CIRC RegTracker

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RT.008, July-August 2012

RegTracker is a bi-monthly publication which will be tracking the current policy changes and proposals on economic regulation in the country, particularly on the dynamics of the same as and when a news report appears. It does not aim to provide an in depth analysis of the happenings, but raises some points to ponder, as food for thought and deeper analysis by policy makers and researchers.

1. FMC monitoring price movement of 5 agri-commodities

The Financial Express, July 19, 2012

Commodities market regulator Forward Markets Commission (FMC) is keeping a close watch on five agricultural commodities — potato, chana, soyabean, soya oil and mustard seeds — to curb possible speculation and price increase in the backdrop of poor monsoon.

"We are monitoring the price movement of five agricultural commodities — potato, chana, soyabean, soya oil and mustard seeds. We are keeping a close watch on these essential items to curb any speculation and price increase," FMC chairman Ramesh Abhishek said.

New steps will be taken as and when required, he said, adding that the recent initiatives have helped bring down speculative activities in the commodity bourses. In the wake of poor monsoon, prices of essential commodities are inflating in most parts of the country.

Monsoon, crucial for Indian agriculture, is deficient by 21 percent in the country. Poor rains have affected sowing of major kharif crops like rice, pulses and oilseeds. On guarseed and guar gum futures, Abhishek said, "The commission has not yet taken the decision to relist the banned guar futures."

In March this year, FMC banned futures trading in guarseed and guargum, which is increasingly used in oil and gas industry, to curb price volatility and speculation.

According to FMC data, the turnover of commodity exchanges rose by 8.95 percent to R41,71,803 crore till June of the current fiscal, against R38,29,230 crore in the same period last year.

http://www.financialexpress.com/news/fmc-monitoring-price-movement-of-5-agricommodities/976374/

Also Read: Food and consumer affairs ministry to curb speculation in futures trading
The Economic Times, July 25, 2012

http://articles.economictimes.indiatimes.com/2012-07-25/news/32848712_1_wheat-prices-sugar-prices-price-rise

Points to Ponder

Due to uncertainty of rains, commodity futures market regulator has started tightening the noose over the agri commodity futures market to ensure speculative activity remains under control. FMC has sought views of exchanges regarding separate disclosure of positions of proprietary and client transactions as well as volumes due to algorithm and high frequency trading. In a move that can deepen the market and attract real hedgers into the futures market, FMC has asked exchanges to look at giving relief in payment of margins to hedgers who have deposited goods equivalent to their open positions with the exchange's recognised

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CONTENTS

warehouse. The regulator is also considering relaxing norms relating to warehouses in and around delivery centres. At present, warehouses should be within a 50-km radius of the delivery centre for agriculture commodities. To allow more warehouses in the delivery centre areas, FMC is considering increasing this limit to 100 km.

Margin funding is prevalent in the stock market for spot deals - a financing arrangement where a brokerage or its arm funds a slice of the deal and the balance is chipped in by the investor. But such a mechanism can dramatically multiply risks when the investor borrows money to pay the margin in a futures deal which itself is a leveraged transaction. Building futures positions with borrowed funds boil down to a 'leverage on leverage' transaction and such bets could badly backfire on investors if prices move the other way. Apart from FMC, the food and consumer affairs ministry plans stern action to curb any speculative trading of grains in the futures market. Food and consumer affairs minister KV Thomas has promised to review the situation in the futures market, and send the necessary advisory to regulator Forward Markets Commission for controlling speculation.

2. CERC orders probe into grid failure

The Daily Pioneer, August 03, 2012

In the aftermath of two back to back blackouts suffered by the country, the Central Electricity Regulatory Commission (CERC) while describing the fiasco as "alarming" has ordered a probe into the massive failures of power grids this week that affected more than half of the country's population. The regulator has sought a detailed report from Power Grid Corp CMD and Power Systems Operation Co Ltd (POSOCO) Chief Executive Officer by August 8.

