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Welcome Readers!

Over the past quarter, CIRC has endeavoured to deliver unique opportunities in form of its speciality courses and other capacity building programmes to the inter-disciplinary students and working professionals. We organised yet again three day summer course on competition law and policy. Our Winter Course on Competition Law & Practices in India also witnessed amassed positive response.

With this edition of our quarterly newsletter, we provide you updates on the programmes, events, publications and courses that CIRC held along with updates on the upcoming events too.

For 2014 we are gearing up for introducing other bouquet of inter-disciplinary courses and associations with various organisations

Happy Reading!

Arun Talwar
COO, CIRC

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April – June 2014 Edition

A Quarterly Newsletter



CIRC WORKSHOP ON COMPETITION LAW COMPLIANCE 18th-19th April, 2014, Metropolitan Hotel, New Delhi

THE COVER STORY

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- CIRC Working Paper 06: Infrastructure Investment: A trillion dollar question.

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- Roundtable on Online Safety and Data Privacy.
- National Essay Competition 2014 Award Ceremony.
- Online Course on Economics for Competition Law & Policy.
- Many More

The Competition Act 2002 establishes a completely new set of rules unfamiliar to most companies doing business in India. Addressing this concern, committed as we are to serving the society, CIRC undertook the task of enlightening legal counsels of various companies in diverse sector with the importance of competition law and its basic tenets. To accomplish its goals CIRC successfully organised the workshop titled 'Competition Law Compliance' at Hotel Metropolitan, New Delhi on 18th & 19th April, 2014. We focussed on an educative and interactive training session led by experts on three arms of competition law namely Anti-competitive Agreements, Abuse of Dominance and Combinations. In order to build internal capacity on competition law compliance, CIRC designed this structured programme for the industry. The workshop was spread over a period of two days–eight sessions, for a better understanding and detail discussions on Competition Act, case studies, implications and compliance programme. On Day 1 & 2 overview of Competition Act and Abuse of Dominance and its provisions in practice was discussed by Mr. Amitabh Kumar, Partner JSA. He discussed that, the law emerged in order to replace the existing of the MRTP Act, 1969. Anticompetitive Agreements was discussed by Mr. MM Sharma, Head CPL, and Vaish Associates. Manas K. Chaudhari, Partner Khaitan & Co. discussed about the Application of Provisions related to Anticompetitive Agreements to Business Practices. Dr. Vijay Kumar Singh, (DD) CCI discussed Combinations and its provisions in practice and enlightened the audience on the third area of enforcement i.e. regulation of combinations. Mr. Vipul Puri, (DD) CCI explained Application of the Provisions related top Combination Provisions to Business Practices. Developing Competition Law Compliance Programme was explained by G.R. Bhatia, (Partner Luthra & Luthra Law Offices). Lastly, the panel comprised of Dr. Seema Gaur (Adviser, CCI), Dr. Harpreet Kaur (Professor, National Law University, and Delhi) and Mr. Manas Chaudhari. The three basic points discussed were scope and coverage of Competition Act, 2002; how Competition Law practice has developed in India, and need for developing competition law compliance.

THREE DAY SUMMER COURSE ON COMPETITION LAW AND PRACTICE IN INDIA.

After the huge success of its Winter Course in 2013, CIRC successfully delivered the three days Summer Course from 19th June to 21st June, 2014 at New Delhi. The course was designed to give participants a thorough understanding of the Competition Law of India with related case studies to understand the practical implications of the law in practice. The faculty comprised of the representatives from the Competition Commission of India (CCI), premier law firms of the country and CIRC with participants from different disciplines such as law, economics, commerce and management & professionals such as lawyers, economists and researchers.



