

Development of 'Strategic Business Plan' for CIRC for Capacity Building in Infrastructure Regulation and Competition

Executive Summary

November, 2007

A. Background

Consumer Unity & Trust Society (CUTS) has set up the CUTS Institute for Regulation and Competition (CIRC) with the objectives of catering to the demand for capacity building on infrastructure regulation, which can contribute to the development of the infrastructure sector. In pursuit of the stated objectives the CIRC intends to offer training, research, and education targeted to the capacity building requirements of various stakeholders.

Ernst & Young (EY) has been mandated by the World Bank to develop a Strategic Business Plan (SBP) for undertaking research based capacity building. EY has had extensive discussions with the key stakeholders, potential recipients of CIRC's capacity building solutions and services, researchers and academia, civil society groups, World Bank staff and senior members of the Governing and Academic Council of CIRC through the course of the assignment. Review of the existing capacity building institutions that cater to the needs of the various infrastructure sectors has also been undertaken. Thus, both the demand and supply sides were assessed in deriving the capacity building needs on regulation and competition that CIRC could seek to serve.

The EY team has been in close contact with the counterpart teams at CIRC and the World Bank through the course of the assignment. The methodology of execution was based on preparation of interim drafts, which were discussed through brainstorming session between CIRC, World Bank, domain experts and EY. At the outset the following goals and objectives of CIRC were agreed upon:

- To be a specialised, premier capacity building institute in the area of infrastructure regulation and competition, with an object of reaching out to the developing world in Asia and Africa, with a focus on India;
- Develop research based products for capacity building around the work program of CIRC;
- Be a multi-sector and multi-stakeholder institute catering to inter-alia utilities, regulatory bodies, policy makers, legislators, academia and, most importantly, civil society;
- Be financially viable and self sustainable.

The primary domain of the analysis would be India (and the strategic business plans should focus on this), but it was acknowledged that CIRC could build on the strengths of CUTS to reach out to a more global clientele.

It is CIRC's intent to become a High Performing Knowledge Institute (HPKI) and to take actions that are consistent with the characteristics of such institutions, some of which have been identified in the report.

B. Prioritisation of focus sectors and services

Certain infrastructure sectors were identified as potential candidates, including Power, Oil & Gas, Water Supply & Sanitation, Telecom, Roads, Railways, Ports, and Airports. For each of these sectors, the overall sector organisation, key issues related to regulation and competition, and the corresponding capacity building requirements were identified. The review of the sectors

provided useful pointers to the size of the capacity building requirements and the specific nature of needs, and eventually led to inter-se prioritisation between the sectors for CIRC's solution.

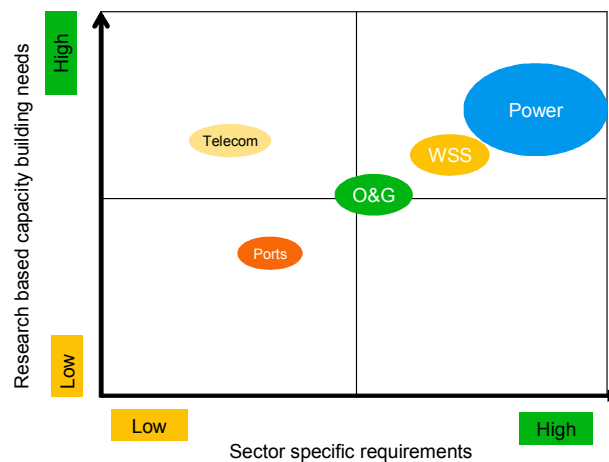
An external consultation process undertaken through a combination of structured questionnaires and freewheeling discussions also provided very useful indicators for the identification of capacity building needs of the various sectors and the gaps that exist. The consultation process threw up significant findings, including the fact that across most of the sectors there is a very significant unaddressed capacity building need on economic regulation and competition in terms of availability, quality and relevance of the solutions currently on offer. The consultation process also revealed certain important insights on the target space for CIRC:

- (i) A large majority of respondents reiterated that there is a very significant unaddressed need for capacity building;
- (ii) Shortage of competent staff has been identified as a major impediment to capacity building. However, a majority of respondents also stated that there is no alternative to training existing staff;
- (iii) Willingness and ability to pay are not particular concerns, so long as the capacity building needs and costs are reflected in the annual budgeting processes;
- (iv) There is a high demand for customized solutions that cater to the specific needs of the recipient entities. Current courses do not adequately address the specific needs;
- (v) Very significant emphasis placed on high quality of curriculum and faculty.