It has directed the concerned officials to include aspects like antecedent conditions of frequency, inter-regional or inter-State line flow, voltages at inter-state points, conditions of outage at state levels and report of the sequence of event recorder maintained by Regional Load Despatch Centres (RLDCs), in their report.

POSOCO, a subsidiary of Power Grid, controls the National Load Despatch Centre that monitors the country's electricity grid system. Incidentally the apex regulator itself has been under pressure after the grid failure crisis and its concern reflected from its order, in which it said that "the grid failure of such large magnitude on two consecutive days is alarming and needs to be investigated in detail".

This probe is in addition to a report which a three-member panel set up by the Power Ministry is to submit within two weeks ascertaining the reason behind the crisis. The Government appointed panel is headed by Central Electricity Authority (CEA) Chairperson A S Bakshi.

Considered one of the world's worst ever power crisis, the collapse of Northern, Eastern and North Eastern grids on Tuesday afternoon impacted over half of India's population. The Northern Grid, that caters to over 30 crore people across nine regions, had first tripped on July 30 at 0233 hours and then again on July 31 at around 1300 hours.

http://www.dailypioneer.com/business/85188-cerc-orders-probe-into-grid-failure.html

Also Read: CERC's order on grid code adherence remains on paper
Business Standard, July 31, 2012

http://www.business-standard.com/india/news/cerc%5Cs-ordergrid-code-adherence-remainspaper/481914/

Points to Ponder

Grid collapse refers to automatic tripping of power, often caused by excessive withdrawal. Sudden spurt in demand, coupled with short supply, pulls electricity frequency below the threshold. This leads to a cascading effect on the entire grid. Large scale grid failures being common in India, tripping occurs in the northern region leading to minor glitches almost every winter due to fog. Complete northern grid collapse on July 30 and 31, 2012, as overdrawal by states caused tripping near Agra in UP. The outages spread across seven states, including national capital Delhi, owing to a cascading effect.

In its order of June 14, on a petition filed by the Northern Regional Load Despatch Centre (NRLDC) against utilities and energy departments of the northern region, CERC directed all state electricity boards (SEBs), distribution licensees, state transmission utilities (STUs) and state load dispatch centres (SLDCs) to comply with the grid code to ensure safe, secure and reliable operations of the north, northeast and western grid. It states that instances of non-compliance would be reported by the regional power centre and regional load dispatch centre (RLDC) to it, in accordance with the code provisions.

CERC also directed SLDC, through the respective SEBs and distribution licensees, to formulate and implement state-of-the-art schemes for automatic demand management, such as rational load shedding and demand responses to reduce overdrawal. NRLDC, in its petition, had said instances of serious or repeated violation and incidence of persistent non-compliance of the directions of RLDCs were reported to the CERC. It has also brought to CERC's notice that the daily overdrawal of power by constituents of the northern region, especially Uttar Pradesh, Haryana and Rajasthan during September 23, 2011, and October 06, 2011, was significantly high.

CERC had asked constituents to curb the overdrawal, so that the grid was operated in accordance with the code. However, its directions were not complied with. Further, some of the regional entities continued to endanger grid security and repeatedly violated provisions of the grid code and the Electricity Act, 2003. NRLDC had pleaded that SLDCs and STUs be directed to restrict the drawal of their control area from the grid within the net drawal schedule whenever the system *frequency fell to 49.7 Hz. They should also be told to ensure requisite load shedding, so that there was no overdrawal when the frequency dipped below 49.5 Hz.*

SLDCs are under state government distribution companies and need to be hived off as an independent entity as also argued in the National Competition Policy (NCP).

3. Do away with port tariff authority, urges workers' body

The Hindu, July 20, 2012

The All-India Port and Dock Workers' Federation has demanded that the Shipping Ministry either dispense with the functioning of the Tariff Authority for Major Ports (TAMP) or bring minor ports under its purview. The Federation is of the view that the approach of TAMP has resulted in cargo diversion from major ports to privately-managed minor ports as these ports are not in the ambit of TAMP. Hence, there are no rules to regulate handling charges and protect labour engaged in the minor ports. The present policy of TAMP is very much detrimental to the viable functioning and existence of major ports, the Federation alleged in a resolution unanimously adopted at the delegates' meeting held in Mumbai.

