

- Receive report of the Auditors and audited balance sheets,
  - Appointment of auditor
- c) **Managing Committee:** 11<sup>th</sup> Meeting of the Managing Committee (MC) was held on 18<sup>th</sup> March, 2009, at (ICRIER Conference Room, India Habitat Centre) New Delhi. There were discussions regarding structure of CIRC, funding position, CIRC General Body Membership and progress on activities of CIRC. The important decisions arrived at were:
- The MC directed that proposals involving financial implications such as creation of posts, renting of premises should be brought to the knowledge of the MC. The MC authorised the DG to fill up the posts as and when required and report the outcome to the MC from time to time and keep the Chairman informed.
  - It was also decided that the account kept with the Axis Bank in Jaipur could remain operative but only a minimal amount be kept in that account and the bulk should be transferred to the CIRC's Axis Bank account in Delhi.
  - DG, CIRC to invite a limited number of eminent persons to the General Body of CIRC. In this regard, invitation to join the CIRC General Body was extended to Mr. K. S. Mehta and Mr K. Sanghi, who accepted the invitation.
- d) 12<sup>th</sup> Meeting of the MC was held on 18<sup>th</sup> June, 2009, at CIRC office (R-75, Greater Kailash) New Delhi. The MC discussed in detail the business plan of CIRC. The MC was informed that the plan was wide ranging and focussed on fine areas viz., 'Energy Sector Regulation and Competition', 'Public Private Partnership', 'Bid Process Management, Contract Negotiation and Alternate Dispute Resolution', and 'Infrastructure Economics and Regulation'. The important decisions arrived at were:
- The MC decided that a panel discussion will be held in New Delhi in the second half of July, 2009 to release the final version of the policy document.
  - CIRC Service Rules, 2009 were approved.
- e) 13<sup>th</sup> Meeting of the MC was held on 28<sup>th</sup> August 2009, at CIRC office (R-75, Greater Kailash) New Delhi. Before taking up the agenda of the meeting, the Chairman of the MC welcomed Mr. Mukesh Kacker as the new Director General of CIRC. Among other things, the MC approved the audited balance sheet for the financial year 2008-09 and also the creation of a special fund for various purposes such as purchasing, constructing or leasing a building and equipping it as a library cum resource centre; conducting or facilitating a series of educational programmes etc.
- f) 14<sup>th</sup> Meeting of the MC was held on 1<sup>st</sup> May, 2010, at CIRC office (R-75, Greater Kailash) New Delhi. Agenda notes also included an item "An appraisal of CIRC's activities and Strategies".
- The MC discussed the related aspects of this item in detail and expressed its agreement with the strategies proposed by CIRC. It was suggested by MC to engage part time professionals for different projects. It was also suggested that CIRC should consider organizing visibility events on a regular basis. The strategies suggested by CIRC and approved by the MC have already been described in Section IV of this report.
  - In view of the need to amplify the objects of CIRC, the MC approved the addition of three new objects in CIRC's MOA:
    - I. "to take up different activities in the general area of consumer studies with specific focus on consumer protection, consumer awareness, consumer impact assessment and other related issues"
    - II. "to take up institutional support activities in the area of governance"
    - III. "to take up activities in the area of investor protection".

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# CIRC

## Progress Report

JANUARY 2009 TO JUNE 2010



## SUMMARY

CIRC was incorporated as a society under the Societies Registration Act, 1860 on 18<sup>th</sup> January, 2008 and became operational in January 2009. Although the acronym CUTS was included in the name of the Institute, it must be pointed out that CIRC is a totally separate legal and financial entity. This progress report summarizes the new initiatives and other developments at CIRC from January 2010 to June 2010. Information on various activities and progress made during this period has been presented in the following sections:

- i) **Recruiting skilled personnel and developing administrative procedures**
- ii) **Institutional and core funding**
- iii) **CIRC events and participation**
  - a. Training programmes and courses
  - b. Policy events
  - c. Participation of CIRC staff in various events
- iv) **Development of a work agenda**
- v) **Outreach**
- vi) **Infrastructure**
- vii) **Governance**