With a large potential opportunity space available, it is imperative that CIRC prioritizes its solutions. Based on the needs the capacity building solutions can largely be classified around two broad categories.

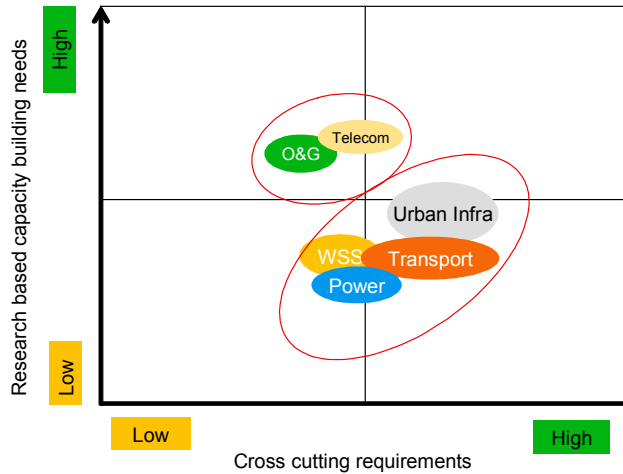
- (i) Sectors with solution requirements that are specific to the sector;
- (ii) Cross-cutting needs, where solutions developed for such needs can be customised for the sector.

Sector specific requirements: The sector specific requirements largely emanate from the regulation and competition related requirements arising from specific legislation(s). In terms of size, the Power sector clearly offers the largest space, followed by Water Supply & Sanitation (WSS) and Oil & Gas. While WSS is not regulated independently (barring exceptions), proposed changes in policy and institutional structures is likely to result in increased demand for capacity building. Even otherwise, the criticality of the sector makes it imperative for an organization like CIRC to undertake the necessary research and advocacy roles on institutional development and regulatory reforms in the sector.



Telecoms have specialized and sophisticated requirements, and even as the overall space is relatively small, the evolving nature of the issues could make it a candidate sector. The ports sector represents the smallest opportunity space at this time, although the size is likely to increase in future if the state maritime boards undertake a greater regulatory role.

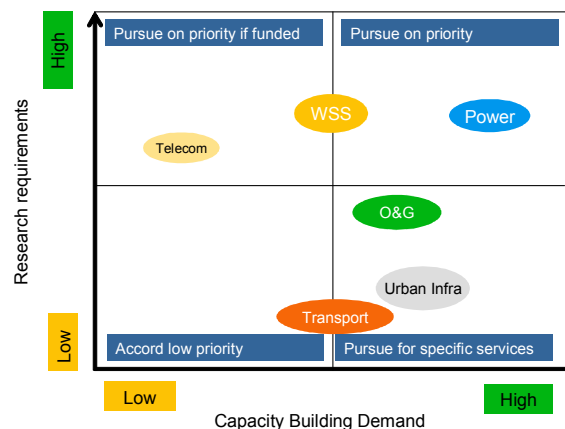
Cross-cutting needs: Based on the analysis conducted, two areas of cross-cutting needs have emerged. The larger area is around PPP/PSP, the needs are large and pervasive, starting from policy and legislation, to Public Private Partnership (PPP)/ Private Sector Participation (PSP) framework design, implementation and monitoring. The needs vary among the individual sectors analyzed, with urban infrastructure and transport offering the largest space. Relatively smaller are WSS and Power. Capacity building solutions in this space can be customized to the needs of the specific sectors as needed, but otherwise would reflect a common approach to the generic issues involved.