S R Kulkarni, President, and P M. Mohammed Haneef, General Secretary of the Federation, alleged that surplus capacity has been created in the port sector due to the unscientific policy of the Ministry. This will ultimately create a situation of idling of several ports in future. To avoid the crisis, they suggested that the Ministry carry out a scientific and productive fact-finding study before sanctioning new ports, and discuss the matter with all stakeholders.

The Government should adopt a policy to prevent cargo diversion from major ports to minor ports by permitting only surplus/over flow cargo, which cannot be handled by major ports. The Government should also clear all the proposals submitted by various major ports for its developmental activities, they added. The resolution also demanded that the Government restore the autonomy of the major ports as provided in the Major Port Trust Act. The port authorities may be permitted to manage ports efficiently, effectively, competitively and viably.

The Federation was of the view that the management and operation of major ports are seriously affected due to lack of professional hands at ports. The government should appoint only port cadre officers who are professionally competent to manage the ports, instead of other cadre officers who do not have any knowledge and experience of the port transport industry. Referring to exorbitant dredging expenditure at major ports, the resolution urged the government to bear the entire dredging cost for maintaining the navigation channel of major ports as is prevailing in international ports.

http://www.thehindubusinessline.com/industry-and-economy/logistics/article3662395.ece

Also Read: Major ports may get freedom to set rates
Livemint, July 23, 2012

http://www.livemint.com/2012/07/22193147/Major-ports-may-get-freedom-to.html?atype=tp

Points to Ponder

The gap between the cargo traffic handled by major ports (i.e., government-owned ports) and minor ports is narrowing, with major ports' share of cargo traffic shrinking while minor ports' share of cargo traffic grew accordingly. In fiscal year 1998, major ports handled around 90 percent *of India's total cargo traffic, leaving about 10* percent *handled by minor ports. However, the cargo traffic handled by minor ports has trended upward since 1998. Over the last 14 years, the major ports' share of cargo traffic has dropped to approximately 65* percent *while minor ports' share has increased dramatically to nearly 35* percent*. These changing trends were the result of increasing private participation in establishing minor ports.*

The phenomenal rise of these minor ports has adversely affected the growth rate of major ports as cargoes are increasingly diverted to newer and more efficient minor ports mushrooming in many coastal states. It is observed that new ports have deeper drafts (depths) allowing bigger ships to dock. These new ports are also equipped with the latest mechanised cargo-handling facilities, which offer higher efficiency and better productivity, saving both time and costs for shippers. While minor ports have been criticised for their high port charges, sometimes double the standard fees charged at major ports, port statistics imply that shippers are willing to pay these premium charges in return for more efficient services offered by these minor ports. Indeed, barring government intervention or any significant changes in efficiency, present trends suggest that minor ports will eventually take up the lion's share of cargo traffic.

Some of the minor ports are as big as major ports and under the control of states, hence there is need to have a coherent policy to regulate all ports in the country by the regulator.

4. 'Why should one entity control TV, radio & newspaper?'

The Hindu, August 17, 2012

The Telecom Regulatory Authority of India is looking at bringing in a regulation to control cross-media ownership. Speaking to Business Line, Rahul Khullar, TRAI Chairman, said most countries had regulation to prevent a single entity from owning more than one or two types of media carriage and India should not be any different.

"Everywhere there is regulation which restricts domination of the media market. This is a different sort of market from ice-cream or shoes. This is market for ideas and for influencing minds. Now, why should X control the newspaper, TV and the radio? "Then you might as well be in an earlier totalitarian era where opinion is made by a single state-controlled media that existed then," Khullar said. TRAI will examine ownership of broadcast, print media and radio and soon float a consultation paper.

