of intermediaries in tier two and tier three cities with support system as good as tier one cities.

Hopefully, the policy makers will reason and consider the whole issue on the following two moot points:

1. What are the inefficiencies and gaps in the Indian capital market which are required to be bridged to steer the Indian economy to a sustained nine percent growth and meet the capital needs of infrastructure, MSMEs and the industry at large?
2. What is the need for capital infusion in stock exchanges, depositories, clearing corporations, brokerage houses and other ecosystem support agencies so as to address the gaps in this market and ensure its growth?

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COMMUNICATION

Mother of all Scams

Indicating that a court-monitored probe was required in the 2G Spectrum scam, allegedly involving disgraced former telecom minister A Raja, the Supreme Court said that the scam is the mother of all scams put together.

A Bench comprising justices G S Singhvi and A K Ganguly said that "given the magnitude of amount allegedly involved in the scam, it might need monitoring of the probe…The case must be investigated efficiently, diligently and expeditiously... This scam will put to shame all other scams put together."

The court reserved its verdict on a plea filed by Subramanian Swamy seeking a direction to the Prime Minister for grant of sanction to prosecute A Raja. *(FE, 25.11.10)*

Heat on Cold Calls

The Telecom Regulatory Authority of India (TRAI) is all set to introduce a new foolproof mechanism to bar these irritable calls from January 01, 2011. Under the new system, to be called Customer Call Preference Registration (CCPR), if a subscriber registers for not getting such calls and if a tele-marketer still tries to call the number, the call would be barred.

Further, a new 70-series number would be given to all tele-marketers so that commercial calls can be clearly identified. Also, commercial calls would be categorised – subscribers can either choose not to get any calls or select certain areas where they would like the calls to come. There would also be an option whether one wants calls or information only via messages. *(FE, 29.11.10)*

Transparency in Tariff Plan

The TRAI will frame new guidelines to make cellphone tariffs more transparent and help customers make informed choices about their mobile plans. The regulator was also examining if it should impose a cap on the upper tariff limit for premium SMSes to ensure that operators, broadcasters and other players do not fleece customers for this facility.

The guidelines will also aim to bring operators who issue misleading tariff advertisements to task. The regulator's move to interfere in tariff-related issues is bound to irk the industry, which largely believes that all tariff-related issues should be determined only by market forces.

Justifying the move to launch a consultation process on telecom tariffs, the regulator had received 'several complaints and representations from consumers and their representatives seeking further effective transparency measures'. *(ET, 15.10.10)*

Broadband Network Soon!

The TRAI recommended setting up a 'National Broadband Network' at a cost of about ₹60,000 crore to achieve 16-crore broadband connections by 2014.

Issuing its recommendations on 'National Broadband Plan', TRAI said the project would be financed by universal service obligation (USO) fund and the loan given by the government. At present in India, the penetration of broadband is 0.8 percent as against the tele-density of 60.99 as of September, 2010.

The number of broadband connections is only one crore as against a target of two crore by the year 2010. Therefore, there is an urgent need to facilitate rapid growth of broadband. *(TH, 08.12.10)*

USO Seeks Autonomy

The USO administration has told the Department of Telecom (DoT) that it was in favour of keeping the USO fund outside the purview of the Communications Ministry and re-organised as an independent body. It has also told DoT that the new body may be headed by a Secretary ranked officer and should be given complete financial autonomy.

This is in line with the recommendations made by the TRAI in 2009. The regulator had suggested a complete overhaul of the USO fund to make it more efficient and transparent. *(BL, 05.10.10)*

Clash over Licence Fees

The six private Direct-to-Home (DTH) operators are on course for a legal showdown with the government over the modalities of charging their annual licence fees. This comes on the back of the decision taken by the Information and Broadcasting (I&B) Ministry to challenge a recent order by the Telecom Disputes Settlement and Appellate Tribunal (TDSAT) in court which had given relief to the DTH operators by allowing them to pay their annual licence fees based on adjusted gross revenue (AGR) as opposed to gross revenue.

Currently, all private DTH operators have to pay 10 percent of their annual gross revenue to the I&B Ministry as licence fees. However, the TDSAT order also indicates that AGR will be calculated at the rate of eight percent. *(FE, 12.11.10)*

Telcos Set to 'Steal' Subscribers

With the roll out of mobile number portability (MNP) on a pilot basis in Haryana and a country-wide implementation expected by December 31, telecom operators are losing no time in trying to wean away subscribers from competition, while at the same time, guard their own subscriber base.

The game plan is to step up promotions and educate subscribers on the benefits of their services. Telcos have already beefed up their network for giving their subscribers a better quality of service and to churn in subscribers once MNP sets off.

MNP allows subscribers to switch operators without changing their number in the same telecom circle. With 95 percent of the market on pre-paid services and the dual-SIM phenomenon, the impact of MNP will be restricted to only the post-paid segment of the market. *(FE, 13.10.10)*

TRANSPORT

UMTA for Bengal

West Bengal is all set to have its first Unified Metropolitan Transport Authority (UMTA), an agency that will look into the issues of public transport management and fare determination, in the city and in the state.

The new authority will look after traffic management and transportation system in the Kolkata Metropolitan Area as well as in the State as a whole. Every form of transport that includes buses, taxis, trams, railways, and river, will come under the purview of the proposed authority.

UMTA will also approve and integrate action plans of all relevant departments and agencies regarding various traffic and transportation projects and implement the same. The authority will also recommend effective ways of traffic and transport management in the city. *(BL, 15.10.10)*

New Regulator for Aviation

India will have a more autonomous aviation regulator, the Civil Aviation Authority (CAA), in two years. The aviation sector has seen substantial growth in recent years, leaving Directorate General of Civil Aviation (DGCA) under pressure, particularly in the face of high attrition.

Many employees have either retired or joined the better-paying private sector. Limited autonomy has made it tougher for DGCA to replace them quickly. CAA will be have more autonomy. Faster decision-making will make it better-suited to regulate India's aviation industry. The change will be brought in through an Act of Parliament. *(Livemint, 22.10.10)*

'Criminal' Tag on Fuel-guzzlers

Environment Minister Jairam Ramesh said the use of sports utility vehicles (SUVs) and BMWs in India was 'criminal' and called for changes in diesel pricing to discourage people from riding fuel-guzzlers. He said India's SUV market was growing on subsidised diesel, the owners benefiting from the subsidies intended mainly to help farmers.

Ramesh spoke of a need to "put a penalty on the type of cars that you don't want to see on the roads such as a diesel-driven car or SUV. We cannot ask people to buy or not to buy a particular car, but through an effective fiscal policy, we can have an impact."

People who have used SUVs say they offer 'higher levels of safety, higher ground clearance, and better driving'. *(ET, 13.11.10)*

Airfares Leave Passengers in Dark

Airlines making airfares public have left travellers lurking in the dark as there is no information on availability of seats in a particular price range. In order to protect passengers from an abrupt hike in airfares and also to make ticket pricing transparent, the government had asked all airlines to put a price band to airfares every month and publish them in newspapers or their websites, after airfares shot up drastically, by about 200 percent in a few sectors, post Diwali.

However, the fare charts on airlines' respective websites just give a range of basefares without the number of seats available in each fare category. Hence, they are not consumer friendly as the passenger cannot really know what he or she has to shell out for a ticket. Experts do believe that it is a first step towards transparency. *(ET, 09.12.10)*

Incentives for Public Transport

Urban Development Minister S Jaipal Reddy spoke against low excise and customs duty for private vehicles and stressed on the need to provide more incentives for public transport. He supported 'disincentives' for private transportation.

Talking about sustainable urban transport, he said excise duty should be removed for buses to encourage public transport. Noting that the paradox of the urban mobility issue was that everybody agreed in principle but very few implemented it in practice, Reddy said those who drive public policy in India as well as car owners must learn to travel in public transport. *(PTI, 05.12.10)*

Plans for Mobility Card

Soon you may be able to travel across the country carrying merely a swipe card that can be used on all modes of transport. If plans by the Urban Development Ministry are successful, the common transport card, or 'Common Mobility Card'/ 'India Mobility Card', will be a reality by 2011.

These cards will function essentially as e-purses. This means the money will be on the card – these can be swiped and the value would be automatically deducted. This would hence obviate the need to buy tickets. These cards will cover all forms of transport, including buses, trains, metros, ferries, taxis and even auto-rickshaws. The only sector not included is air travel. *(FE, 31.10.10)*

Industry See Losses on Toll Cuts

The Road Transport Ministry's agreement with truckers to bring down the toll for three-axle trucks by ₹1 per km will lead to a loss of about ₹350 crore annually to the National Highways Authority of India (NHAI).

The NHAI's annual toll earning for 2009-10 was in the range of ₹1,700 crore from 141 public-funded toll plazas in the country. Urging the All India Motor Transport Congress not to go on strike, the Ministry signed an agreement with the truckers to create a new category of toll collection for the three-axle trucks. This effectively reduced toll rates for such vehicles by one rupee to ₹2.40 per km. NHAI is still working on the details of the impact on toll collection. *(BS, 06.12.10)*

OIL & GAS

An Oil Board to be Set Up

The vegetable oil industry has urged the government to set up a national body to protect the interest of all stakeholders – traders, processors and consumers. A central body, which could be called the Oil Board, on the lines of the Spices Board, the Coffee Board and Tea Board, is needed to bring up trade-related issues to the government and suggest solutions in consultations with industry representatives.

A central body could negotiate with the government on larger issues like tariff fixation, import and export duties and ways and means for increasing domestic production. There is already a National Oilseeds and Vegetable Oils Development Board, a statutory body, established in March 1984, with the aim of integrated development of oilseeds and the vegetable oils industry. *(BS, 05.10.10)*

Gas Allocation Policy Amended

The Group of Ministers (GoM) will decide on a change in the government's gas allocation policy and allocate natural gas to power plants that are likely to come up in the next two-three years. Till now, the Centre has maintained that owing to the scarcity of gas, it does not favour reserving gas allocation for plants that are still to become operational.

But now it is ready to review the policy and make allocations to plants that are likely to come up till 2012. These include the expansion programme of the Anil Dhirubhai Ambani Group's Samalkot power project. *(TH, 08.11.10)*

A Lot of Gas

The recurring demands for a review of the gas pipeline tariff policy, where rate for transmission varies in proportion to the distance that gas is carried or telescopic system, and the call to replace it with uniform wheeling rates or postalised system is based on a convoluted logic and needs to be snipped.

The demand for a uniform tariff fails to take note of the disastrous impact of the freight equalisation policies that deprived the states of Orissa, Bihar and West Bengal the fruits of their large mineral resource base.

The current zonal tariffs where every network is divided into zones of 300 km with all customers in the same zone paying the same tariffs has the combined advantages of the telescopic and postalised systems and can be a forerunner to the use of more sophisticated tariff models at a later stage. *(FE, 08.11.10)*

Pipeline Firms to Cut Rates

Gas transportation companies such as GAIL and Reliance Gas Transportation Infrastructure Ltd (RGTIL) may soon be able to charge a lower rate than that determined by the Petroleum and Natural Gas Regulatory Board (PNGRB) or those earlier approved on a cost-plus basis.

