

## CIRC EXECUTIVE EDUCATION CALENDAR 2012

S.No.	Title of the Training Programme	Date	City
1.	Competition Law Workshop for PSEs	27th April,2012 7th September,2012	New Delhi Chennai
2.	Competition Law Workshop for Marketing Professionals	6th July, 2012 14th December, 2012	New Delhi Mumbai
3.	IPRs and Competition Law for MSMEs	16th-20th July	Ahmedabad
4.	Competition Law Workshop for High- technology Sectors	24th August	Bangalore
5.	Competition Law Workshop for Pharma and Health Services Sector	19th October	Vadodara
6.	Competition Law for Banks and Financial Service Institutions	23rd November,2012	Mumbai
7.	Training Programme on Competition Issues in Government Procurement	18th January,2013	Chandigarh

## Registration and Payment Process

For registration please send the following details to [execed@circ.in](mailto:execed@circ.in)

[1] Name of the Participant [2] Company/Organisation Name [3] Contact No. & E-mail ID of Participant [4] Training Location [5] Course [6] Course Date/s [7] Fee Details [8] Postal address of Participant  
(all details are mandatory for registration)

Payment Options	Deposit Cash/Cheque/Demand Draft/Online in any Axis Bank Branch across India in favour of	Cuts Institute For Regulation & Competition
	Bank Account No. (Axis Bank)	268010100153690
	For Online Transfer	MICR- 110211030, IFSC Code- UTI B0000268, Axis Bank- Greater Kailash- II, Delhi-110048
Group Discount	10% group discount will be admissible for 4 or more people sponsored by an organisation.	



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# circular

## CIRC to Launch Course on Law and Economics of Public Private Partnerships (PPPs)

CIRC is all set to launch a six month certificate course on Law and Economics of public Private Partnerships, covering all important aspects related to PPPs. The course is scheduled to be launched in the month of May, with the classes beginning in July.

The field of Contract Management and Negotiation (CM&N) has assumed importance with the rise of Public Private Partnership in Indian economy as legal agreements in the form of concession agreements and other related agreements i.e. Substitution agreement, service level agreements, etc. form the basis for any public- private partnership transaction. Indian Economy has witnessed fast economic growth and associated with it has been the development of infrastructure across sectors such as - roads, highways, ports, airports, education, health, etc. Governments, both at the Centre and the State levels have adopted PPP (Public Private Partnership) mode as a principal way of development of the infrastructure.

Given the huge growth in infrastructure developmental activity, stakeholders such as Government, Banks, professionals in banks, Advisory firms, Infrastructural development firms have voiced a need for formal certification course which helps them acquire relevant economic, legal and contract negotiations and management skills. Against this background CUTS Institute for Regulation and Competition (CIRC), in partnership with National Law University, Delhi (NLU), intends to launch a six months certificate course in Law and Economics of Public Private Partnerships (PPPs), particularly targeting government institutions and private entities involved in PPP (Public private Partnership)/PFI (Private Finance Initiatives). This training is expected to allow participants to understand complex issues involved in contract management process.

The course would equip the participants with sound knowledge of various project related technical, financial, commercial and legal aspects of a PPP transaction. In addition, it would also provide them with strong concession agreement management skills which are necessary to ensure that all stakeholders to a concession agreement meet the business and operational obligations required and at the same time ensure that value for money is achieved. The course would facilitate a better understanding of the importance of the contractual aspects of PPPs- risk analysis (identification and allocation of risks), project management and stakeholder consultation. The course would enable participants to undertake project appraisal and feasibility studies and make important decisions related to project finance and investment analysis, besides developing a better understanding of CM&N issues.

The course will cater to a wide spectrum of stakeholders ranging from central and state government officials involved in activities related to PPP/PFI formulation and implementation, officials of municipal bodies to

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## Events

procurement/project managers in the private sector and the academic fraternity comprising of students and researchers.

Well known experts on the subject are proposed as faculty for the course in which a brief primer on theoretical aspects would be followed by more exhaustive training in practical aspects of PPP regulation.

