

Competition Law Workshop for Public Sector Enterprises

Friday, 27th April 2012 ■ India International Centre, New Delhi

Report on Workshop Proceedings

CIRC has drawn up an executive training calendar for the year 2012-13, according to which various short term training programmes for professionals from various disciplines would be conducted. These training programmes would be focusing on imparting training on various facets of competition law, tailor made to cater to the needs of professionals from different fields. The first in the series of these short term training programmes was the workshop on Competition Policy and Law for Public Sector Enterprises (PSEs) held on 27th April, 2012 at India International Centre, New Delhi.

The event began with Mr. Avinash Dadhich, Associate Fellow, CIRC, welcoming the participants. He then invited Dr. Geeta Gouri, Member of Competition Commission of India, to inaugurate the workshop and provide the participants a perspective as to how the competition law may affect their business decisions.

Dr. Gouri outlined the major competition issues relatable to PSEs, namely: anti-competitive agreements, abuse of dominance and combinations, and emphasized that competitive neutrality and efficient public procurement are pre-requisites for a progressive economy like India. She also discussed latest case laws pertaining to PSEs from the perspective of competition. She discussed the challenges put forward before the PSEs by the economic liberalisation generally, and the Competition Act 2002, in particular.



Thereafter, the workshop was divided into three technical sessions, focusing on three broad areas of competition law:

- Session 1- Anti competitive agreements
- Session 2- Abuse of dominant position
- Session 3- Combinations.

The first session on anti-competitive agreements was taken up by Mr. Sharad Bhansali, Managing Partner, APJ-SLG Law offices. He spoke about anti-competitive behavior of enterprises and the bases of anti-competitive agreements. Mr. Bhansali equated such agreements with corruption, as ramifications of both for those involved are serious. Emphasizing on the importance of compliance with competition law, he highlighted “*competition has tremendous teeth & it can bite, hence every company should have in-house training compliance.*” While discussing the activities falling outside the ambit of the Competition Act, Mr. Bhansali also discussed the concept of sovereign functions of Government with reference to latest competition law cases in India.



The second session on abuse of dominance was led by Mr. Manas Chaudhuri, Partner, Khaitan & Co. He explained what amounts to abuse of dominance and discussed relevant examples of abuse of the same referring to very recent cases like, Coal India Ltd and LPG cases. Discussing the nuances of determination and dominance and its abuse, he explained as to how cases, involving PSEs, require a well calibrated approach.

The last session on combinations was steered by Mr. Samir Gandhi, Partner, Economic Laws Practice (ELP). He began by giving a brief background of merger control in India and how CCI deals with such cases. From the economics perspective, he said that it is not just consumer welfare, but total welfare which is to be considered for the approval of mergers. He further suggested that India should draw lessons from competition authority of Pakistan, which is composed of professionals from different sectors who bring with them wealth of experience and different perspectives to further enrich the functioning of competition watchdog.

Each session also had group activities wherein participants engaged in analysis of relevant case laws to appreciate the application of economic and legal concepts in a competition case. At the end of each session, the floor was thrown open for comments/ questions on the preceding discussions.

In their feedback, participants voiced the need for more such programmes, which are tailored to the needs of PSE executives. They found the workshop very helpful.

The workshop ended with the vote of thanks by Mr. Avinash Dadhich to all the participants, expert professionals and all other colleagues present there.