Around the PPP/PSP frameworks, but not necessarily limited to them, a specific need for solutions relating to bid process design and management, contract design and negotiation, and dispute resolution has emerged. From CIRC’s perspective this is well aligned to the current suite of capabilities and solutions, and could distinguish it from other entities providing capacity building solutions in infrastructure sectors.

A smaller but more specialized area of capacity building, encompassing primarily the Telecoms and Oil & Gas sector (and to some extent the ports sector), is around issues related to competition. This would include issues related to industrial economics, competition policy, mergers & acquisitions, abuse of dominance, anti-competitive behaviour etc. In particular in the infrastructure sectors these matters often assume greater proportions and wider significance since infrastructure sectors are not easily amenable to competition. Hence the need for research based capacity building interventions is substantial. It would be important for CIRC to focus adequately on such competition related aspects, more so because of the strengths that CIRC and CUTS already possesses on such matters.

Research vs. capacity building: CIRC also has to strike an appropriate balance between the research requirements and the capacity building solutions that it proposes to develop. Research can be expensive, and hence the need to develop the balance. For example, the water sector requires strong research and advocacy skills, but the immediate prospects for remunerative capacity building solutions are low (unless CIRC is able to access donor/external funding



for the same). CIRC would need to develop appropriate strategies for the solutions, as portrayed in the adjacent graphic.

C. Supply Side Assessment

As a part of the study, the supply side in the focus sectors was analysed in reasonable detail. The power sector capacity building needs are targeted by a reasonably large number of institutions and programmes. However there are quite a few aspects that remain unaddressed. In particular there is limited or no effort by the existing service providers to reach out to some of the most important players in the sector – the distribution utilities, civil society, and state level policy makers and implementers. The design, content, and quality of the capacity building solutions available fall significantly short of the needs identified. Other sectors like WSS and Oil & Gas face requirements related to policy, regulatory framework design etc, that are currently not addressed adequately. On cross cutting needs like PPP, there are existing solutions offered by institutes like ASCI. However the demand far outstrips supply, and there is much to be done even on this.

D. Designing the programs

The proposed activities of CIRC have been categorized into logical groupings, which are described hereunder.

Flagship or Core Capacity Building Programs - The core courses would address the fundamental issues around which the regulation and competition framework would operate. The following core programs are proposed to begin with:

1. Core program on energy sector regulation and competition
2. Core program on Public Private Partnerships
3. Core program on bid process management, contract negotiations and alternate dispute resolution
4. Core program on infrastructure economics and regulation

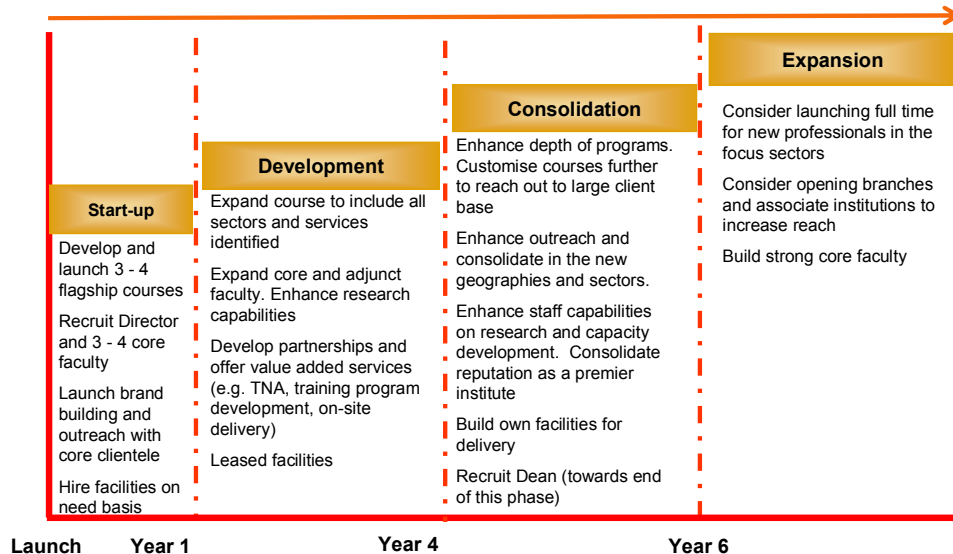
While we anticipate that at least one such core course would be held per year for each of the subjects identified, the more popular courses could be organized more frequently. It is also anticipated that over time CIRC will deliver such courses with increasing frequency, and at multiple locations. In particular if there is donor support available, there could be substantial demand in Africa and South East Asia that such courses could address.