CIRC would be offering more such tailor-made courses in the near future and short term training programmes on competition law for professionals in different fields are also in the offing.

## Events

### 10th CIRC academic lecture on Future of Online Markets Market Dynamics and Regulatory Challenges in India

CIRC organised an academic lecture on "Future of Online Markets- Market Dynamics and Regulatory Challenges in India" on 18th January 2012 in New Delhi.

Prof. Edelman of the Harvard Business School was one of the principal speakers at the event. Advocating easy access to online markets as being critical for spurring competition and reaping consequential benefit such as greater choice, lower prices, Edelman cautioned the industry about the behaviour of dominant players who could make it less attractive for a business, especially a small and medium enterprise (SME) to find its consumers online, without being forced to pay the intermediary.



Prof. Benjamin Edelman of the Harvard Business School addressing the gathering.

Citing the example of search markets, he dealt with various conduct of Google, which enjoys a whopping 93 per cent market share in India, which may have exclusionary effects on SMEs and new ventures. "If Google gives preference to its own products and services over competitors, SMEs in some key verticals like travel would invariably find it more difficult to grow their business, as getting consumers to their website would become tougher and costlier," Prof Edelman said.

Advocating a suitable regulatory mechanism to ensure a free and fair internet for businesses to thrive, Prof Edelman suggested that search results seamlessly include listings from other search services. This inclusion, he said, would help assure a continued competitive marketplace for specialized search.

Speaking at the event, GeetaGouri, a Member of the Competition Commission of India said, "Online is a fascinating story. However, one can't deny the presence of competition issues there. Online markets are oligopolistic and are all about network economies." Admitting that answers to several of competition issues in the online space are yet to emerge, Dr Gouri pointed out that the network effect is constrained by a downward sloping demand curve.

MahendraSwarup, President of the Indian Venture Capital Association (IVCA) remarked that it is essential to maintain a competition to provide a healthy ecosystem for SMEs in the online space. Corroborating Prof Edelman's call for regulation, Mr Swarup, "The Media has to be treated differently from any monopoly or oligopoly. Normal laws of competition cannot manage a media monopoly. Advertisers will always push monopolies to become stronger. Google's power to influence thinking is what we should be worried about. If they misuse this power, it can have disastrous effects on the industry." Highlighting a venture capitalist's perspective, he added that return on capital are expected to be highest when SMEs thrive in online space and therefore attracting investment by the venture on online markets.

Co-Founder of SeedFund and CEO of Pinstorm, Mahesh Murthy, emphasised that each technology champion has a tendency to exploit the market until a new and disruptive technology arrives in the market place. However, he added that markets are to be trusted. Murthy further added that, looking at the business history, "One day a nimbler animal will outdo a dinosaur and will break the monopoly of the dominant player". Murthy also hoped that there is still enough room for newer businesses to come in and create new paradigms in online market.

Vijay Singh, Managing Director & CEO of IT startupAaramShop presented an entrepreneur's perspective. He touched upon the idea of ad effectiveness and said that "I do get returns on Google. I don't have an option but to go to Google or Facebook. Google has created an ecosystem which helps online businesses, though in the long run you do become a prisoner of Google's monopoly." He added that if there is a strong alternative to Google, then "Google will change when consumers start moving away from Google!"

Navneet Sharma, Director of CUTS Institute for Regulation & Competition moderated the event.

## Research and Training

### ICSSR Project on Government Procurement

The project aims at identifying and analysing the regulatory and competition issues adversely affecting public procurement in the health and primary education sectors in the Central Government and in the state of Rajasthan. The purpose is to find out reasons behind sub-optimal achievement of welfare outcomes. Highlighting

the regulatory and competition concerns along with possible remedies to address the identified issues in public procurement systems will in turn help the government agencies to procure goods and services in efficient, effective and transparent manner.