However, the new transportation rate would have to be non-discriminatory, is the idea. The Board has proposed amending the PNGRB (Determination of Natural Gas Pipeline Tariff) Regulations, 2008, and has invited comments from stakeholders and experts. The issue came up in a pre-bid conference for pipelines and some bidders had wanted to know if they could offer a rate lower than what was determined by the Board. *(BS, 22.12.10)*

Uniform Pricing for Natural Gas

The Kerala government has urged the Union Government to adopt a uniform pricing policy for natural gas throughout the country. When the LNG Project comes to a reality in Kochi by 2012, the Centre should ensure a uniform price of natural gas.

The availability of natural gas will have a tremendous potential in the development of power plant at Cheemeni near Kannur, high speed rail corridor from Thiruvananthapuram to Mangalore, industrial corridor from Kochi to Coimbatore, Titanium sponge factory, Kannur airport and overall industrial growth.

The laying of pipes from Kochi to Coimbatore, Mangalore and Bangalore will bring greater benefits for Kerala which will be a boon for industries as well as residential consumers. *(BL,14.12.10)*

India Offers O&G Exploration

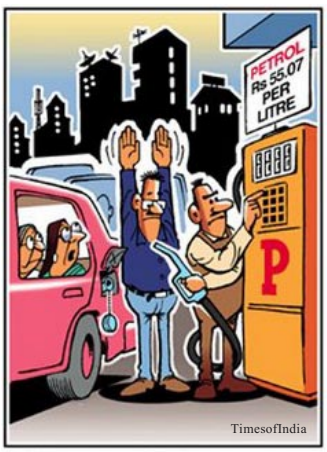
India offered 34 oil and gas blocks for exploration in the 9th round of New Exploration Licensing Policy (NELP). The blocks offered include 8 deep-sea, 7 shallow water and 19 onland, Deora said. The onland blocks include 8 small blocks for which there is a technical qualifying criterion for companies to bid.

In the 8 rounds of NELP since 1999, 235 blocks have been awarded till date. This has resulted in enhancement of exploration coverage from 11 percent to about 58 percent of Indian sedimentary basin between 2000 and 2010. The 8th round attracted investment commitment of US$1.34bn for 36 blocks that received offers. *(ET, 15.10.10)*

No Deregulation of Diesel

The government would not free diesel prices from its control in hurry as the move would lead to sharp rise in price of fuel most used in the transport sector. The government, on June 25, 2010 decontrolled petrol price and said that diesel would move at free price regime shortly. At that time, an *ad-hoc* ₹2 a litre increase in diesel price was affected.

Freeing of diesel prices now would mean a further ₹2.01 a litre increase in rates which will have cascading effect on the already high rate of inflation. Since June 25, 2010 decision, petrol prices have been raised twice ... once in September 2010 and second time in October 2010 to reflect the rising trend in international crude oil prices. *(FE, 18.10.10)*



I do the same when I buy vegetables.

POWER

Ministry Pulled Up on NEF

A Parliamentary Panel has pulled up the Power Ministry for failing to get the National Electricity Fund (NEF) – a critical funding intervention for distribution projects – operational, especially when power distribution is proving to be a major roadblock for realisation of investment targets in the country's electricity sector.

The idea of creating the fund was mooted over two years back to help the perennially-bankrupt state electricity boards (SEBs) improve their finances and reduce distribution losses. The money raised by the fund was to be loaned to these boards at low interest rates.

The panel had made 12 recommendations – including those regarding the lagging pace in power capacity addition and uneven utilisation of funds – in its April 2010 report. *(BS, 05.12.10)*

Steeper Plan Target

"The Centre has targeted capacity addition of 100,000 MW each in the 12th Plan (2012-17) and 13th Plan (2017-22)", said the Union Power Minister, Sushil Kumar Shinde.

He said about 65,000 MW was slated to go online in the 12th Plan. Of this, nearly 50 percent of thermal plants would be subcritical while the balance would have supercritical technology.

In the 13th Plan, the Centre would ensure that only supercritical technology came up as it was about two percent more efficient than subcritical and consumed less coal, besides having a lower carbon footprint. *(BL, 09.10.10)*

Power Capacity Shortfall

India will again fall short of its power capacity addition target on account of equipment supply delays and other reasons, exacerbating an energy deficit that's seen as a key bottleneck in efforts to sustain and boost economic growth.

The government had set a target of adding 20,359MW of power generation capacity this fiscal, but scaled it down to 18,600MW. The country has commissioned a capacity of 7,059MW so far in the current fiscal. In 2009-10, India added a capacity of 9,585MW as against a target of 14,500MW.

Projects are faltering because of reasons as varied as shortage of power generation equipment, delayed investment decisions, contractual problems, resistance to land acquisition, delays in environmental and forest clearances, geological issues and natural calamities. This will aggravate the current 12 percent peak-hour power shortage. *(Livemint, 30.11.10)*

Blotches of Red Ink

Despite all talk of reforms and improvements in technical efficiency the losses of SEBs continue to mount. Commercial losses made by 20 major SEBs have touched ₹58,235 crore in 2009-10 compared with ₹51,670 crore in 2008-09, an increase of 12.7 percent.

Among the biggest losers were the electricity boards of Rajasthan (₹10,250 crore), Tamil Nadu (₹8,555 crore), Andhra Pradesh (₹5,639 crore), Uttar Pradesh (₹5,593 crore), Madhya Pradesh (₹5,122) and Haryana (₹5,104). The sole profitable SEB in the list was in West Bengal; the power supplier made a profit of ₹344 crore.

The states shelled out larger subsidies to cover the huge losses and ensure bare minimum liquidity to power generation companies. This pushed up the states' subsidy bill from ₹15,915 crore to ₹20,409 crore over the last two years. The highest subsidy was paid by Punjab (₹3,144 crore), followed by Haryana (₹2,803 crore) and Karnataka (₹2,795 crore). *(FE, 20.10.10)*

Bills to Spike in Maharashtra

The power tariff across all categories has gone up in Maharashtra. The regulator has approved an additional revenue of ₹1,136 crore for Maharashtra State Electricity Distribution Company Ltd (MSEDCL), resulting in an overall five percent increase in tariff across all categories of consumers.

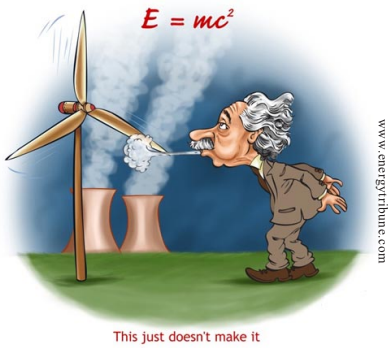
The additional charge would be effective from December 01, 2010. In September, MERC had allowed a tariff hike of three percent for MSEDCL by approving ₹909-crore revenue for 2010-11.

Hence, power consumers in various categories would now be required to pay more. MERC, while approving the additional charges, said an error had occurred in calculating the revenue from the various categories of consumers.

Domestic consumers with consumption up to 30 units per month will have to pay 4 paise more per unit. Industrial consumers would have to pay 26-33 paise more per unit, commercial consumers would have to pay 24-46 paise more per unit for the power usage. *(EI, 03.12.10)*

Increasing Renewable Power

The Ministry of New and Renewable Energy (MNRE) aims to add another 4,700 MW of renewable power by 2012 to the current capacity of 18,000 MW. The additional investments expected would be close to ₹28,800 crore.



Further, for renewable energy generation, the Central Electricity Regulatory Commission (CERC) has notified Renewable Energy Certificate (REC), which seeks to address the mismatch between availability of renewable sources and the requirement of obligated entities to meet their renewable purchase obligations. The National Load Dispatch Centre is the nodal agency for implementation of RECs. The REC market is likely to be operationalised by 2011. *(BL, 26.10.10)*

MIXED BAG

Agents to Recover Loans with a Smile

Agents who recover loans, even when they are arm-twisting defaulters into paying up, have to do so with a smile now. The Reserve Bank of India (RBI) has made it mandatory that from January 01, 2011 those who have not completed a certificate course and 100 hours of training in behavioural skills from the Indian Institute of Banking and Finance (IIBF) cannot be employed by banks and their agencies as loan-recovery agents.

Recovery agents were hired on performance-linked compensation and their tactics were seldom questioned by banks. But in 2009, regulators and banks were forced to take a relook after a borrower was driven to suicide following harassment by the recovery agent appointed by a large private bank.

The agents do not have the right to harass the customer with constant telephone calls. Moreover, he can only speak to the person who has taken the loan and nobody else in the house. *(ToI, 30.11.10)*

New Water Policy Soon

The Planning Commission Deputy Chairman, Montek Singh Ahluwalia, said that the government is preparing a new Water Policy, which is being readied by a Group of Ministers headed by the Agriculture Minister, Sharad Pawar.

He also suggested a pricing mechanism for water, based on availability in different regions to control the 'demand side' and help reduce water consumption and contain the shortage crisis.

Ahluwalia said that by improving efficiency in water usage in agriculture by 100 percent, water supply as a whole could increase to 40 percent. Agriculture consumes about 80 percent of the water resources.

(BL, 14.11.10)

RBI Head FSDC Committee

Finance Minister Pranab Mukherjee met financial sector regulators to thrash out a broad framework of the proposed Financial Stability and Development Council (FSDC) – a council to deal with inter-regulatory issues. The council would also be involved in prudential supervision of the economy.

The RBI Governor D. Subbarao will head the sub-committee of FSDC. The decision to make the RBI governor head of the sub-committee, which will also look at inter-regulatory issues, comes in the wake of the RBI expressing apprehensions over breach of regulators' autonomy by the proposed council. *(HT, 12.10.10)*

Draft Norms on Bank Licences

The RBI is likely to issue draft guidelines on new bank licensing by January 2011. Meanwhile, the Central Bank would put up a gist of feedback received from various stakeholders on its discussion paper, according to the RBI Governor, Dr D Subbarao.

The discussion paper listed a few issues such as the initial capital required, ways of diluting promoters' stake, whether to allow corporate houses and non-bank finance companies and the business model that should be adopted. A larger number of banks would foster greater competition, and, thereby, reduce costs, and improve the quality of service apart from promoting financial inclusion. *(BL, 09.12.10)*

Committee on Infra Finance

Recognising the need for a policy to enable flow of resources for infrastructure, the Centre constituted a 16-member High-Level Committee on Financing of Infrastructure, which would have representatives from various financial sectors, under former RBI Deputy Governor Rakesh Mohan.

The committee will assess the investment to be made by the Centre, the state governments, public sector undertakings (PSUs) and the private sector in the 10 physical infrastructure sectors during the 12th Five Year Plan (2012-17).

The 16-member committee will have representatives from banks, the Pension Fund Regulatory and Development Authority, Insurance Regulatory and Development Authority (IRDA) and Life Insurance Corporation of India (LIC), among others. *(BS, 19.01.10)*

Infra Investment to Double

"Infrastructure investment in the 12th Five-Year Plan would be to the tune of around ₹41 lakh crore", the Union Finance Minister", Pranab Mukherjee said. He highlighted the initiatives taken by the Finance Ministry in enabling greater flow of funds to infrastructure sector and the challenges that lay ahead.

The Finance Minister also highlighted the progress made so far under *'Bharat Nirman'*, the Flagship Programme of the Central Government which aims to rapidly upgrade the quality of rural infrastructure in areas such as roads, water, electricity and telecom connectivity.

He said that more than 30 percent of the total funds envisaged in infrastructure, during the 11th Plan period, would go directly into building and upgrading rural infrastructure.

