

Competition Law Workshop for Public Sector Enterprises

“Facing Competition While Staying Within Boundaries”

Why PSEs need to know competition law?

In India, the PSEs account for more than one-fifth of the gross domestic capital formation and have been applauded for their contribution in "nation building". But a lot has changed since they were initially established. From natural monopolies to newly created markets, in sectors such as telecom, oil and gas, airports, power, seaports, highways, public transport, technology goods, heavy engineering, chemicals & fertilizers etc, PSEs now face altogether different competitive compulsions. These competition threats largely emanate from the evolving regulatory and competition regimes in India.

Inherently, with strong financial, political, and institutional support, PSEs are said to be in advantageous position in the market place vis-à-vis private players. However, the changing rules of the game posit greater challenges before PSEs. On one hand, there are allegations that PSEs' incumbent position provides them unjustified advantage in the market place, especially in light of the alleged absence of competitive neutrality on the part of the government. This, it is said, gives PSEs the dominant position, and results in a competitive disadvantage to private players.

On the other hand, there is a concern that in some sectors, PSEs complain to receive unfair competition from their private counterparts, especially in the high-end technology industries, where the global leaders have had a clear advantage.

It is important to recognize that under the new Competition Act all the PSEs fall within its ambit. And furthermore, there has been a sudden surge of competition cases against them. In a recent statement, the Competition Commission of India (CCI), the enforcement agency for the Act, revealed that they were examining at least 70 cases, at various stages which involved various PSEs.

Needless to say, in both the sides – defensive and offensive, an improved understanding of competition law can be the only way forward. Such an understanding builds and boosts compliance culture in the organisation, wherein, all competitive decisions are seen through the lenses of competition law. From the experience of other jurisdictions, it is abundantly clear that an effective response to competition related challenges does not just rest on the legal team's understanding of the competition issues, but of all company departments. All departments of PSEs must understand what behaviour is illicit and what the legal consequences may be both for the company and for individuals. This workshop is aimed at helping PSEs achieve this objective.

About CIRC Competition Workshops

CIRC Competition Workshops are tailored for specific target audience. Each workshop is led by practicing professionals and is geared towards providing hand-on solutions. This workshop aims to equip PSE professionals with an improved understanding of the Indian competition law – such as the abuse of dominance, anti-competitive agreements, etc and how it affects their business and conduct.

PSEs and Competition Law Some Observations

"Competition Commission of India (CCI) can focus on public sector undertakings...No one is above the law of competition,"

Vijay Kelkar
Chairman,

XIII Finance Commission
Source: PTI, June 12, 2009

"CCI is not one more obstacle in procurement but would facilitate them in cleansing the pernicious practice of collusion among bidders to defraud PSEs and the public exchequer,"

Dhanendra Kumar
Chairman,

Competition Commission of India
Source: The Hindu Business Line, Dec. 10, 2010

"In the past 10 months, we have received many complaints against PSUs...And in a number of instances they have been found to be true based on documentary evidences"

A K Chauhan

Director General,
Competition Commission of India
Source: The Economic Times, February 11, 2011

About CIRC

CUTS Institute for Regulation and Competition (CIRC) (www.circ.in) provides advisory and capacity building solutions to public and private sector enterprises, governments, multilateral institutions in the areas of competition law & policy, economic regulation, and consumer issues. It is governed by a Board, comprising eminent professionals and headed by Dr C Rangarajan, Chairman, Prime Minister's Economic Advisory Council. A large number of capacity building programmes have been conducted by CIRC in India as well as abroad.

What you gain?

Through the conference the participants will develop:

- i. understanding on competition law and its impact on/relationship with business activities/decisions;
- ii. ability to identify anti-competitive conducts at the market place;
- iii. understanding of competition law compliant decisions, and
- iv. preparedness in responding to specific competition issues.

Also, the participants will get a toolkit, authored by eminent competition expert, Mr. Pradeep S Mehta, on Competition Law in India.

What, When and Where?

Agenda:

Date: Friday ■ 20th May, 2011

09:30 – 10:00 am – Networking and Tea

10:00 – 10:45 am – Overview of Competition Act

10:45 – 11:15 am – Experience of PSEs vis-à-vis Competition Act (*representatives of PSEs which have dealt with competition concern*)

11:15 – 11:30 am – Tea/ Coffee

11:30 – 13:00 pm – Competition Issues Affecting PSEs

- Abuse of Dominance (AoD) and PSEs
 - AoD issues in newly opened markets
 - AoD issues relating to pricing, procurement, technology, production, supply/ sale of goods and services etc.
- Anti-competitive Agreements and PSEs
 - Cartelisation, price fixing, market allocation, bid rigging, limiting sale/ supply/ production/ investments
 - Resale price agreements, exclusive dealing, tie-in agreements, refusal to deal
- Procurement Issues and Competition Law

13:00 – 14:00 pm – Lunch

14:00 – 16:00 pm – Competition Case Work, Q&A and Feedback

Venue:

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To Register:

Only 25 participants will be accepted in the workshop. An early registration/ nomination is recommended. Interested professionals/ PSEs may register themselves/ nominate executives for the workshop by remitting a registration fee of INR 10, 000 per participant in favour of "CUTS Institute for Regulation and Competition, New Delhi". The registration fee includes a copy of the competition law toolkit, workshop lunch and tea.

For more information:

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