"We all know how media get into bed with power and politicians. This is not new to India. The News of the World example is staring us in the face. "In many countries, a newspaper cannot own anything else. In most jurisdictions you can own a maximum of two media outlets. What's so unique here that this should not apply to India?" asked the TRAI chief. Khullar said the idea of bringing in regulation was not to take away the freedom of speech.

"We are not talking about content but carriage. There are a number of reasons why the story is changing as all three networks — TV, print and radio — are converging, devices are converging and this will make it available on a single platform," he said. While TRAI has not named any specific media house that has ownership across platforms, the latest move has made large media companies unhappy. Khullar said he was willing to discuss the issues.

"I am willing to talk to you about these issues, but I am not willing to say that this discussion is not worth having. Unless there is plurality and diversity of ideas, what is democracy," he said. Earlier at a roundtable organised by Assocham, the TRAI chief said that media monopoly was a larger issue than corporate monopoly in other fields. He also drew a parallel with the financial sector where industrial establishments are denied banking licences.

http://www.thehindubusinessline.com/opinion/columns/thomas-k-thomas/article3785841.ece

Points to Ponder

In 1975, the US Federal Communication Commission (FCC) rules banned cross-ownership by a single entity of a daily newspaper and television or radio broadcast station operating in the same local "market" in the US. Under the 2007 revised rule, the FCC evaluates a proposed cross-ownership combination on a case-by-case basis to determine whether it would be in the public interest – specifically, whether it would promote competition, localism and diversity.

The FCC established a set of presumptions that distinguishes between the largest media markets in the country and all the rest. In the top 20 markets – as measured by Nielsen's "Designated Market Areas" (DMAs) – the FCC presumes that a combination of a newspaper and a radio station is in the public interest.

The FCC also presumes that a combination of a newspaper and a TV station is in the public interest if: (1) the TV station is not ranked among the top four stations in the DMA; and (2) at least eight independently owned major media voices (major newspapers and/or full-power TV stations) would remain in the market following the transaction.

No matter which presumption applies, all proposed cross-ownership /combinations should be reviewed under a four-factor metric:

- *the extent to which the cross-ownership/combination will increase the amount of local news in the market;*
- *whether each media outlet in the cross-ownership/combination will exercise independent news judgment;*
- *the level of concentration in the DMA; and*
- *the financial condition of the newspaper or broadcast station, and whether the new owner plans to invest in newsroom operations if either outlet is in financial distress.*

5. Coal Regulator Likely to be Paper Tiger

Times of India, August 27, 2012

The long-awaited coal regulator can turn out to be a routine approving authority, not an independent body, as different ministries are not willing to surrender control over pricing of the resource or the power to authorise mining, government officials said. A senior coal ministry official said most members of the Group of Ministers (GoM) on the regulator have raised objections and opposed the transfer of most executive powers to the regulator. "During the last meeting of the GoM, members questioned the need of giving pricing powers to the coal regulator since there is no commercial mining in India by companies other than (state-run) Coal India Ltd," the official said.

Coal India decides price of the fuel without any formal directive from the coal ministry, but the government has a say because it holds majority equity. The official said the ministers also argued giving the right of giving mining authorisations to coal regulator. He said the coal ministry would, however, press on giving away the pricing and authorisation granting powers to the regulator. "The pricing power will be important when the coal sector is opened up and surplus coal policy is decided," the official added. P Chidambaram said at a media briefing on Friday: "Several ministries have pointed out that the coal regulatory bill takes us back to the pre-1991 era of licence raj. We must keep a difference between regulation and licensing." He said the government was working afresh on forming an independent coal regulatory authority.