(BL, 27.10.10)

Promoting Financial Inclusion

Central bank pushes banks to provide basic banking services in villages. The RBI has urged commercial banks to open financial inclusion resource centres throughout the country. These would work as a store-house of all relevant information pertaining to financial inclusion.

The RBI is pushing banks to provide basic banking services in villages with a population of 2,000 and above by 2012 and those with a population of less than 2,000 over the next three to five years. The central bank, which has opened such centres in Pune and Chandigarh, was planning to open two more, one each in Kolkata and Mumbai. *(BS, 07.12.10)*

Should Telecom Licences be Cancelled?

The immediate task is to recover the ₹1.76 lakh crore the CAG talks of. This can be done only by cancelling the licences and immediately re-auctioning them to players who need the spectrum

Mahesh Uppal
Telecom Consultant

The report of the CAG documents how the Ministry of Communications and Information Technology gave away spectrum worth ₹1,76,000 crore when, in 2008, it issued 122 mobile licences in barely a day, in brazen disregard of its own norms, and propriety. While it pursues the guilty, the government can undo the potential damage to the sector by cancelling the impugned licences. It must do so without delay.

It is patently obvious that the licences granted by DoT in 2008 by A Raja were neither as per policy nor in line with prevailing economic conditions. All rules in the book were bent to award these licences at 2001 rates, though Finance Ministry and some DoT officials advised against it. CVC has ordered an enquiry and CBI has registered a case.

Now, the events have been put in the public domain by the country's highest audit body, CAG. Naturally, the next question that comes to mind is whether these licences should now be cancelled.

The government should cancel the licences of all those players who have not done anything so far, which means not rolled out their services as per the licensing agreement. The government is well within its rights to cancel these licences after settling losses due to no use or inefficient use of the spectrum.

But in case of players who have shown some performance in terms of rolling out services, the government should charge them the market-determined price for the licence and allow them to carry on.

The government is well within its rights to change terms and conditions of the licence GSM spectrum at the 2001 rate. Why should they be allowed to pay the old rates and carry on? They must pay the market-determined rates to the government. The policy was twisted to benefit them and is getting rewritten with some hollow argument of a quicker rollout in an era of infrastructure sharing.

If the government adopts the above measures, it should be able to recover the money lost while awarding these licences. And the serious players in the business – who did not enter the sector for quick gains – should not have any issues with paying more in this ever-growing Indian market.

Licences should be cancelled of those who never rolled out their networks. Allow others to function after they pay a penalty that takes care of the under-pricing

BK Syngal
Former CMD, VSNL

Spectrum, like land, is not an inexhaustible resource. Getting the spectrum back requires a simple withdrawal of licence to use it. Given the huge unmet demand for it, spectrum obtained by stealth must be repossessed and such blatantly undeserved largesse revoked. In the 85 cases where companies have lied about their eligibility, cancelling the licences should be a no-brainer.

Cancelling others may be difficult but is no less important since the process for getting these licences, as the CAG shows, is seriously tainted. The same applies to the award of dual technology licences, where spectrum worth thousands of crores of rupees was handed out without a competitive process.

Public interest arguments against cancelling the licences are quite weak. The benefits of the low price of spectrum did not go to consumers, as Raja had claimed. They went to the companies who promptly sold it at market prices. Some consumers will inevitably be impacted if licences are cancelled. The TRAI must devise a scheme to help these consumers move to operators of their choice without additional expense. This is straightforward as well as cheaper to do.

A move to cancel licences will admittedly involve some collateral damage. At least some companies whose licences get cancelled will contest the decision in court and possibly win. They may be due for some compensation from the government or, in rare cases, be allowed to retain their licences. But this is unlikely to dent the billions expected from reallocating the recovered spectrum. If this happens, the government could thank Raja, since it was the shortage of 2G that resulted from his arbitrary decisions that brought it the windfall from 3G auctions.

Abridged from an article that appeared in The Financial Express, *on November 19, 2010.*

Focus on Rapid Urban Transportation

– M Ramachnadran*

The public transport system is an efficient user of space and energy. It is generally accepted that a city with a population of one to two million should have a 50-60 percent share of public transport and for cities with higher population, this will need to go up to 70-80 percent. Not only are we at these levels in most of our cities, but the modal split in favour of public transport is declining

If cities are the engines of growth, it is the transport network which keeps these engines working efficiently. This is particularly relevant for poorer sections of the society, as studies show that around 20-30 percent of their family incomes require to be spent on transport for most of such families.

As cities grow and become richer, vehicle ownership and use also grow more rapidly than the road space available, resulting in increased congestion, air pollution and considerable loss of time spent commuting.

A city like Delhi adds something like 1,200 new vehicles everyday whereas Mumbai, Kolkata and Chennai add close to 1,000 vehicles each day. As per a forecast, energy demand in the transport sector will grow at 5-8 percent per annum and the two-wheeler population, which was at 46.1 million in the country in 2008, is to go up to 87.7 million in 2015.

The number of cars and SUVs will go up from 8.8 million to 18 million during the same period. As with prosperity and development, capacity to afford vehicles goes up, we have to ensure that the role of public transport also has to keep improving.

The fact that the importance of organised, affordable city transport is not accepted and recognised across the country becomes clear from the fact that only 20 out of a total of 87 cities studied, with a 50,000 or more population, have a formal public transport system in the form of a city bus service.

The National Urban Transport Policy announced in 2006 suggests a clear roadmap for improving urban transport. But neither the states nor the cities, basically due to lack of clarity as to who has the assigned mandate for city transport, have taken the required steps to convert this policy into action.

While, on the one hand, public transport in general will have to be prioritised for support and action, rail-based mass transit systems also will have to be prioritised for the same, the latter will also have to be thought of and planned as such systems are less congesting and can be very important for those who are peripherally located and have long journeys to access employment.

Other than Kolkata Metro and now Delhi Metro, Bangalore, Chennai and Mumbai are in the process of adding metros, with Hyderabad and Jaipur also planning it. Ten cities are to have Bus Rapid Transit System (BRTS). Thus, other than seven of the total 35 cities that have a million-plus population, no city has a definite plan to have a spread-out modern mass transit system.

If we need a good example of how a city has effectively and successfully addressed its city transport problems, despite constraints, Singapore would be a good case study. Its transport system is recognised as one of the best in the world. Singapore of the 1960s had road length totalling only 1,000 km, but since its population has more than doubled and the vehicle population almost quadrupled, its transport system today has a network of more than 3,000 km, 12 percent of its land is taken up by roads and the number of daily motorised trips has gone up from a mere 2.7 million in 1981 to 11 million today. Motorists in Singapore enjoy one of the highest urban traffic speeds of 25 kmph.

Besides restraining vehicle ownership and usage, Singapore has invested heavily in infrastructure development for both public and private transport. The noteworthy feature of Singapore's system is that in a period of four decades, it could move from little or no systematic transport planning to problem-driven transport planning to vision-driven transport planning, achieving an effective land transport system that is integrated, efficient and cost effective.

* *Former Secretary, Urban Development, Government of India. The article appeared in* The Economic Times, *on November 13, 2010.*

Hawkers Have Right to Trade

Observing that hawkers have a fundamental right to carry on their business, the Supreme Court has asked the Delhi government to enact a law to regulate their trade keeping in mind also the right of commuters to move freely and use the roads without any impediment.

A Bench of Justice G. S. Singhvi and Justice A. K. Ganguly disposing of a batch of appeals filed by hawkers said "before June 30, 2011, the appropriate government is to enact a law on the basis of the Bill mentioned {by the authorities} or on the basis of any amendment thereof so that the hawkers may precisely know the contours of their rights".

The Bench was of the view that the fundamental right of the hawkers, just because "they are poor and unorganised, cannot be left in a state of limbo nor can it left to be decided by the varying standards of a scheme which changes from time to time under orders of this court". *(TH, 20.10.10)*

FDI in Multi-brand Retail

Foreign direct investment (FDI) in multi-brand retailing is set to become a reality, with a 26 percent cap. With influential wings of the government including the PMO, Finance Ministry, Agriculture Ministry and the Planning Commission lending support for the crucial piece of economic reform, political backing was bound to come.

FDI in retail could transform the way agriculture produce is procured, stored, conserved and marketed in the country. Significant allies in the UPA like the Trinamool Congress and outside supporters BSP and SP had resisted FDI in retail trade, which was earlier proposed at 51 percent. However, even they are being pacified by the consensus formula of limiting the FDI in the sector initially at 26 percent. *(FE, 18.11.10)*

FDI Inflows to Surpass 2009

The FDI into the country in 2010-11 is likely to surpass the inflows seen in 2009. India had received FDI (equity capital components only) worth US$25.9bn in 2009-10, around 5.28 percent lower than US$27.3bn in 2008-09 – the fall mainly attributed to the aftermath of the global financial crisis.

FDI inflows in the first four months of this fiscal (April-July 2010) were US$7.6bn, down 27.9 percent from US$10.53bn in the same period of 2009-10. The country has got a cumulative FDI of US$123.3bn from April 2000 till July 2010, of which US$101bn have come since 2006-07. *(BL, 05.10.10)*

Haryana's Industrial Policy

The draft of new Industrial Policy of Haryana is ready and likely to be announced very soon. The new policy would provide for special facilities to entrepreneurs who set up their units at industrially backward areas in the state.

It would lay focus on inclusive development for which new industrial estates and industrial clusters would be set up at all districts to promote industrially backward belts. The new policy would not only acknowledge the role of small and medium enterprise (SMEs) in state's industrial production but there will be a separate chapter for SME sector in the new industrial policy. It has been drawn in consultation with the Asian Development Bank. *(FE, 22.12.10)*

GST Make Little Headway

Negotiations among states, and between the Centre and the states on the proposed goods and service tax (GST) were stuck after a meeting of state finance ministers in New Delhi failed to throw up a solution on implementing the new tax regime.

GST is India's most ambitious indirect tax reform, seeking to create a common national market by bringing down fiscal barriers between states. The constitution's current provision on the demarcation of the taxation powers of the Centre and states has to be amended to implement GST, which needs a wide-ranging consensus among political parties.

The Centre had asked states to come out with an alternative to their proposal after many states feared the loss of fiscal autonomy. *(Livemint, 07.12.10)*

India-EU Trade Next Spring

India will open its trade in goods and services with Malaysia, Japan and the European Union in the first half of 2011. India has already signed a framework agreement for the Comprehensive Economic Cooperation Agreement with Malaysia and concluded negotiations for a similar pact with Japan

With the EU, which has a bilateral trade of US$76bn with India, differences had cropped up on the level of opening of the market, dairy farming, issues pertaining to child labour and environment. India had entered into comprehensive market opening pacts with Singapore, South Korea and Association of Southeast Asian Nations. *(TH, 24.12.10)*

GDP Tops Expectations

The Indian economy expanded by more than expected in the September quarter. The gross domestic product (GDP) rose 8.9 percent year-over-year during the July-September 2010. The GDP growth was bigger than the consensus forecast of 8.2 percent, but matched the previous quarter's growth, which was upwardly revised from 8.8 percent.

Manufacturing output grew 9.8 percent in the September quarter, but down from the 13 percent expansion seen in the first quarter. Meanwhile, farm output increased 4.4 percent after increasing by 2.5 percent in the previous quarter. During April-September 2010, the economy grew by 8.9 percent compared to 7.5 percent in the same period of 2009.