The course comprised of 3 Days Sessions & class-room lectures of 1 hour 45 minutes each-arranged thematically beginning with introductions to the specific provisions of the Competition Act, discussing the underlying theory and its practice and culminating with discussions on decided cases. Each session was followed by an open-house Q&A session. To assess the attentiveness and comprehension of students in each session, a Multiple Choice Quiz by the lecturer at the end of each lecture was also conducted. The Summer Course ended with a Panel Discussion on contemporary issues related to IP law and competition law interface and on challenges and achievements by CCI in the five years of Indian competition regime. The first day session was delivered by Mr. Manas Kumar Chaudhuri, Partner, Khaitan & Co. and Mr. Vipul Puri, DD, CCI. During the session they discussed the ingredients of Competition Policy & the basic concepts of economic theory. And emphasis was on understanding market economics and the existence and operation of competition in its various forms. The session demonstrated the need for legal practitioners to possess an astute understanding of the principles of economic theory insofar as dealing with Competition Law and Practice and went ahead to educate the participants of these basic tenets of economics. On Day 2 Mr. K.K Sharma, Head K.K. Sharma Law Offices, Delhi. He commenced the session with a presentation on 'Regulation of Anti-Competitive Agreements'. "Abuse of Dominance" was delivered by Mr. Saket Sharma. The last and the final session of began with examination of the regulations of combinations and M & As under the competition law framework by Dr. Vijay Sing DD, CCI. Participants were explained regulation of combinations, different threshold limits, exemptions and how to assess AAEC. Panel Discussion chaired by Mr Amitabh Kumar, Partner, J. Sagar Associates. Other panellists were: Mr Vipul Puri, Deputy Director, CCI and Mr Saket Sharma, Jr. Fellow, CIRC.

THREE DAY WORKSHOP ON ANNUAL REVENUE REQUIREMENT (ARR) AND ANNUAL PERFORMANCE REVIEW (APR).

Electricity is central in achieving economic, social and environmental objectives of sustainable human development. Keeping in mind the roles and responsibilities of the central/state electricity regulatory commissions regarding determination of tariff, mechanisms of revenue requirement CIRC and RMCS successfully organised a Workshop on Annual Revenue Requirement (ARR) and Annual Performance Review (APR) at Hotel Vikram from 26th June 2014 to 28th June 2014. The programme began with a welcome address by Mr Arun Talwar, Chief Operating Officer, CIRC who expressed his gratitude for everyone taking out time to be a part of this intellectual exercise. Following the inaugural address, Shri Nitin Desai, President Governing Council, CIRC & Former under Secretary General of UN, enlightened the participants with a brief introduction of Indian electricity sector. There was a lively panel discussion accompanied by concluding remarks and valedictory address by Shri Desh Deepak Verma, Chairman UP Electricity Regulatory Commission, Lucknow and a vote of thanks by Ms. Arvinder Kaur, Assistant Director, CIRC. The workshop was spread over a period of three days. On Day 1 Power Sector in India and Rationale if restructuring was discusses by Shri V.P Raja, Former Chairperson, MERC, Mumbai. Shri M Palaniappan-Director, ABPS spoke on Financial Principles of ARR and he also discussed on Determination of ARR & Tariff for Transmission on 2nd session of Day 3. Shri S.K Chatterjee, Joint Chief (RA), CERC, Delhi and Shri V.P Raja, Former Chairperson, MERC, Mumbai spoke about Historical perspective of tariff determination and Role and Importance of the Regulator.



On Day 2 Shri Suresh Gehani, Regulatory Expert & Consultant, ABPS explained The Procedure for determination of tariff for Generation. Issues concerning Availability Based Tariff were discussed by Ms. Anjali Chandra, Chief Engineer, Power System & Project Monitoring, Central Electricity Authority, New Delhi. While Shri Prashant Kumar, Joint Director (Tariff and Finance), DERC, New Delhi spoke on Determination of ARR for Distribution Business. Panel Discussion was chaired by Shri H.L Bajaj with Shri V.P Raja, Shri M.R.S Murthy, Shri P.D Sudhakar, Shri Buddy Rangandharn being panel members for the session. The last and the final Day began with Electricity Purchase and Procurement (Power Purchase Agreements) which was discussed by Shri Suresh Gehani, Regulatory Expert & Consultant, ABPS. And Shri Vijay L. Sonavane, Member, MERC spoke on Procedure, techniques & Performance Standards for Annual Performance Review & Government Subsidy/ Cross Subsidy Trends & Concerns.