The minister, who is heading the GoM on the regulator, said, "We are identifying the aspects which should be with the coal regulator and aspects which should not be with the coal regulator. The bill is being redrafted." In May, the coal ministry had sought the Cabinet's for the Coal Regulatory Authority Bill 2012. The GoM was formed after the cabinet could not reach a consensus on some of the provisions in the draft. The GoM comprising coal minister Sriprakash Jaiswal, environment minister Jayanthi Natarajan, planning commission deputy chairman Montek Singh Ahluwalia and power minister Sushilkumar Shinde met on July 25, 2012. Mines minister Dinsha Patel, Corporate Affairs Minister M Veerappa Moily, labour minister Mallikarjun Kharge and law minister Salman

Khurshid are the other members. Chidambaram said the regulator would be finalised after one more meeting of the GoM. The coal ministry had proposed a four-member authority to price coal, grant and cancel mining authorisations, set performance standards, monitor coal quality, ensure adherence and advise government on policies. The proposed Bill sought providing a level-playing field to all stakeholders and promoting investment in the sector. The proposal of setting up a coal regulatory authority was first mooted in budget 2007-08. Presenting the Union budget 2009-10, the then finance minister had reiterated the need for an independent regulator to create level playing field in the sector.

Without Powers

- A COAL regulatory authority was first mooted in 2007-08 budget
- PRESENTING 2009-10 budget, the then FM Pranab Mukherjee had reiterated need for an independent regulator
- NOW, THE REGULATOR can turn out to be a routine approving authority, and not an independent body

http://epaper.timesofindia.com/Default/Scripting/ArticleWin.asp?From=Archive&Source=Page&Skin=ETNEW&BaseHref=ETD/2012/08/27&PageLabel=11&EntityId=Ar01101&ViewMode=HTML

Points to Ponder

Seeking to restrict state-run Coal India Limited's (CIL) say in determining price pooling of imported and domestic coal, a Group of Ministers (GoM) has suggested that the proposed coal regulator must be empowered to devise the pooling mechanism in a transparent way. The meeting agreed that the proposed regulator must be equipped to determine a mechanism on price pooling. This, the inter-ministerial panel said, is imperative as the power to fix prices should not be available to the producer (especially a monopoly producer) but rather by an independent authority. However, it was also observed that while re-defining the role of the regulator in a monopoly pricing set up, the role and autonomy of the CIL's board need to be kept in mind since coal pricing is a critical input for the economic growth. The GoM meeting reasoned that since the coal sector is predominantly nationalised, about 90 per cent coal is produced by state-owned companies and the remaining 10 per cent come from captive mines.

While re-defining the role of the regulator, the GoM observed that the basic core functions of the coal ministry are preserved as to avoid overlap as potential conflict from past experience of working of regulators in some sectors. The ministerial panel concurred that the primary functions of the regulator is to oversee the compliance with the mining plans and to put in place regulations that will be a counter to the practices and methods of a monopolistic producer such as CIL. The GoM also suggested that the proposed regulatory mechanism must ensure that coal supply meets certain standards, including the required calorific value and facilitate redressal of complaints between the fuels consumers and producers. However, it is clear that the issue of mines safety is under the labour ministry which administers the relevant laws and those regulations and its jurisdiction should not be affected by the proposed regulatory mechanism and suitable provisions should be made in the impending regulation for a regulator to this effect.

Why does one need a coal regulator at all? It is a commodity and any market failures can be dealt with by the CCI. Sector regulators are usually established to deal with service sectors, especially when they are being deregulated, as we see in the telecom, electricity etc sectors. Secondly, there is also a talk about opening up the coal sector to private participation. If at all, the coal sector needs economic regulation, it has been suggested that whether it can be dealt with by the CERC. In fact our argument is to have a composite energy regulator, also suggested by Planning Commission, which will oversee electricity, coal, petroleum and natural gas.

Not really a tongue in cheek remark, but many bureaucrats look at establishing such institutions to create sinecure appointments for retired IAS officers.

6 Maharashtra Bill provides for India's first real estate regulator

Livemint.com, July 16, 2012

The Maharashtra Housing Regulation and Development Bill passed by the state assembly today paves the way for the establishment of the country's first regulator for the housing sector.

The Bill, which now goes to the state legislative council, aims to bring about transparency in the real estate sector and empower homebuyers. It also attempts to demystify some of the popular and often misused terms used in the sector, such as carpet area, built-up and super built-up area.