(www.rttnews.com, 30.11.10)

Decline and Fall of Indian Poverty

– Surjit S Bhalla*

There is a lot to cheer about the pattern of growth and poverty alleviation

In this winter of gloom, doom and corruption, the government can obtain some warmth from data collected by its statistical agencies. Alas, these agencies have yet to hire some basic data processing capabilities from minor computer firms, let alone agencies like Infosys. Perhaps Nandan Nilekani can loan some programmers from the Unique Identification (UID) project. So what's the issue, and what's the evidence?

If ever my column title "No Proof Required" is applicable it is to the sorry and sad state of affairs regarding discussion of poverty in India. Anything goes and went – especially since the economic reforms were introduced in 1991. The poverty industry got a major boost to its market capitalisation by the reforms as economists, particularly of the left variety, vied for space and attention. Reforms could not possibly help the poor – they only made the rich richer and the poor poorer. We have all heard it before, *ad nauseam*.

In India, the respected but painfully slow National Sample Survey Organisation (NSSO) collects data on households and in June 2010 completed the large sample survey for the period July 2009-June 2010. While there are still some economists, and policy makers, who think that India is overheating with a 8.5-9 percent GDP growth, the fact remains that for the last eight years, and including the crisis year of 2008-09, Indian GDP growth has averaged above 8 percent! So what has happened to poverty alleviation over this period?

Some evidence is available from the NSS survey from July 2007 to June 2008. It was a "small sample survey" with 50,000 households rather than the regular 120,000 households, but still large enough for calculations of poverty. Results are presented for two poverty lines – the official Planning Commission and the new 20 percent higher Tendulkar line.

The results underline the dramatic improvement in poverty alleviation during the recent high growth period. Regardless of the poverty line used, or the region, poverty has declined at about three times the earlier pace. For the old official poverty line, the head count ratio of poverty declined by 0.9 percent a year for the 22-year growth period of 1983 to 2004-05; in the subsequent three years the rate of decline accelerated to 2.6 percentage points (ppt) per annum. For the higher Tendulkar poverty line, the rate of decline accelerated from 1 ppt a year to 3.3 ppt a year.

The level of poverty indicated by the 2007-08 survey is 14 and 27 percent, old and new lines respectively. To put these numbers in perspective, the Millennium Development Goals target of 15 percent poor was to be reached by India in 2015. This suggests that the target was reached about a decade earlier.

It needs to be emphasised that these poverty figures are as the raw figures indicate, i.e. no adjustments have been made to the survey data. Indian NSS data are notorious for only capturing half of the per capita consumption that prevails in the country according to national accounts data. If adjustments are made, poverty will be considerably lower than even these low figures.

Two conclusions follow. First, it is very likely that by the old definition of the poverty line, poverty in India is in single digits. Equally true that we should proceed towards substantially raising the poverty line, and do so in an objective rather than the convoluted manner of the Tendulkar report.

My calculations are that the poverty line in India should be raised to about 30 percent higher than the old poverty line i.e. the urban poverty line in 2010 should be ₹1000 per capita per month and the rural poverty line should be ₹650 per capita per month. This will yield the result that approximately 30 percent of the population is poor in India.

Still a large segment of the population and a reduction to zero that Indian policy should target – but without the chest beating and the accompanying legislation of morality that UPA seems to be so fond of.

* *Managing Director, Oxus Research and Investments, New Delhi. Abridged from an article that appeared in* The Financial Express, *on December 18, 2010. The details are available in Inclusive Growth in India: Myths and Evidence, LSE India Observatory Project on Growth and Inclusion in India, forthcoming, www.oxusinvestments.com*

New Jobs in India Q4

Six sectors, including healthcare and realty, are expected to create a whopping 2.3 lakh jobs in India in the last three months of 2010, according to global consultancy Ernst & Young. Boosted by strong domestic economic recovery and improved global sentiment, most local industries are expected to increase their headcount in the coming months, E&Y said.

The healthcare industry alone is projected to generate 60,000 jobs in fourth quarter of 2010. Real estate and IT/ITes sector, each are expected to create 50,000 jobs. Education & training industry is projected to generate 30,000 jobs. Manufacturing and BFSI sectors would each be churning out 20,000 jobs in the 2010 fourth quarter, E&Y said.

(ToI, 31.10.10)

IMF Pegs India's Growth

The International Monetary Fund (IMF) projected that the Indian economy will grow by 9.7 percent in 2010 and 8.4 percent in 2011, driven by robust industrial production and macro-economic performance.

However, neighbouring China is expected to grow at an even faster rate of 10.5 percent in 2010 and 9.6 percent in 2011, driven by domestic demand. Advanced economies, on the other hand, are projected to grow by just 2.7 percent in 2010 and 2.2 percent in 2011.

The IMF report added that global trade is forecast to expand by 4.8 percent in 2010 and 4.2 percent in 2011, with a temporary slowdown during second half of 2010 and first half of 2011. *(ET, 07.10.10)*

Corruption on Top in India

A recent survey of people in 26 countries showed that the most talked-about topic in 2010 among Indians was corruption. About a third of Indians reportedly talked about corruption with friends, co-workers and family.

This year has seen the exposure of sleaze at an unheard of scale in the country, gathering all manner of the high and mighty in its sweep. Topping the charts is the gigantic 2G spectrum scam with its chaotic political fallout. Then there were the Commonwealth Games scam, the Uttar Pradesh food scam, and a host of others. All these have preoccupied Indians like never before.

The survey, carried out by opinion research consultancy Globescan, for BBC World Service, revealed that corruption was considered the most serious problem in 21 out of 26 countries surveyed. Over 68 percent of people mention corruption as one of the most serious problems facing the world.

(ToI, 11.12.10)

India Ranks Low on HDI

Rapid economic growth of the past decade has ensured India a place among the top 10 movers on GDP growth, but the country ranks a low 119 among 169 countries on the 2010 Human Development Index. China has been ranked much higher at 89 on the index published annually by the United Nations Development Programme.

Yet India is a laggard, as many others have moved faster on the measured indicators, some more rapidly on non-income ones while others such as China and many South-east Asian nations on income indicators. The latest Human Development Report has also tried to look deeper into the indicators to establish various inequalities. These inequalities arise due to disparity in distribution of incomes, gender inequality and mutli-dimensional poverty. *(ET, 05.11.10)*

Dare to Dream High!

Indians are most optimistic globally about their job prospects for the next one year, although their confidence and spending has not increased in third quarter of 2010. As per the Nielsen Global Consumer Confidence survey, more than nine out of ten Indians (91 percent) are optimistic about their job prospects in the next 12 months.

The report, however, said after a steady increase in the first two quarters of this calendar on a year-on-year basis, degree of optimism of Indians on the state of the economy has not grown, although the same for their global peers saw a dip. As per the findings India's index stood at 129 as compared to global index of 90.

(EI, 01.11.10)

RTI Activists Seek Transparency

Five years after Right to Information (RTI) Act came into existence, information commissioners feel that there should be more transparency in their appointments. A survey conducted by Parivartan, an NGO, among Central and state information commissioners, the final appellate authorities for RTI Act grievances and complaints, has found that 66 percent of commissioners surveyed want a transparent selection process. The survey found that information commissioners had reservations about the current appointment process.

The survey reveals that of 44 information commissioners who participated in the survey, 29 favoured an open and transparent process requiring proper application procedure. Of the 29 Information Commissioners, 26 felt that such a transparent process can be followed under the present RTI Act but remaining three felt that the Act would have to be amended. *(ET, 15.10.10)*

Disseminating Good Corporate Governance Practices

– Neville Dumasia*

Post-Satyam, much of the debate around corporate governance has centered around independent directors and auditors. Corporate governance practices evolve as countries, economies and companies become more mature.

It is important to consider corporate governance as a by-product of the overall governance ecosystem and, therefore, look at improvements in the context of the entire governance value chain – promoters, executives/ management, regulators/ policymakers, institutions, investors, non-executive directors and auditors.

Regulations are at best a good starting point, thereafter it is up to every company to decide the structure of governance that will best serve its objectives

Around the world, there has been a spate of new regulations to strengthen corporate governance. India too is seeing frenetic activity on the regulatory front – the Companies Bill and the Voluntary Guidelines released by the Ministry of Corporate Affairs (MCA) being key regulatory developments to strengthen corporate governance.

Through the Voluntary Guidelines, the MCA is also experimenting whether corporate India is mature enough to transition to a 'Comply or Explain' model. The Minister of Corporate Affairs has gone on record that the voluntary nature of these guidelines is a vote of confidence from the policymakers that corporate India is capable of voluntarily adopting good corporate governance without the need for having them enshrined in regulations. But there are some very real and practical challenges in adopting these guidelines and the time is ripe for some objective introspection.

Voluntary adoption

There is scepticism that a principle-based approach to corporate governance will work in India. This view stems from the lack of any precedence for successful implementation of principle-based regulations in India. For a country that until two decades ago was used to conducting business within severe constraints imposed by the licence raj, it takes time to comply voluntarily.

On the issue of 'Comply or Explain', the bigger question is whether companies will make disclosures on how they are implementing the guidelines. Further, the capital markets today lack the maturity to monitor the adequacy and quality of disclosures that listed companies make. Then there is also the issue of whether the disclosures are made in simple English for the average investor to comprehend.

The business case

The other question worth contemplating is whether adoption of these guidelines will make the companies better in terms of performance and positively boost stakeholder perception. If this has to happen, the ability of a company board to make a good promoter or CEO even better is critical.

If the expectation is that independent directors add strategic value beyond compliance, they would have to spend more time interacting with management to understand the business, undertake site visits, immerse themselves in strategy sessions, have executive sessions and shape the board agendas and discussions.

Are they prepared to do all of this? If yes, then five things need to be in place — clarity around roles, higher compensation, better informed directors, the powers to seek independent advice and fewer directorships.

It is important for companies to align their strategic priorities to skills required in the boardroom and, accordingly, seek candidates for non-executive positions on the board. More importantly, it is also important to re-look at the composition of the board and work with the members to enhance their skill and awareness of the organisation and the complexity in which it operates.

An art, not science

When it comes to corporate governance, regulations are at best a good starting point, thereafter it is up to every company to decide the structure of governance that will best serve its objectives in terms of sustainable growth and value creation. Due to these very reasons, corporate governance is an art, not a science and hence cannot be implemented with a box-ticking mindset.

It is important for companies to attempt implementing these guidelines or undertake a robust impact assessment, highlight unworkable guidelines and participate in shaping the country's regulatory landscape.

* *Head of Governance, Risk and Compliance, KPMG. Abridged from an article that appeared in* The Hindu Business Line*, on October 14, 2010.*

CAG REPORTS

Corruption Exposed in Assam

The CAG found serious discrepancy in the budget of the Assam government, which was pumping in more money than what was proposed in the budget for the North Cachar Hills Autonomous Council. The excess fund sent to the autonomous district council was neither re-appropriated nor supplemented by the government through supplementary demand.

The CAG said that there was no evidence whether any supplementary grant was provided or any re-appropriation was made on excess expenditure.

(www.assamnewsonline.com, 04.12.10)

CAG Indicts Raja for Arbitrariness

Former telecom minister A Raja went ahead arbitrarily with the 2G spectrum allotment in 2008, ignoring the advice of Prime Minister Manmohan Singh among others and causing a 'presumed loss of ₹1.76 lakh crore' to the exchequer, the CAG said.