Custom programs – These would be designed and delivered from time to time based on emerging demand. Such courses could be of varying duration, and the mode and location of delivery would vary depending on the origin of the demand.

Partnership Programs - One of the key findings of the supply side analysis has been that there are few programs available from the present set of capacity building institutes that have been proactively working with the client organizations to develop and deliver custom programs, and to deliver them based on the needs of the client organizations. In fact, CIRC can work with the client organizations right from the identification of capacity building needs, design and delivery of the programs, to the measurement of effectiveness of training delivery.

CIRC's needs to approach its overall delivery plan in phases. Four stages of phasing/development are proposed, as depicted below.

Fig: Indicative phasing of CIRC's activities



We believe that there is a viable market for a post graduate diploma program that CIRC could undertake in the later stages of the planning process. This would also help it to attract and retain talent. The last phase of the plan indicated reflects the same.

The above plan only provides a template for development. As an adaptive institution CIRC, in practice, has to periodically review its performance against the plans and make necessary to changes both to the plans and also the execution process that it follows.

E. People aspects

Based on the analysis and user feedback this document has emphasized the need for quality faculty for CIRC to achieve its objective of being recognized as a premier institute. However CIRC faces several challenges and issues in this regard, the key among which include:

- (i) Ability to attract and retain talented faculty;
- (ii) Building a strong organization and leadership within CIRC
- (iii) Appropriate mix between internal and external faculty;

The office of the Director would play a central role in providing the leadership that is so essential to attract and retain quality faculty. We believe that CUTS and the Governing Council of CIRC will have an important role to play in identifying a suitable candidate and attracting the person to CIRC. CIRC could look for an Indian Director presently working abroad, and well versed with the working of high quality international capacity building institutes.

The courses will be delivered by a combination of internal and external faculty resources. Based on the program proposed, CIRC would require 3 -4 core faculty by year 2, and rely on the

balance requirements on external faculty. It is important that even when the visiting faculty teaches core courses, the course design and content should not change significantly. Visiting faculty and experts can add to the content and supporting literature without compromising on the basic content. CIRC should also have firm contractual arrangements with the visiting faculty for delivery of the courses to ensure commitment and quality.

It is also important to identify the attributes that make an institution of this nature successful. A policy paper by Tusshar Shah¹ identifies the attributes that distinguish some of the more successful institutions from others. These include the following:

1. High Performing Knowledge Institutions (HPKIs) treasure talent and engage in a constant process of competency building;
2. Early in their life they come up with a core portfolio of institutionally committed offerings that define their organisation as a socio-technical system;
3. They tend to adopt a non-hierarchical, matrix type organisation designs which promote a collegial organisational climate;
4. Their culture stresses self regulation and openness, peer group accountability, creativity and innovation;
5. Their overall management tends to be “light”; also tend to be strategic in their output, outcome and impact orientation;
6. HPKIs acquire infrastructure that is appropriate to their needs, make intensive use of it, and keep it in excellent condition;
7. HPKIs tend not to be acquisitive but generate the resources they need to grow from grants, fees and other sources without compromising their mission sanctity.

Most of the above relate to people issues that CIRC has to address. In deciding upon the core attributes for CIRC later in this report we have kept in mind such aspects and our recommendations consider the same.

A key aspect that will influence CIRC’s ability to attract talent is the location of the institute. While CIRC already has available infrastructure in Jaipur, there is merit in locating the institute at a location that is more accessible for attendees and faculty. Based on this, locating the institute in the National Capital Region (NCR) could hold merit. However this issue needs to be considered further by CIRC considering all relative merits before a final decision is taken in this regard.