The Bill makes it mandatory for builders to make complete disclosure regarding housing schemes or projects they are developing, where they are required to provide details of ownership of land, number of flats going to be built, the floor space index (FSI) applicable for a particular housing project, how they are going to finance the project among other clauses. These details will be published by the regulator on its website before giving approval to a project.

Lack of transparency in the Indian real estate sector has been talked about for long and the creation of a housing regulatory body has been discussed both at the central and state level.

The Bill also prohibits property developers from selling or advertising the housing scheme before it receives approval from the regulator.

The Bill also asks them to mention separately, how much they will charge for common areas such as staircases, lifts, parking area etc. and not mislead buyers by using terms such as built-up and super built-up area.

"It's a clever Bill but it doesn't address the issue of approval delays in Mumbai due to which projects get held up," said Anuj Puri, chairman and country head, Jones Lang LaSalle, a property advisory. Puri said the impact of the Bill would be significant on homebuyers because the regulator ensures financial prudence and they will know that their money is going into the project and not for some other purpose.

The Bill also seeks to ensure that developers make their promises realistic and deliver projects on time. It also imposes penalties and fines for those who fail to comply with the various provisions such as failure to give possession within the period mentioned in the agreement between the buyer and builder. The regulator can also impose a fine of up to Rs 10,000 for each day of delay.

The Bill prevents the builder from giving possession of flats to buyers till an occupation certificate (certificate stating building is fit for occupation) is obtained from the local authority. Also, 10 percent of flats in a project will be with the regulatory authority, till the occupation certificate is obtained. The decisions of the housing regulator can be challenged before a housing regulatory appellate authority that will also be set up.

The Bill mandates the regulator to promote energy efficient or green buildings and asks it to create regulations that are consistent with the national building code and rules and regulations framed by the state governments and municipal bodies to bring consistency and remove ambiguities. Setting up a rating system for projects may also be given as a mandate to the regulator.

Boman Irani, Secretary, Maharashtra Chamber of Housing Industry (MCHI), said imposing a penalty on the developer isn't fair because it's only a part of the sector. "I am in favour of the Bill provided it doesn't produce pressure only on developers because they are dependent on banks, government policies and even customers to develop and deliver a project," Irani said.

http://www.livemint.com/Politics/JHQLDM7g4p85fYK4iChxQP/Maharashtra-Bill-provides-for-Indias-first-real-estate-regu.html

Also Read: Maharashtra housing bill could usher in transparency
Financial Express, July 24, 2012

http://www.financialexpress.com/news/maharashtra-housing-bill-could-usher-in-transparency/978409/

Points to Ponder

While the home buyer must pay a penal interest of 18 percent per annum for a delay of even 15 days on his installments to the builder, the builder has no symmetric penalty to pay for delaying work for any length of time.

Unlike most nations, property brokers in India do not need to register or operate through a license. A few organised brokerage firms have come up in the last few years, trying to bring in some order in the sector, but most agents are unregulated and operate out of temporary premises. Licensing would help as it would take away fly-by-night operators and people with a malicious intent or low understanding of the market, and allow more credible people to operate. There is also a need to have minimum basic qualifications to become an agent. In Australia and in all states of the US, real estate agents need to acquire a license from the government. These licenses are issued only to those who have a certain minimum education and experience in the field. In the UK, the National Association of Estate Agents issues license to real estate agents. Japan introduced license for property agents after widespread complaints of unscrupulous practices in the 1980s. Even South Africa has separate regulation for real estate agents.

Thus, the Bill appears to be a step in the right direction, and it enhances the scope for transparent practices in the real estate market. The proposed Bill may pass the test of time if it is supplemented by effective judicial and administrative mechanism.

What does this mean for end-users, investors and speculators in realty? There are three types of buyers in a real estate project; end user, investor and speculator. This Bill will ensure that investors and end users don't get conned into committing to a project that does not have proper titles, permissions and final plans. So in that sense they stand to benefit. The Bill seems to dissuade speculation. However, where there is a parallel economy thriving and transactions of speculation take place in the environment of trust and loyalty, developers and speculators may find ways to circumvent the provisions of the Bill.