BATTLE FOR REGULATORY SUPREMACY: AMBIGUITY IN THE DEFINITION OF "CONTROL" BETWEEN SEBI AND CCI

The Indian regulatory regime is a complex system with multiple regulators actively implementing parallel regulatory practices. There are regulatory bodies established in various sectors ranging from the Securities and Exchange Board of India ("SEBI"), the Competition Commission of India ("CCI"), the Reserve Bank of India ("RBI"), Telecom Regulatory Authority of India ("TRAI"), the Insurance Regulatory and Development Authority ("IRDA"), the Central Electricity Regulatory Commission ("CERC"), etc. The overlapping jurisdictions of these regulators carries the risk of transactions being needlessly stalled due to the multiple (and in some cases, contradictory) regulatory requirements that need to be met to get a transaction approved.



In light of the above, it is critical that the various parallel regulatory approval processes are aligned to ensure that the merger and acquisition ("M&A") activity is not hindered due to lack of co-ordination between the various regulators or cumbersome procedural formalities. This working paper analyses the potential areas of overlap between the CCI and SEBI in reviewing transactions which require merger control approval as well as trigger open offer obligations.

This Working Paper can be accessed at:

[http://circ.in/pdf/Battle for Regulatory Supremacy Ambiguity in the Definition between SEBI and CCI.pdf](http://circ.in/pdf/Battle_for_Regulatory_Supremacy_Ambiguity_in_the_Definition_between_SEBI_and_CCI.pdf)

(IN)COMPETITIVE REGULATORY POLICIES IN THE ROAD TRANSPORT SECTOR IN INDIA

Indisputably, infrastructure plays a momentous role in advancing economic development. One may say growth of infrastructure is directly proportional to economic development and vice versa. It is also understood that for systemic development of any sector, compliance with competition policies is absolutely necessary. It is in this backdrop that the recent addition to CIRC's Working paper series focuses on the road sector of India. The paper brings out the current climate of the Indian road sector and puts forth suggestions to amend the same. The paper revolves around the inefficient regulatory policies which daunt competition and consequently impede the sector's growth.

This Working Paper can be accessed at:

[http://circ.in/pdf/Competition & Regulation in Indian Road Transport.pdf](http://circ.in/pdf/Competition_&_Regulation_in_Indian_Road_Transport.pdf)

MANOEUVRS FOR A LOW-CARBON STATE IN INDIA: IDENTIFYING AGENCY, AUTHORITY AND ACCOUNTABILITY IN GOVERNANCE OF CLEAN ENERGY DEVELOPMENT?

The debate on responses to climate change has been focused on the difficulties in reaching at binding national targets for emission reductions, and hence on the question of how to achieve an equitable response to climate change. By concentrating on the obstacles to reach at an international agreement, the current debate tends to obscure the question of what enables states to bring about low-carbon development and emissions reductions or what obstructs them. India has been claiming to undertake a transition to a low carbon electricity sector. This alleged transition comes as a response to a range of competing agendas and simultaneous constraints in energising development without compromising the climate. This paper identifies agents of climate change and their authority and accountability within the clean energy governance structure. It aims to find out the level of influence exerted by these agents on India's strategy and action on clean energy development and thus its capacity to reduce GHG emission. By focusing on the role of agency, authority and accountability in governance of clean energy, this paper unpacks the neglected question of what forms of state capacity and political strategy are needed to low-carbon development within Indian electricity sector.

This Working Paper can be accessed at:

[http://circ.in/pdf/Agency Authority & Accountability in Clean Energy Governance.pdf](http://circ.in/pdf/Agency_Authority_&_Accountability_in_Clean_Energy_Governance.pdf)

INFRASTRUCTURE INVESTMENT: A TRILLION DOLLAR QUESTION?