F. Alliances

CIRC needs strong alliances for obtaining knowledge capital and experiences in the focus areas, accessing faculty, enhancing the geographic domain of its activities, spreading networks and marketing reach; and complementing research capabilities and undertaking joint research. Typically the alliances would have a long term focus, hence it is important to choose its alliance

¹ “Launching Knowledge Institutions of Excellence: Learning from 50 Years of Indian Experience in Institution Building”. Policy School paper on High Performing Knowledge Institutions (HPKI) by Tusshar Shah.

partners carefully based on objective criteria. Such criteria would include, reputation of the organization, relevance for CIRC's objectives, experience in developing/transitioning countries, etc. The report suggests some possible candidates, including the Central European University at Budapest, the World Bank Institute, National Law University, Jodhpur, and the Public Utility Research Centre, University of Florida. However these are only indicative of the categories and types of organizations that CIRC could look at.

G. Reaching out to civil society

Reaching out to civil society is one of the most important objectives of CIRC. At present there is no organization that has such focus on capacity building in civil society on competition and regulation related matters (except for isolated one-off efforts). In the detailed curriculum development plans for the key sectors we have articulated specific aspects on which CIRC can reach out to this important constituency. Even though such programs would typically involve a lower degree of complexity as compared to advanced curricula for regulators, policy makers and the industry, there would be inevitable logistical challenges due to the fragmented nature of civil society. Delivery of such programs would mostly be local, at towns spread across the geography. It is important that CIRC develops partnerships with utilities, local government, NGOs and consumer forums for effective and efficient delivery. A well thought out plan for implementation of the civil society capacity building program needs to be developed. We recommend that CIRC commences this program in a few states (Rajasthan, Haryana and Delhi suggested) before expanding to others over time.

Policy inadequacies and lack of appreciation of roles among the policy makers has also been identified as a key lacunae in current capacity building initiatives in the infrastructure sectors. CIRC is already engaged in such programs in Rajasthan, and should extend the coverage progressively to other states and at the national level. CIRC could draw upon the resources and reach of CUTS as necessary for this purpose.

H. Communication Tools

The wide variety of CIRC's courses and clientele will require a corresponding range of communication tools. For example, the distance learning programs will require advanced communication technologies like video conferencing, electronic resource rooms (e-rooms), digital libraries, etc. At the other end, the local capacity building initiatives will require newsletters and graphic representations that are easy to comprehend. In the initial years in particular this will present considerable challenges since such tools are often resource intensive to develop and implement.

I. Summary observations on operating and financial projections

On the whole the entire venture would be self sustainable since in most of the years it returns a positive cash flow from its operations. Considering amortization of the costs of setting up its own facilities, CIRC would turn a financial surplus in all years except the first two years. However, based on the projections it is apparent that CIRC would need infusion of cash at two stages:

- The start-up stage, where in the initial years there is significant cash deficit;

- In the expansion phase when there is considerable need for finances for acquisition of land and construction of its facilities.

In particular we believe that CIRC should make adequate financial arrangements for the start-up phase since this is fundamental to the reputation of the institute, and necessary investments of time and resources for course development, faculty recruitment, marketing and outreach should not be compromised with.

J. Conclusions and Way Forward

The eventual goal of CIRC is to become a world class organization addressing the width and depth of capacity building needs in the infrastructure space. While this strategic business plan addresses some of these issues, much work would need to be done by CIRC in operationalising the plans. With the right measures consistent with the goals and values it would be possible to become a multi-locational institute of international repute and serve an international need (particularly in the developing world) that remains inadequately addressed at present.

CIRC is in the process of defining the way forward based on the recommendations in this report. Key immediate actions would include the recruitment of the Director and initial core faculty, identification of the premises for housing the institute for the foreseeable future, design of the first set of courses that are to be delivered, and arranging of finances. We understand that CIRC has already commenced action on several of these aspects. A detailed action plan, initially spanning the next 12 to 18 months on each of the aspects is recommended.