Further, at the national level, The Real Estate (Regulation and Development) Bill, which has been cleared by the law ministry, seeks to prevent unscrupulous real estate developers from fleecing consumers. The Bill is yet to undergo the full process of being turned into a law.

N. B. In the CIRC/CUTS forthcoming biennial report on the State of Competition and Regulation in India, 2011, there is a chapter on real estate regulation.

7. TRAI Issues Draft Norms for TV Advertisements

Outlook India.com August 27, 2012

In order to provide flexibility to broadcasters, the Telecom Regulatory Authority of India (TRAI) has issued a draft regulation which, if finalised, would allow channels to show twelve minutes of advertisements on a clock-hour basis.

Sources said that as per the regulations released earlier TRAI had laid down that channels can show twelve minutes of ads per hour but commercial breaks should be so spaced that there is a fifteen minute gap between them.

"Some of the Broadcasters expressed difficulty in following such a rule especially in relation to the telecast of sports events and live programmes," a well-placed source said.

"Taking into consideration the issues raised by the broadcasters, the Authority has decided to review the Standards of Quality of Service (Duration of Advertisements in Television Channels) Regulations, dated 14th May 2012," TRAI said today in a statement.

In a note TRAI has put on its website, it said "the quantum of permissible duration of advertisements carried in the television programmes has been specified in the Cable Television Networks Rules 1994."

"It is worth mentioning here that the provisions in the principal regulation does not attempt to disturb the time limit fixed by the central government of twelve minutes and so the same duration was prescribed in the principal regulations dated 14th May 2012," it added.

In the new draft note on its website, TRAI said the duration of advertisements carried, during the programmes, in the TV channels is closely related to the quality of viewing experience of the consumers.

"Accordingly, the Authority has decided that the restriction on maximum duration of advertisements carried in the programmes of a TV channel, as prescribed in the Cable Television Networks rules, shall be regulated on a clock-hour basis," TRAI said in its draft amendment statement.

Link: http://news.outlookindia.com/items.aspx?artid=773365

Points to Ponder

The original Regulation dated 14 May, 2012 was notified by TRAI with the coveted objective of 'striking a balance between giving a consumer a good TV viewing experience and protecting the commercial interests of broadcasters.' In addition to providing a cap to the duration of the advertisements, the regulation also stipulates that 'the picture and the audible matter of the advertisement should not be excessively high.'

Length and volume of advertisements, referred to as 'non Mrme matter' in select jurisdictions, is regulated across the globe. To mention a few, China, Canada, UK, USA and Australia appropriately regulate the duration of advertisements and ensure that the commercials are not blaringly loud vis-à-vis the programme. There is no gainsaying the fact that excessively loud and long commercials certainly impair quality TV viewing experience, especially in the age of digitisation. Hence, any resistance from broadcasters should be severely met with and exceptions be drawn only when monetary hardships are sufficiently proved.

Relevantly, there is also a competition concern involved in the matter as the proposed consumer-pro measure shall generate a level playing field to all the advertisers while hammering the autonomy of the few ones as minimum scope shall subsist for either relatively longer or repetitive advertisements.

What the regulations should also do is to ensure that crawlies are not used to circumvent the time limit, i.e. ads being placed on the programme content in a subtle way. Another important aspect which the regulation should look at is the timing of advertising on programmes, i.e. when every channel is showing some advertising and hence the consumer has little choice to switch to another channel to escape from the marketing spiel.

8. Health regulator for hospitals soon

Times of India, August 11, 2012

If you are being charged more or are getting poor quality service at a hospital — both public and private — you can soon get your grievance redressed with the government planning to set up a health quality regulator.

The regulator, both at the national and state level, is expected to be empowered to audit heath facilities and standards of treatment in hospitals to ensure quality service at reasonable cost.