The presumptive loss caused to the government through spectrum allocation to 122 licencees and 35 dual technology licences in 2007-08 was ₹1,76,645 crore. The figures were arrived on the basis of 3G auction held earlier in 2010 in which the government collected over ₹67,000 crore.

(BS, 16.11.10)

Top Schools Condemned

A report by the CAG regarding private schools in Delhi has revealed that they had been using the Sixth Pay Commission as an alibi to make more money. Several private schools complained that they had been suffering losses due to the burden of paying higher salaries to teachers after the Sixth Pay Commission.

The auditor has alleged that around 25 'elite' schools in Delhi were making the parents suffer the burden of the additional costs of hiking the salaries of teachers without bothering to utilise the cash reserve that they had accumulated by not implementing the staff salaries as prescribed by the government.

(www.indiaedunews.net, 07.12.10)

DoT Slammed

The DoT's attempts to stonewall queries from the Comptroller & Auditor General of India (CAG), using an opinion from the Law Ministry that policy decisions cannot be second-guessed by auditors, has failed to deter the national auditor.

The CAG has now sought an explanation from the DoT for giving a pan-India mobile permit to the Essar Group-owned Loop Telecom, which it said did not fulfill 'the eligibility criteria for obtaining the permit'.

Prior to this, the watchdog had also asked the Department to explain why it overlooked several licence conditions when awarding pan-India mobile permits to realty firm Unitech, which in turn ceded majority control to Norway's Telenor. *(ET, 11.10.10)*

Reduce Corporate Taxes

In its latest recommendation to the government, the CAG suggested that India should come up with an alternative lower corporate tax rate so as to prevent several non-resident firms from misusing the Double Taxation Avoidance Agreements (DTAAs) on account of higher levies in India.

CAG stated that in several countries with which India has signed the DDTA, tax rates range from 20-30 percent of net business income, where as in India TDS ranges between 10-20 percent on gross receipts, which turns out to be much higher than taxes in other countries. It also urged the government to introduce and implement such a rate along with the direct tax reforms from April 2012. *(www.taxworry.com, 13.12.10)*

Failure of Green India Plan

Jairam Ramesh's green activism may have made him a darling of the environment NGOs, but the CAG has put a spoke in the wheel by asserting these NGOs are not utilising government funds properly. The CAG has pulled up the Environment Ministry's plan for greening India and preserving of biologically sensitive regions.

The CAG report shows the Ministry has cost the government about ₹500 crore by not following up with hundreds of non-governmental organisations to whom it had given funds for projects like afforestation. The NGOs apparently took the first installments but did not return to show what they had achieved with the money and the Ministry officials, too, did not ask them. *(FE, 25.11.10)*

E-GOVERNANCE

UP Facing Power Hurdles

Uttar Pradesh, which is gearing up to launch e-governance from January 2011 is facing challenges in the form of seamless connectivity hurdles and inadequate power supply on its path. Although UP is one of the most promising states in North India on the e-governance front, connectivity and power are proving to be the biggest impediments in its path.

Meanwhile, the Centre has asked public sector *Bharat Sanchar Nigam Limited* to provide broadband connectivity to the Common Service Centres (CSC) being set up all over the country. In UP, CSCs are known as *Jan Suvidha Kendra*.

(BS, 03.11.10)

E-auction for Govt Purchases

The government is planning to adopt electronic auctions for all non-strategic procurements, abandoning the existing tendering system. The move is aimed at improving transparency and eliminating inefficiencies. All ministries and public sector undertakings will have to compulsorily follow the e-auction system.

E-auctions leave no scope for favouritism, checking the possibility of corrupt practices. The move also promises huge savings for the government as e-auctions cut out several layers of inefficiencies in the tendering system. *(FE, 02.12.10)*

National Employment Policy

With an eye on projected 2.5 percent annual growth in the job sector, the government is in the process of giving final touches to a national policy to accelerate employment growth. The draft of the proposed National Employment Policy is likely to be placed before the Cabinet soon for its approval. The draft policy also favours an urban job guarantee scheme on the lines of National Rural Employment Guarantee Act (NREGA).

It also aims at improving the quality of jobs in terms of productivity, average earnings and protection of workers especially in the unorganised sector. The policy has emphasised on inclusion of youth, women and vulnerable groups with their specific needs of training and skill development. *(PTI, 01.11.10)*

Bihar Scraps MLA Fund

In yet another move aimed at nipping administrative corruption in the bud, Bihar's newly-formed National Democratic Alliance government announced its decision to do away with the MLA Local Area Development (LAD) fund.

With this, Bihar becomes the first State in the country to do away with LAD funds for its legislators. Laying bare a road map for the State's development over the next five years, the Nitish Kumar-led NDA Cabinet outlined 22 new resolutions which will aid in transforming Bihar into a developed State by 2015.

The LAD fund money, earlier routed through the Rural Works Department, will now be channelled via the State's Planning and Development Department. *(TH, 15.12.10)*

Super Regulator Proposed

The government has proposed a super-regulator that will oversee the working of all tribunals, regulatory bodies and authorities, as it seeks to put in place an institutional arrangement to ensure greater transparency and accountability of quasi-judicial bodies.

The proposal is expected to generate intense debate, as it comes soon after a hotly-debated decision by the finance ministry to create a body for regulator coordination. The proposal faced resistance from financial sector regulators, which felt their regulatory autonomy would be undermined by the proposed body.

As many as 62 tribunals and regulatory bodies in areas such as telecom, taxes, insurance, railways, highways, human rights and the press council are proposed to be monitored by the division. *(ET, 04.11.10)*

Manufacturers in Question?

The government is framing a new law to amplify consumer rights. The idea is to empower consumers to sue manufacturers and service providers who dupe them by concealing information in a manner that their purchase decisions are wrongly influenced. Under the proposed law, the firms will also be prosecuted for not issuing receipts of purchases to consumers.

The government will create a 'simple, inexpensive and quicker justice delivery system,' where the consumer can haul up any company – large or small – in a new court called 'National Consumer Protection Court Authority.' The new judicial system will work on the lines of the US Federal Trade Commission. *(FE, 18.10.10)*

Lokpal to Curb Corruption

After several abortive attempts, government is once again working on a law for establishment of the institution of Lokpal to go into allegations of corruption against public functionaries, including the Prime Minister.

The draft Lokpal Bill, 2010 provides for filing of complaints of allegations of corruption against Prime Minister, ministers and MPs with the Lokpal. According to the Bill, the Lokpal shall consist of a Chairperson who is or has been a Chief Justice or a judge of the Supreme Court. It will also have two members who have either been the judges of the Supreme Court or the chief justices of high courts.

(www.dnaindia.com, 08.12.10)

Scarcity of Food Grain

Archaic rules continued to hinder effective food management despite the country sitting on record grain stocks, but the government seems to be in no hurry to make changes. The problems with food management manifested in the last 18 months in the form of 20 percent-plus food inflation, that too at a time when huge amount of grain was rotting in government warehouses.

The disbursement of grain to states through the public distribution system in a particular year is based on the average offtake for the preceding three years. This rigid formula denies the government flexibility to quickly release grain to tide over crisis situations.

The government is currently trying to raise gain storage capacity by roping in the private sector. But the question of efficient management remains. *(ET, 12.10.10)*

All Ministries Stay, Will Rejig Work

The government has rejected the Administrative Reforms Commission (ARC) suggestion to reduce the number of ministries at the Centre. However, it has agreed to reorganise work within the ministries and reduce the number of levels in the bureaucracy.

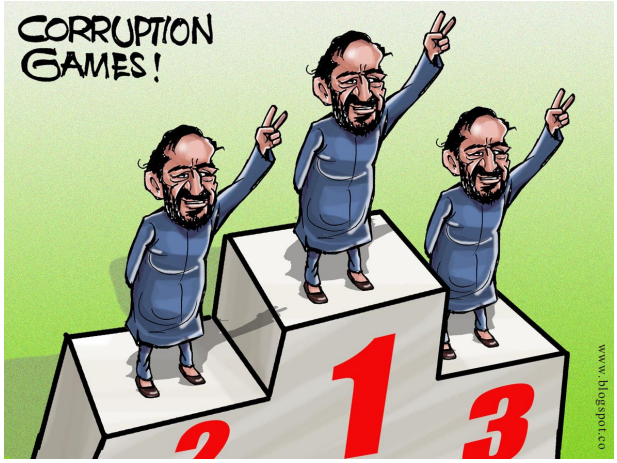
An empowered group of ministers, headed by Finance Minister Pranab Mukherjee, has turned down the ARC recommendation to end the proliferation of ministries and departments since independence. ARC had also suggested opting for no more than 25 ministries headed by Cabinet Ministers and assisted by other ministers.

However, the empowered group accepted the recommendation for a mandatory scheme of delegation in each ministry. The core group on Administrative Reforms has agreed to implement instructions that files should not pass through more than three levels. *(HT, 03.10.10)*

Remedy for Corruption

– Shubhashis Gangopadhyay*

The veil over the 2G spectrum scam seems to be slowly lifting. As it reveals its ugly face, the country becomes more and more involved in speculating on the name of the next character that will take centre stage in this sordid drama. We are also being treated to some excellent side-shows involving land scams in Maharashtra and the mining lease scams in Karnataka. All of this has come to light after the corruption episodes that hogged newspaper coverage during, and after, the Commonwealth Games. And new corruption dramas will be enacted with a completely new set of actors.



No country has been able to completely get rid of corruption. What is remarkable in India is how widespread and systematic it is. It is difficult to think of any one sphere of our lives where we can say that we will not face any corrupt activity. The question to ask is why corruption is so rampant here. And, the reason is a simple one – we do not believe in professionalism; instead, we depend on "fixers" to get the job done.

Policy decisions should be undertaken after they have been thrashed out in public space by professionals, not by civil servants and politicians

Take for example the 2G scam. To begin with, the minister was not exactly a natural choice for this important ministry. The main fixer was not somebody who can in any way be described as a public or social policy strategist, or even someone who could be remotely described as a technologist of some repute. Many of the companies that obtained licences at throwaway prices had no proven expertise in this field and they promptly sold a part (or all) of their holdings at obscene premiums to other players even before any market was developed by them.

Take the issue of land. Both in acquisition and distribution, all decisions are taken by politicians and their relevant ministries. The expertise on, say, urban planning or on land auctions comes from politicians themselves or, from civil servants. This is not to say that they should not be involved, but clearly they should demonstrate expertise on these specific issues before being asked to take decisions on them. Instead, lands are acquired, they are parcelled out among the loyal and faithful and then grandiose development plans are worked out. So, those who got cheap allocations become rich overnight because of their proximity to decision makers.

If India has to develop into a knowledge-based economy, if India has to modernise, if India has to urbanise, if India has to build infrastructure, we have to become more professional-oriented. Remember, our economy reformed in the nineties under a finance minister extremely well-trained in economics leading a team of other extremely well-trained economists in major official positions. The reforms of the nineties were not orchestrated by fixers and that has put us on the growth path we are now experiencing. Professionals get their reputation from a job well done, not from the amount of money they have made, or allowed others to make, by networking in the corridors of power.

India will not be a leader among developing countries if people become experts by sitting on committees; they should be sitting on committees because they are experts. Public policy decisions should be undertaken after they have been thrashed out in the public space by professionals. They cannot be left to be drawn up in closed-door meetings of civil servants and politicians. Otherwise, fixers will continue to have a field-day and India will continue to be at the top of the list of corrupt countries.