Infrastructure deficit severely constrains growth and development. 12th Five Year Plan has envisaged an investment target of U.S. 1 trillion dollar to overcome India's infrastructure deficit. This paper provides an analysis of existing sources of finance and cautions against excessive reliance on bank credit. India faces a substantial financing gap which needs to be bridged by domestic as well as foreign private sector investments. Predominant providers of infrastructure finance are public sector banks. Tapping new revenue streams and innovating with sources and structures for finance is vital. This Working Paper focuses on the gigantic task of financing infrastructure investment during the 12th Plan would require a shift from the traditional mode of bank financing towards other modes. Investment policies and regulatory guidelines for insurance companies, pension funds, mutual funds, banks and other financial institutions need to be sufficiently flexible for these entities to choose an appropriate risk-return profile within fiduciary constraints. In facing the challenge of infrastructure financing, the problem is not of inadequacy of financial savings but lack of financial intermediation capable of mobilising and channelling domestic financial savings into infrastructure in a manner that does not create risks associated with the traditional bank financing mode.

This Working Paper can be accessed at:

[http://circ.in/pdf/Infrastructure Investment A Trillion Dollar Question.pdf](http://circ.in/pdf/Infrastructure_Investment_A_Trillion_Dollar_Question.pdf)

ROUND TABLE ON CHILDREN'S ONLINE SAFETY 5th AUGUST, 2014, YMCA, NEW DELHI

Internet and online technologies become pervasive in modern era, almost 40% of the World's population, which corresponds to about 2.7 billion people, are online. A variety of social media sites are used by children, often without any guidance or understanding of the risks and unwanted consequences. Children are subjected to various online ads; interact with on line apps and also with online contacts that might expose their personal details inappropriately. Online offenders use different forms of deception to groom a child for sexual intentions and also use various information collected from them to their advantage. Legal and technical policy framework to address these issues in India is comparably very weak and requires urgent attention. Building understanding and capacity of all stakeholders on this issue is thus crucial. Thus CIRC organised a round table on "Child Online Safety: Data Privacy and Security" on 5th August, 2014 at New Delhi YMCA.

Further details and guidelines are available at:

http://circ.in/pdf/Report_Child_Online_Data_Privacy_and_Security.pdf

ESSAY COMPETITION AWARD CEREMONY 16 JULY, 2014

With Competition Policy and Economic Regulation so deeply in flux, research and debate are unusually active. There is a need to draw together the work from many directions, to try to apply analysis consistently in clarifying the industries, the regulatory processes, and their results. With an attempt to explore and nourish the talents of the students, to demonstrate their writing skills, as well express their outlook on current national issues CUTS Institute for Regulation & Competition (CIRC) organised a National Level Essay competition 2014 in association with NLUD as Institutional Partner and Society of Indian Law Firms (SILF)/ Services Export Promotion Council (SEPC) as Principal Partners and Lex Witness as official magazine partner.

To honour the achievement of winners, CIRC organised an Award Distribution Ceremony on July 16, 2014 at MOOT Court Room-National Law University Delhi-Sector 14, Dwarka, New Delhi. To boost the morale of young and vibrant participants and to appreciate their hard work and dedication, the panel of some esteemed people including: Mr Pradeep Mehta (Chairman, Managing Committee, CIRC); Professor (Dr.) Ranbir Singh (Vice Chancellor, NLUD); Dr. S.K.D Rao (Registrar, NLUD), Mr. Arun Talwar (COO, CIRC) and Dr. Harpreet Kaur (Professor, NLUD) were present during the ceremony.

To know more details please visit our website: www.circ.in

UPCOMING COURSES @ CIRC

CIRC taking its vision forward will soon launch comprehensive capacity building solutions on regulatory matters pertaining to various sectors and related aspects. The list of upcoming courses at CIRC is as follows:

Dedicated Sector based Online Courses

- Consumer Law and Practice
- Intellectual Property Licensing
- Merger & Acquisition Law
- Public Procurement Practices & Law
- Water Regulations & Laws

Law and Practice of PPPs: Online Course

CIRC launched 8 week on-line course on "Law and Practice of Public Private Partnerships (PPPs)". We have received one registration for the August 2014 batch.

Certificate & Diploma Course on Competition Policy & Law

CIRC- NLUD would be bringing forward the next term of the most sought after certificate & diploma courses in the industry on the CPL. The next intake of the CPL course has been announced to be started in April.

For any further query contact through website or on the following email id: sk@circ.in



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