Public Procurement is a very significant and widespread economic activity of the government. Inefficient public procurements may have severe consequences on government budget. Public Procurement accounts for nearly 30% of the GDP in India. It has always been a vexed issue worldwide in the context of competition as it is highly susceptible to bid rigging and collusive bidding, lack of transparency leading to price and cost ineffectiveness and corruption. The project seeks to study the causes leading to efficiency loss in public procurements and whether it is on account of policy/legal framework or due to management aspects. Efficiency loss implies that the cost of the entire process becomes greater than the value of outcome and makes the system ineffective, resulting in poor outcome of Public Procurement System.

The study establishes a link between the public procurement system and the regulatory framework governing the same. It goes to prove how poor outcome of public procurement system coupled with poor regulatory framework leads to anti-competitive conducts amongst the suppliers of those goods and services, in the absence of a proper regulatory framework. Ultimately, loss of competitive efficiency takes place due to anti-competitive practices which results in poor outcome of the public procurement system. Thus, a proper regulatory framework is required to address these issues and strengthen the public procurement system in India.

The methodology adopted for the study includes a sample review of three highest value tenders and three most frequently occurring tenders in both the sectors at both the levels of government in terms of the procurement of goods and services during the past three years. This has been done with a view to identifying norms in public procurements along with legal and policy framework governing the selected sectors. More importantly, such an evaluation of tender documents helps in the identification of anti-competitive practices inherent in the tendering process, having a significant bearing on the public procurement process. Concentration of suppliers in the given sectors has also been mapped to identify their implications on competition in public procurements and need of regulatory reforms in the same.

### Sector Studies conducted under the aegis of Ministry of Corporate Affairs, Government of India

As a part of the competition advocacy agenda of the National Competition Policy (NCP), sector studies on fourteen different sectors/themes were carried out. These studies have been administered and conducted by the Indian Institute of Corporate Affairs (IICA), Ministry of Corporate Affairs (MCA), Government of India, which was

assisted by CUTS Institute for Regulation and Competition (CIRC) in the endeavour. The studies were undertaken by individual experts/agencies commissioned by IICA. The purpose of the studies was to bring out specific instances of policy/ law induced competition distortions. The sector research studies have also provided illustrative examples of such laws, regulations, policies and practices which either exert or have the potential to exert anticompetitive effects, which, in turn, influence the outcomes of the law, regulation, policy concerned. After evaluating the implementation of statutes, rules/regulations, policies and practices which limit competition in the sector, the studies have recommended changes in the regulations and their implementation procedures to address the competition related issues. The studies have also attempted to highlight an approach to promote and protect competition in the concerned sector.

The fourteen sectors/themes studied include Electricity, Railways, Civil Aviation, Public Sector Enterprises, Road Transport, Agriculture, GST and development of single national market, Government Procurement, Health, Real Estate, Coal, Education, Pharmaceuticals and Indian Competition Assessment Tool kit.

The studies on fourteen different sectors/themes were aimed at competition impact assessment of the legal regime governing the sector, with a view to removing or minimising their competition distorting effect. The studies were thus integral to achieving the overall goals set forth by the NCP, which envisages that all policies and laws should use the touchstone of competition in their formulation and implementation. These studies were managed by the Indian Institute of Corporate Affairs (IICA) and CUTS Institute for Regulation and Competition (CIRC) assisted IICA in the project through specific activities.

The sector studies were aimed at bringing out specific instances of policy/ law induced competition distortions, suggesting necessary changes therein to rectify the situation and thereby building an agenda for competition advocacy with the government and the private sector. The studies mainly focused on law/policy induced competition distortions, although conduct related competition distortions were also dealt with. Pursuant to this goal, the methodology adopted involved a critical analysis of the relevant laws, rules/regulations and policies governing the sector concerned, with an aim to identify competition distorting elements contained therein. The competition issues reported were tested on the parameters of the competition principles to identify the specific principle being violated. The identified competition issues were further analysed to determine their effects on competition in the relevant market. Primary or secondary data or both were used according to the author's discretion. The authors reviewed a wide range of literature for the purpose, including books, reports, CCI studies, views of honourable Supreme Court/High Courts etc.