* *Research Director, India Development Foundation.*
Abridged from an article that appeared in The Business Standard, *on November 27, 2010.*

Friendly Companies Bill

Amid the ongoing controversy over 2G spectrum scam and lobbying, Corporate Affairs Minister Salman Khurshid said the government would introduce a corporate- and people-friendly companies Bill in the Budget session.

The Bill sets a cap on the number of directorships an individual can hold, as well as prevents a subsidiary (of a company) to have another arm. The Parliamentary Standing Committee had recommended that a provision be made in the Bill for rotation of independent directors by restricting their tenure in a company to, say, five years. The Bill may have provisions relating to corporate social responsibility (CSR). *(BS, 18.12.10)*

Police to Check Money Laundering

The Prevention of Money Laundering Act (PMLA) amendment will lead to coordinated investigation by agencies. In a recent change of law, the police of every state have been empowered to question anyone on suspicion of money laundering or having income that is illegal or disproportionate to his income sources.

This is after the amendment to the PMLA, 2002. Section 66 of PMLA empowers local police, who will then have to report to the Financial Intelligence Unit, the Central Government agency responsible for monitoring possible money laundering transactions.

Business Standard

The legal change is part of the effort for the Government of India to become part of the Financial Action Task Force, an inter-government body to combat money laundering and financing of terrorism. *(BS, 01.10.10)*

Judicial Accountability

A Bill seeking to strengthen the institution of judiciary of the country by making it more accountable and, thereby, increasing the confidence of the public in the institution was introduced in the Lok Sabha by the Union Law Minister, Veerappa Moily.

The Judicial Standards and Accountability Bill 2010, introduced by the Law Minister amid melee over the Opposition's call for a Joint Parliamentary Committee (JPC) on the 2G spectrum issue that has stalled proceedings for several days, seeks to repeal the Judges (Inquiry) Act, 1968.

Previously, there was no legal mechanism for dealing with complaints against judges, who are governed by 'Restatement of Values of Judicial Life,' adopted by the judiciary as a code of conduct without any statutory sanction. *(TH, 02.12.10)*

Amendments to Seeds Bill

The government approved additional amendments to the Seeds Bill, 2004 that includes raising penalties for offences like sale of spurious seeds. The additional amendments provided for submission of seed related periodic returns to state governments and enhancement in penalties of offences.

In March 2010, the Cabinet had approved the Seeds Bill, 2004 that seeks to regulate the quality of hybrid seeds and check the sale of spurious seeds in the country, besides increasing private participation in seed production and distribution.

The Bill seeks to repeal and replace existing Seeds Act, 1966, for it does not deal with the quality control of GM seeds, as they are generally not notified. *(BS, 20.10.10)*

Ports Get Rights to Set Rates

The 12 ports owned by the Union Government may win back the freedom to set their own rates if a proposed new law on India's ports sector is enacted by the Parliament. The new Indian Ports Bill 2010 would also allow the government to convert the 12 ports from trusteeships into corporate entities.

The new Act, if it goes through, will replace the Indian Ports Act 1908 and the Major Ports Trusts Act 1963. The proposed Bill is intended to meet the current operational and developmental requirements of the Indian ports sector. *(Livemint, 20.10.10)*

Uniformity in Healthcare

The Clinical Establishments Bill, 2010 passed in the Lok Sabha making it mandatory for all clinical establishments in the country to register as per the provisions of the new statute. The Bill, which has been pending for several years, aims to bring in uniformity in the healthcare delivery and prescribes penalty for the defaulting establishments.

The legislation is now applicable to clinical establishments under all recognised systems of medicines or treatment under Allopathy and Ayush. It would apply to all the hospitals or clinics including single doctor establishments, with or without beds.

The Act includes any laboratory, which offers pathological, bacteriological, genetic, radiological, chemical, biological and other diagnostic or investigative services.

(raviverma24.blogspot.com, 05.11.10)

Introduction of Mining Bill

The Union Government approved the introduction of a Bill in the Parliament to amend the Mines Act, 1952 . The Bill proposes to amend the law relating to regulation of condition of work and welfare of persons employed in the mining sector. The Act was last amended in 1983.

The Bill proposes that that every person who contracts for the services or operations in a mine, and includes a contractor and sub-contractor, shall be considered the 'owner.' Considering the risk factors involved in mining, the bill enhanced penalties by about 100 times, so that the offender is not let off with a token penalty, as is mostly the case.

The Mining Bill has generated intense media debate over its 26 percent profit sharing clause and over the proposal to separate the mining accounts of integrated steel plants.

(Livemint, 30.12.10)

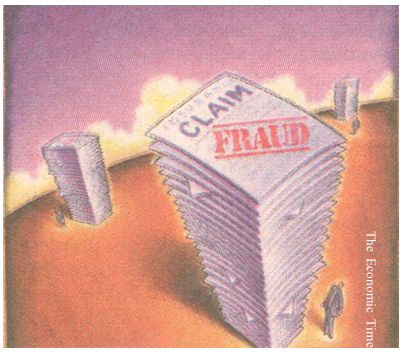
New Regulator for Health Soon

The Bill to set up National Council for Human Resource in Health (NCHRH) – the overarching regulatory body for the health sector, which will replace the existing Medical, Dental, Nursing and Pharma Councils of India – will be introduced in Parliament soon.

The Bill will seek to create an enabling environment that will address issues of quality, quantity and equitable distribution of medical education resources.

The government is trying to address the lacunae of inadequate public provisioning for critical health services. The 11th Five Year Plan has envisaged an increase in public expenditure on health to at least two percent of GDP. *(ToI, 02.10.10)*

Insurers to Detect Bogus Claims



The government has asked health insurance companies to crack down on hospitals that raise false claims as it seeks to widen the scope of *Rashtriya Swasthya Bima Yojana* (RSBY), the hugely successful public health insurance scheme for poor families.

The Labour and Employment Ministry has issued guidelines to insurance companies for hospital surveillance and de-empanelment of hospitals engaging in fraudulent activities. It is also putting in place a process for dispute resolution between insurance companies and hospitals.

Claiming insurance money is easy for hospitals as they just have to swipe smart cards owned by the patients loaded with the sum insured. However, since data flows on a daily basis from hospitals empanelled under the RSBY to the Central server, suspicious activities often stand out.

(ET, 25.10.10)

Evaluating Drug Prices

More definitive contours on the price control that government exercises on medicines are expected to emerge with the revised National List of Essential Medicines (NLEM) expected in December 2010.

The revised NLEM will form the basis of the policy on price control. At present, the NLEM comprises 354 medicines, of which 74 are under price control. Under the Union Health Ministry, the erstwhile List of Essential Drugs was rechristened NLEM and its last major revision was in 2003. The development gains importance since the proposed new Drug Policy has been hanging fire for eight years now. *(TH, 01.12.10)*

SMS Alerts on Banned Drugs

Gujarat Food and Drug Administration (FDA) has developed software that would enable the FDA to send short messaging services (SMS) to all pharmacists in the state on non-standard drugs and banned drugs. If this happens, then the state FDA would be the first to provide warning alerts through SMS in the country.

The FDA office had approached some of the telecom operators in the state and will select those operators who have larger market share and provide good services. Interestingly there is no other state FDA in the country to have such a system in place, which would disseminate life saving information about non-standard drugs or banned drugs to the pharmacist. *(ET, 29.11.10)*

MCI Crackdown on Quacks

Cracking down on quacks operating in the country, the Board of Governors of the Medical Council of India has issued a circular to health secretaries of all state governments and superintendents of police of the districts among others to list medical practitioners covered by the Council.

"Allopathy, Indian system of medicine, homoeopathy and bio-chemic system of treatment is recognised by law in our country. Apart from these systems of medicine [also excluding animal husbandry, surgery and dental services, there is no system of medicine recognised in the country.

Electro-homoeopathy, alternative system of medicine, integrated system of medicine and Indo-allopathy which are being practiced as systems of medicine in our country are not recognised by law", noted the circular.

(TH, 15.10.10)

Drugs' Registration Mandatory

The government plans to make it mandatory for drugmakers to register their brands to avoid marketing of medicines, used to treat different diseases under the same brand name.

There are many common brand names used by separate pharma companies. Besides the same brand name, many companies use variants of an existing brand that are deceptively similar to a different product.

The problem lies in multiple authorities involved in granting license to market and manufacture a drug. Drug marketing licences are given by national Drug Controller General of India after the efficacy and safety of a medicine is established.

(ET, 21.10.10)

Health for All!

Recognising the importance of defining a comprehensive strategy for universal health coverage, the Planning Commission has set up a high level expert group to develop a 15-member blueprint and investment plan for meeting the human resource requirements to achieve 'health for all' by 2020.

The group is mandated to rework the physical and financial norms needed to ensure quality, universal reach and access to healthcare services, particularly in underserved areas and to indicate the role of private and public service providers.

The group will suggest critical management reforms in order to improve efficiency, effectiveness and accountability of the health delivery system. *(TH, 20.10.10)*

Vocational Education on Cards

The Union Government is planning to bring in a national vocational education framework within one year, according to Kapil Sibal, Union Minister for Human Resource Development.

A national policy on vocational education was the need of the hour to ensure that the parameters of each vocation were well identified and benchmarked. The vocational training programme could be provided at various levels starting from Standard VIII and could either be integrated with the regular curriculum or be offered as standalone courses, he pointed out.

The state governments could be asked to identify and devise vocational courses, standards of which would be decided at the national level. The gross enrolment ratio was only 12.4 percent at present and the aim was to take it to 30 percent by 2020, he said. *(BL, 20.10.10)*

Privatising Higher Education

Suggesting increased private partnership as a viable financial model to enhance investments in the education sector, the government has recommended raising fees in higher education institutions and allowing schools to function as profit-making bodies with a regulatory mechanism in place.

For students belonging to weaker sections, there could be provision for financing grants for pursuing higher education, repayable after students start earning so as to ensure sustainability of the system.

The analysis says adequacy of teachers – both in numbers and quality – remains a cause for concern.

(TH, 08.12.10)

Code of Ethics for Teachers

Like doctors and lawyers, teachers may soon be subject to a "code of professional ethics", which includes clauses for disciplinary action over corporal punishment, private tuitions and other "anti-community" activities.

If accepted by the government, the proposed code would apply to school teachers across the country, from primary to secondary and senior secondary levels, and across government as well as private schools, with the aim of restoring "dignity and integrity" to the vocation of teaching.

One of the most far-reaching recommendations of the code is setting up of a professional body like the Indian Medical Association or Bar Council of India, which applies to professionals in their respective fields and imposes penalties in case of violations of ethical practices.

(FE, 27.12.10)

HP Passes Education Bill

Himachal Pradesh Assembly passed the key Private Institutions (Regulation Commission) Bill seeking to regulate the functioning of institutions of higher education including private universities. Himachal Pradesh was the first state to bring such a Bill to regulate higher education.

More amendments could be made if needed with passage of time as the government was committed to regulating higher education. The Bill provides for constitution of a three-member commission to regulate the functioning of private institutions and universities. It also empowers the commission to impose a penalty upto ₹5 crore for violation of guidelines set by government and other statutory bodies. *(FE, 10.12.10)*

Ordinance to Regulate Fees

Maharashtra government is planning to come out with an ordinance to regulate fees charged by private schools. Earlier, Minister for School Education, Rajendra Darda informed the members who raised the issue in the Assembly that the government was formulating a policy for the private schools and it would be announced on the first day of Budget session of the Legislature in Mumbai.