"There is need for much better regulation of both public and private sector hospitals. I am not talking only of big hospitals but also of hospitals with 10-15 beds," Planning Commission deputy chairman Montek Singh Ahluwalia said.

The proposal, being discussed with health ministry officials and other stakeholders, will be incorporated along with other initiatives in the 12th five-year plan.

Ahluwalia also suggested more autonomy for big public sector hospitals, along with strengthening the professional and managerial capability in such hospitals.

Denying any move to privatise health services, he said the role of public sector in healthcare would increase in the 12th plan. "Health will be top-most priority of the government in the next five years. The impression that the commission wants to bring down public spending on health is wrong," he said.

Ahluwalia admitted that activists' demand to increase health spending to 2.5 percent of GDP might not be possible due to resource constraints. He, along with Mihir Shah, member in the commission, argued that allocation would be 2.5 percent if spending on key elements concerning public health like sanitation, drinking water and nutrition were included.

"If you see the government spending only on curative health, then it will not be more than 2 percent," Ahluwalia said, adding that there were capacity constraints to absorb the fund.

He said providing free medicines, upgrading all district hospitals to medical colleges and expansion of medical education were priority areas for the government during the 12th plan.

Around 100 district hospitals across the country could be upgraded to medical colleges in the next five years to meet the acute shortage of trained doctors and medical staff.

A provision to provide free generic medicines is also under consideration for the 12th plan period. The medicines would be purchased by a centralised agency and distributed free to patients across the country.

http://articles.timesofindia.indiatimes.com/2012-08-11/india/33152535_1_12th-plan-district-hospitals-quality-service

Points to Ponder

The proposed move is welcome, considering the momentum with which Indian health sector, including critical health care, is catering to both Indian and foreign nationals of all income groups. However, a background note to the proposal is essential for proper analysis of the issues at hand. The Government is proposing 'National Commission for Human Resources for Health Bill, 2011' to regulate health education across the country and repeal separate Central Councils for different streams like medicine, pharmacy, etc. The said bill is pending in Rajya Sabha. Besides this, the 'Clinical Establishments (Registration and Regulation) Act, 2010' is recently notified this year, after two years of its passing, which stipulates mandatory registration of clinical establishments, both public and private, including diagnostic centres, single doctor clinics, nursing homes, etc.

Hence, any proposal to bring in a separate health regulator should cheer up consumers only if the regulator comes out to be a 'composite regulator' overseeing health education, conduct of medical practitioners including medical negligence, quality of medical treatment for specified diseases as well as clinical establishments. Any measure which is far away from this may prove to be well intentioned but is bound to disappoint, both the medical profession as well consumers leading to forum shopping, in a nation which is already struggling with a regulatory roulette.

An integrated standards and regulatory mechanism to administer health education as well as compliance of benchmark standards in treatments and care, by ensuring that only registered and efficient health care institutions operate in the market as well as continuous monitoring over the same, can only sub-serve the underlying objective of quality and timely health care to each Indian citizen. This should be supplemented by firm measures to escape the prodigal bureaucratic setup at regulatory levels, considering health as a mainstream infrastructure.

N. B. In the next edition of the biennial report on the State of Competition & Regulation in India, 2013 there will be a chapter on private health care.

Additional Reading:

We want a level playing field, with free & fair competition
The Financial Express, August 04, 2012
http://www.financialexpress.com/news/we-want-a-level-playing-field-with-free-&-fair-competition/983626/

Regulators should not be too prescriptive: Parekh
Business Standard, August 28, 2012
http://www.business-standard.com/india/news/regulators-should-not-be-too-prescriptive-parekh/184395/on

Fallacy in toll rules, says C P Joshi
The Indian Express, July 26, 2012
http://www.indianexpress.com/news/fallacy-in-toll-rules-says-c-p-joshi/979863/

The farm sector needs markets & infrastructure to function, not stalled through stock limits
The Economic Times, July 20, 2012
http://articles.economictimes.indiatimes.com/2012-07-20/news/32764285_1_farm-sector-food-inflation-food-prices

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