Members, however, pointed out that it would be too late by then as the admission process in private schools would be almost over by then and argued the government should come out with an ordinance.

Conceding the demand of the members, Darda said the state wanted to wait for some time as the Central Government is also coming out with a policy on the same issue. *(BL, 09.12.10)*

Corruption & Primary Schools

The Bihar government is making good its promise to confiscate the property of corrupt officials and turn them into primary schools. That is what has happened at the home of former motor vehicle inspector (MVI) Raghuvansh Kunwar at Chaira village in Samastipur district. The government has already begun the process of setting up a primary school there.

He owns property worth ₹80 lakh and was allegedly caught red handed accepting a bribe of ₹50,000 when he was MVI of Aurangabad district on September 24, 2008. In the course of investigation, vigilance officials found huge unaccounted for wealth. A case of disproportionate assets was subsequently lodged against him in 2009. *(DNA, 11.12.10)*

Boosting Education

"The government may come up with a law in the coming years to make sure that all children must go from elementary to higher secondary education which is vital for the future of the country", Kapil Sibal said.

He said that while the Right To Education has now become a fundamental right, a similar move is crucial for the secondary education so that there is a critical mass at the university level who will create wealth for the country.

He also ruled out fears that cost of education will go up, saying 93 percent of the education infrastructure in the country lies in public sector.

(BS, 20.11.10)

Regulator to Review Sector

Microfinance Institution Network (MFIN) – the self regulatory organisation of the of the micro finance organisation – has demanded a comprehensive regulator for the sector to check indiscipline in the functioning of the sector.

MFIN comprises 31 non-banking finance companies (NBFC) MFIs including the top 10 MFIs. It is time that the sector gets a regulator which will go beyond prudential regulations and cover all aspects such as prevention of over-lending, excessive profit and coercive recoveries and also grievance redressal of clients.

The MFIs charge an interest rate of 24 percent per annum as against 30 percent being charged by the moneylenders. As MFIs grow larger reaping economies of scale, they should pass on the cost of savings to their clients in the form of lower interest rate. *(FE, 21.10.10)*

Doors Shut on MFIs

The Andhra Pradesh Micro Finance Institutions (regulation of money lending) Ordinance, 2010, approved by the State Governor, E S L Narasimhan seeks to regulate MFIs, making it mandatory to register with local authorities, while having stringent punishment for coercive methods of collection of dues.

The Ordinance passed in the wake of nearly 40 deaths allegedly due to harassment by MFIs on loan dues, also has provisions to create fast-track courts in consultation with the High Court of Andhra Pradesh, with an express provision for disposal of cases within three months. The MFIs now have to register with the local authority and display the interest collected prominently. *(BL, 16.10.10)*

Credit to Weaker Sections

Prime Minister's Economic Advisory Council Chairman C Rangarajan emphasised the significance of micro-finance as an instrument for financial inclusion of weaker sections and said linkage between banks and SHGs should be promoted to provide credit on easy terms to small borrowers.

Dr. Rangarajan said micro-credit should be an integral part of the model for financial empowerment of marginalised sections of society and improvement of their productivity. He regretted that SHGs had not yet been granted a legal status even though the RBI had given the mandate in 1992 to provide loans to them.

The support to the bank-SHG linkages as well as expansion of business correspondents programme would ensure growth of bank-related micro-finance sector even as other forms of micro-finance institutions continue to grow. *(TH, 06.10.10)*

MFIs or Moneylenders?

Private MFIs' vision of "eradicating poverty" is far removed from reality, say finance experts. They say MFIs are no better than moneylenders, who lend to the poor at a higher rate of interest, or almost the same as a moneylender, and turn this into a profitable venture.

Banks, which are meant to reach out to the rural poor but choose to fund MFIs instead, have only contributed to the debt crisis the poor are facing in Andhra.

The MFI sector in the state has largely three kinds of players: the SHGs which are government supported MFIs, the private MFI firms and non-profit NGOs. *(ToI, 14.10.10)*

Interest Rate to Plummet

Interest rates in the microfinance industry will fall with greater competition and the emergence of disruptive business models that offer similar services at far lower costs through process innovations. As scale improves and the desired efficiency numbers are reached, the costs fall sharply.

Broadly, an MFI's costs consist of four components. The first is the rate of interest at which the MFI borrows. MFIs do not accept deposits; the rates at which they raise money thus form the base rate for them to be able to lend. The second component is the cost to the MFI of running its operations. The third component is the loan loss reserve for anticipated defaults. And the fourth is the cost of capital. *(BL, 27.10.10)*

Private Equity in Microfinance

Even as investors await regulatory clarity, allocation to Indian MFIs would not dip.

Though Indian private equity players are upset over the Andhra Pradesh government's stand against the state's microfinance sector, the global investors that pump money into the PE firms remain bullish on the sector. MFIs already face a shortage of funds as banks refuse to lend them money.

MFIs have posted over 500 percent growth in 2010 as far as PE investments are concerned. In 2009, only five deals worth US$20mn took place, while 2010 witnessed about 18 deals worth US$132mn in the microfinance space. *(BS, 19.12.10)*

Law to Cap Interest Rates

The Centre is planning to bring in legislation to put a cap on the interest to be collected by the microfinance institutions (MFIs), Andhra Pradesh Rural Development Minister V Vasant Kumar said.

The state government had brought out an ordinance to rein in the MFIs whose coercive methods have resulted in the suicides of a large number of people in the state. The women's groups at the district level can speak to the MFIs to reduce the high interest rate being collected by them. Self Help Groups (SHGs) should be run in a fool-proof manner. The state government has asked bankers to ensure that their loan disbursement targets with regard to the poor are met. *(FE, 27.10.10)*

Predatory Pricing by NSE

The Competition Commission of India's (CCI) investigation wing has found "predatory pricing" by National Stock Exchange (NSE), the country's largest and most diversified exchange, in the over two-years-old currency derivatives segment.

According to an official source, the CCI Director-General's probe on a complaint by rival MCX-SX clearly established that NSE enjoyed a dominant position in the exchange market by virtue of its presence across verticals, and it abused this privileged status by waiving transaction fee in the fledgling currency futures segment.

Predatory pricing is an anti-competitive behaviour that is punishable under competition law.

(FE, 12.11.10)

Banks Mergers Sealed

A government panel has favoured exempting crisis mergers between banks from the CCI's oversight, a decision that could boost the Corporate Affairs Ministry's efforts to get speedy Cabinet approval for the proposed merger norms.

The committee of secretaries set up to clear the regulatory logjam over bank mergers, however, could not agree on the RBI's view that all mergers between the country's lenders should be kept outside the purview of the competition regulator.

The move is in conformity with the internationally accepted practice of exempting crisis mergers from the purview of competition regulators.

(ET, 09.12.10)

Competition Policy Review

India said at the recently concluded UN summit on trade and development that competition policy followed in various nations have to be reworked so that it protects the common man's interest in times of economic crises.

"During these times (of economic crises), it is the common man who is affected the most, and therefore, competition policies have to be reviewed and re-oriented to ensure the interest of the common man," said CCI Chairperson Dhanendra Kumar.

The meet reviewed the multilaterally agreed equitable principles and rules for the control of restrictive business practices. Besides preventing cartels, competition law tries to ensure that there are no entry barriers in an economy. *(FE, 17.11.10)*

CCI Favours Home Loan

In its first ruling, the CCI held that lenders offering housing finance were not being unfair in charging a fee on advance repayment of home loans. The matter was taken up after an individual filed a complaint with CCI against home lenders alleging that they were abusing their dominant positions in the market by charging pre-payment fees on certain schemes.

CCI held by a 4-2 majority verdict that the 15 banks and housing finance companies (HFCs) involved in the case were competing fairly and were not being unfair in levying pre-payment charges.

Deutsche Postbank Home Finance Ltd, State Bank of India, Oriental Bank of Commerce and LIC Housing Finance Ltd were among those involved in the case.

(Livemint, 08.12.10)

Cartelisation by Cotton Traders

The State Cotton Federation has launched procurement but not a single farmer has turned up to sell cotton at its collection centres because of the huge gap between minimum support price and the open market rates.

But private traders are now being accused of cartelising in order to pull down prices as it has become a buyers' market.

Nearly half a dozen incidents of clashes between protesting farmers and traders trying to manipulate cotton and soyabean prices in Vidarbha were reported from all over Vidarbha. Traders who have a strong network and faster means of communication have allegedly ganged up. *(ToI, 17.11.10)*

Kingfisher Accused by CCI

The CCI, on November 21, 2010, under Section 43 of the Act imposed a ₹1 crore (US$220,000) fine on Kingfisher Airlines for not providing sufficient information in the CCI's investigation of the airline's alliance with Jet Airways.

Subsequently on December 01, 2010, Competition Appellate Tribunal (COMPAT) stayed the CCI order imposing ₹1 crore fine on Kingfisher airlines.

COMPAT ruled against the imposition of a fine after it was convinced on the facts that Kingfisher had indeed furnished the information sought by the CCI in time. The COMPAT order is confined to the question of the fine alone with a decisive hearing scheduled to take place on January 20, 2011.

(BS, 22.11.10 & 02.12.10)

Cartels Behind Onion Price Rise

A few traders bought small quantities at high rates to signal a spike in prices. Price fixing by some traders acting together reportedly fuelled onion price rise. They bought minuscule quantities at high rates, sending a message that prices had gone up sharply.

On December 20, 2010 the maximum and minimum prices at Asia's biggest onion market, Lasalgaon, were ₹6,299 and ₹1,200 a quintal, respectively, while the average wholesale price was ₹3,800 a quintal.

Most farmers were deprived of the benefits of the high prices quoted that day. Prices were raised in the retail market on the basis of higher wholesale prices, as the Agricultural Produce Market Committee (APMC) announces the low and high prices. This gave wrong signals to retailers and other wholesalers. After the Central Government's ban on export, prices started declining. *(BS, 29.12.10)*

Ill Fares the Land

– Nitin Desai*

The current crisis of confidence in institutions of governance is an opportunity for reform

Ill fares the land, to hastening ills a prey, where wealth accumulates, and men decay

– Oliver Goldsmith

This has been a bad year for the republic. The economy may have recovered with the revival of growth and our egos may have been boosted by the attentions of the great powers, but for practically every institution of governance, this has been an annus horribilis with scams and scandals that have shaken the faith of all thinking people.

The corruption that bedevils our politics and the bureaucracy is nothing new. But the 2G scandal marks a new high in the amounts at stake and the Commonwealth Games scams show the brazen willingness to make money even when the honour of the nation is at stake.

As for the corporate sector, the Radia tapes and the subsequent spat between two business leaders who did command respect have shown that we were right to never have counted on their moral sense. In fact, the problem of corruption arises because the Indian corporate sector has not yet given up the Licence-Raj mentality of seeking a competitive edge through regulatory leverage.

The real challenge to our self-esteem has been the assault on our confidence that an independent judiciary and a free press would impose some standard of accountability. Along come the explosive charges levelled against the judiciary by the Bhushans, father and son. As for the media, allegations about paid news and the Radia tapes show how easy it is to manipulate them.

We have laws and institutions that are meant to enforce accountability – the Election Commission, the PAC, the CAG, the CVC, the CBI, the Enforcement Directorate and, of course, the Law Courts. Yet impunity is the norm and hardly anyone is punished. There is no fear of exposure or imprisonment to constrain the many who can misuse their office.

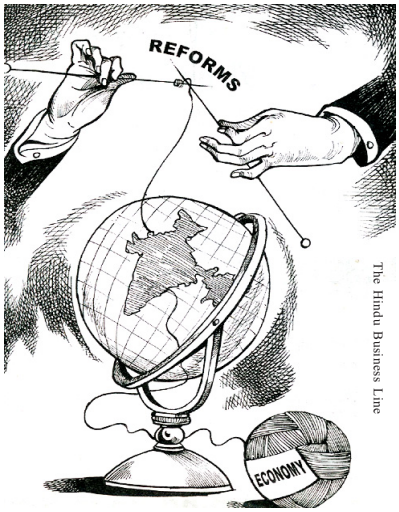
Why have we reached this sorry state? The usual excuses for political corruption are the need for election funding and the "coalition dharma" that protects corrupt politicians whose support is needed by the ruling party. This gets combined with a no-holds-barred political contestation that leads to the politicisation of the investigatory and prosecution machinery.

The scope for political corruption lies in the role of ministers at the Centre and the states in the exercise of the discretionary powers of the government in the implementation of laws and the management of public property, particularly public lands.

Can we do something to salvage our Constitution or shall we sit by as we drift further into the morass of amoral governance? Here are a few suggestions:

- A Committee of Elders must be set up to consider various proposals that are ready and recommend a fair system.

- Make bureaucrats and regulators independently responsible for implementing laws and this nexus will be broken, and ministers answerable to the legislature will be able to enforce accountability and prosecute malfeasance.



The Hindu Business Line

- Transfer all public lands that can be used for development to a sovereign investment trust mandated to manage them in the public interest.

- The two key institutions for bureaucratic accountability, the CVC and the CBI, must be made independent on the lines recommended in several Supreme Court judgments.

- The corporate sector and their lobbyists, the media and the public relations industry also need to get their act together with an enforceable code of conduct.

Is there any hope that some of this can be done in the present political climate? In the enveloping darkness, there is one ray of hope.

We have a Prime Minister of unimpeachable integrity. He now has to accept that his greatest challenge today is to restore the faith of the thinking classes in the major institutions of governance. He will not get the support of the political class for this agenda of political reform. But he can force it on them as, right now, they need him more than he needs them.

* *Former Under-Secretary General, UN. Abridged from an article that appeared in the* Business Standard, *on December 16, 2010.*

Rotting Grain & Judicial Transgression

– Ashok Khemka*

The mountainous state-owned food stocks lying in the open and rotting in the rain are in stark conflict with a failing public distribution system, hunger, malnutrition and high food prices. The poor management of food stocks provoked the Supreme Court to transgress into executive domain when, on August 12, the court made certain directions like limiting procurement to covered warehousing capacity and distributing the rotting foodgrains free of cost to the poor. The directions were given with the noble intent to prevent the wastage of foodgrains and a feeling of empathy towards the poor and hungry.


The Economic Times

As on August 1, 2010, the total food stocks with the FCI were 55 million tonnes (mt) as compared to the buffer requirements of 27 mt. Of this, 15 mt of wheat was lying in the open in Punjab and Haryana alone. As per estimates, 50,000 tonnes of food stocks have already deteriorated beyond human consumption as a result of long, improper storage.

There are two essential components to the management of food stocks: procurement and distribution through PDS. To ensure that stocks are available round the year for the PDS, different buffer stock norms are prescribed for different points of time during the year. The storage ought to be in scientific warehouses to prevent damage. FCI's losses are billed to the exchequer and are known as the food subsidy bill.

The current state-managed public distribution system is corrupt beyond redemption and way too costly. The way out is to have cash transfers/food coupons

If the stocks exceed the warehousing capacity, safe storage becomes a challenge. But if the stocks are lower than the buffer stock norms, the problem would be to meet the requirements for PDS. This is addressed if FCI is mandated to manage the stocks as per buffer stock norms through open market operations of buying /selling. The efforts of FCI to dispose of some of the excess stocks of wheat at a price of ₹1,240 per quintal (excluding VAT) in the recent past have met with abject failure since the price demanded was not commensurate with the quality of the stocks offered in addition to the additional transactional costs in dealing with FCI staff.

The solution also does not lie in fixing the open market sales scheme (OMSS) price much below the market price. This will only offer the trader arbitrage opportunities in connivance FCI staff. Low OMSS prices had led to large-scale corruption in the FCI, for which the government failed to pinpoint responsibility.

Unfortunately, the court's directions to distribute rotting foodgrains free of cost to the poor, no doubt appealing to the emotions, would suffer from the same malady. It would lead to massive diversions due to arbitrage opportunities in active collusion with the FCI staff without benefiting the intended beneficiaries. Organised diversion of PDS stocks direct from government warehouses to private flour mills is rampant, with the differential pocketed between the transporters, the PDS shopowners and the government staff. The FIRs yield no concrete result, given the quality of investigation and prosecution and the interminable delays in judicial trials.

Chief economic adviser to the government Kaushik Basu has suggested offloading excess food stocks in small lots in order to depress market prices. The same was officially suggested to the FCI/food ministry two years back to dispose of the excess stocks by open and transparent domestic auctions in small monthly lots to reduce any arbitrage opportunities instead of disposals at fixed prices to selected parties. However, FCI continues to dither between exporting excess food stocks and domestic disposals at fixed prices.

* *IAS Officer. The article appeared in* The Economic Times, *on October 07, 2010.*

Do We Need NGOs?

– Kanika Datta*

Does India need non-profit organisations to fuel social development? It's a question that is gaining traction because these institutions have acquired a certain critical mass and are increasingly becoming powerful voices in public discourse. Sonia Gandhi's National Advisory Council (NAC) partly reflects this growing influence on policy in the form of the Right to Information Act, the controversial rural employment guarantee scheme and, now, the contentious food security programme. But NGOs have been increasingly vocal on a range of issues from Bt brinjal to the nuclear liability Bill, environment, land acquisition, FDI and so on.

It's a question that is gaining traction as NGOs have acquired critical mass and are increasingly becoming powerful voices in public discourse

It would certainly be impractical to ignore the voice of civil society as amplified by NGOs because sheer numbers suggest that they are major players in the Indian polity. Earlier in 2010, a study by the Ministry of Programme Implementation, the first of its kind by the government, estimated that there were 3.3 million NGOs operating in India as at the end of 2009.

The study said just 41 percent of these are actually involved in social services and philanthropic activities. Many of the larger foreign agencies resemble well-heeled corporations. One – uncorroborated – online estimate says NGOs raise between ₹40,000 crore and ₹80,000 crore in funding annually. That isn't huge when set against India's GDP, but it is fair to say that India is among the 'go to' nations as recipients of donor money. Foreign contributions have risen steadily – they grew 25.9 percent in 2005-06 and 56 percent in 2006-07.

There are two ways of explaining this NGO boom. One, it is a sign that India has progressed far enough for some sort of responsible civil society to finally emerge. This is true of corporate India where, whatever the motivations, philanthropy has emerged as a compulsory virtue. Two, their growing presence represents the failure of government to deliver meaningful human development. Both are valid explanations but despite its growing clout, the best of intentions and some undoubted achievements, it's not the NGO sector that can transform India's human development predicament.

It is worth noting that despite the growing size and power of the NGO sector, India's human development record has remained at sub-Saharan levels – and sometimes below. This is not because NGOs are inept or sinisterly corrupt but because their transmission mechanisms for change are limited, either by the size of their organisations, their agendas or the amount of donor money they receive. The current controversies over the micro-finance business, which has a quasi-NGO status, highlight some of that dichotomy.

In countries like Bangladesh, India and those in Africa, micro-finance has undoubtedly been a signal success in providing the poor access to credit that larger, formal institutions cannot deliver. It has transformed some, even many, lives. But it has not eradicated poverty in entire nations. This is not because those MFIs are ineffective or fraudulent – though there are some charlatans here as there are in every walk of life – but simply because these countries suffer other structural issues that are not within the domain of micro-finance.

All the same, it would be illogical to argue that NGOs are redundant. Thousands of them do sterling work. Their presence acts as a mirror to society and has occasionally galvanised the government into positive action. For the most part, however, they remain external voices of opposition.

In the NAC, Sonia Gandhi has found a creative way of co-opting them into public policy. But the NAC remains a hotly debated association since it is affiliated to one person in one party and has no public accountability though it uses taxpayer resources. Its prescriptions, too, have been questioned with economists arguing that employment schemes and right to food create entitlements that the government cannot afford.

Still, its representatives keep the issue of poverty and inequality squarely in the public eye and that, surely, cannot be a bad thing.

* *Columnist,* Business Standard. *Abridged from an article that appeared in* The Business Standard, *on October 28, 2010.*

ReguLetter

The October-December 2010 issue of newsletter, 'ReguLetter' encapsulates 'Call for World Competition Day' in its cover story, which state that cartels in the air cargo industry should be of concern to all stakeholders as they have a serious negative impact on efforts towards economic development and poverty reduction in developing countries. What is therefore apparent that competition authorities in developing countries also need to be in a position to join in and prosecute such international cartels once they are discovered.

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

A special article by Frederic Jenny and David Lewis says that had a regional African competition law covering all African countries existed, the market-sharing agreement between Castel and SABMiller could have been prohibited and vibrant competition could have been preserved. Another special article by Jagdish Bhagwati argues that the attempt by some NGOs and activists to impose a straitjacket on CSR, reflecting their priorities, is misguided and must be rejected.

About a Competition Law looks at the competition scenario in China, the institutions of competition law in the country and the scope of improvement in the law.

This newsletter can be accessed at: http://www.cuts-ccier.org/reguletter.htm


ReguLetter

Call for World Competition Day

Ongoing Project

Collusive Behaviour in Health Delivery in India: Need for Effective Regulation (COHED)

Consumer Unity & Trust Society (CUTS) with the support of Oxfam India has initiated a project to identify collusive and deceptive behaviour and advocate for appropriate (policy and regulatory) interventions for enhancing access to affordable and quality healthcare in two states of Assam and Chhattisgarh. CUTS intends to document the nature and type of these practices on the ground and their implications for the consumers in partnership with local civil society organisations.

Overall goal of the project is to "generate interest/awareness among the government, media and other stakeholders about the crucial relationship between incidence of anti-competitive practices in the healthcare sector and poor quality and affordability of healthcare services in India."

The objectives of the project are to perform advocacy among relevant organisations to garner support for research aimed at identification of deceptive and collusive practices in the healthcare sector; assess the scope and effectiveness of the present regulatory system, especially the Competition Act, 2002 to deal with anti-competitive practices in the healthcare delivery; make recommendations for better regulatory outcomes and spread awareness about these recommendations to lay the ground for their redressal.

For more details, please visit: http://www.cuts-ccier.org/COHED/

SOURCES

BL: The Hindu Business Line, **BS:** Business Standard, **DNA**: Daily News Analysis; **EI**: Express India; **ET:** The Economic Times, **FE:** The Financial Express, **HT:** Hindustan Times, **PTI:** Press Trust of India, **TH:** The Hindu, **ToI:** Times of India