### HIGHLIGHTS

Projects and Events	Knowledge Products
<ul style="list-style-type: none"> <li>• German Technical Cooperation (GTZ) and Ministry of Consumer Affairs (MoCA), Govt. of India funded project on “Training of Consumer Advisors”.</li> <li>• Training programmes on “Consumer Protection” and “Regulation, Competition and Consumer Issues in the Electricity Sector in India” with the support from the Forum of Regulators, Central Electricity Regulatory Commission.</li> <li>• Two training programmes on “Trade Remedial Measures” with the support of the Ministry of Commerce, Government of India.</li> <li>• Roundtable on “Developing Infrastructure through an Ideal Regulatory Framework”.</li> </ul>	<ul style="list-style-type: none"> <li>• Four training modules for consumer advisors (As part of GTZ – MoCA supported project) covering:               <ul style="list-style-type: none"> <li>✓ Basic concepts of law</li> <li>✓ Law of torts</li> <li>✓ Law of contract [Indian Contract Act, 1872]</li> <li>✓ Law of sale of goods and services [Sale of Goods Act, 1930; Hire-Purchase Act, 1972] and rules therein</li> <li>✓ Consumer Protection Act, 1986 and rules therein</li> <li>✓ Consumer issues related to financial services</li> </ul> </li> <li>• A compilation of Frequently Occurring Problems (FOPs) across 24 goods and services sectors.</li> <li>• Course Material on Competition Policy and Law               <ul style="list-style-type: none"> <li>✓ Module 1: Introduction to competition policy and law</li> <li>✓ Module 2: Organizational structure of competition law enforcement authorities in India</li> <li>✓ Module 3: Economics for competition analysis</li> <li>✓ Module 4: Dealing with abuse of dominance in Indian markets</li> <li>✓ Module 5: Substantive provisions relating to abuse of dominance across jurisdictions</li> <li>✓ Module 6: Dealing with anti-competitive horizontal agreements and cartels in India</li> <li>✓ Module 7: Dealing with anti-competitive vertical agreements in India</li> </ul> </li> </ul>

### HIGHLIGHTS

Projects and Events	Knowledge Products
<ul style="list-style-type: none"> <li>• Policy seminar on “Achieving Inclusive Growth through Better Infrastructure Regulation”.</li> <li>• “Interface between Competition Policy &amp; Law and Business Strategy” a CIRC International Conference in association with NERA Economic Consulting.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Module 8: Substantive provisions relating to anti-competitive agreements across jurisdictions</li> <li>✓ Module 9: Regulation of combinations in India</li> <li>✓ Module 10: Substantive provisions relating to regulation of combinations across jurisdictions</li> <li>✓ Module 11: Remedies under Competition Act, 2002</li> <li>✓ Module 12: Interplay between intellectual property resources (IPRs) and competition law</li> <li>✓ Module 13: Cross-border competition issues and future of competition law</li> <li>✓ Module 14: Interface between competition law and business strategy</li> </ul>

#### Section - I: Recruiting Skilled Personnel and Developing Administrative Procedures

- a) **Recruitment:** CIRC became operational in January 2009 and commenced its functioning with a very small complement of staff. CIRC's current staff comprises the Director General, one Director, one Fellow, one Junior Fellow, two Research Assistants, one Marketing Manager, one Administration Manager and two support personnel to support administration and accounts. Efforts are being made to bring more knowledge staff on board.

CIRC needs to have senior professionals to act as 'responsibility centres' in individual areas of its focus. Resource persons with specific domain knowledge are required to establish a firm knowledge base to offer advisory and capacity building services in the core areas of the Institute. To be precise, CIRC needs experienced resource persons in the areas of highways, railways, civil aviation, ports, electricity, telecom, urban development and consumer affairs. However, the absence of institutional funding and a solid financial resource base are preventing CIRC from recruiting experienced resource persons.

- b) **Internship:** CIRC has launched an internship programme to recruit interns from diverse academic backgrounds such as law, economics, business management etc. Until June 2010, eight interns have worked on various projects relating to infrastructure regulation and competition law & policy. Interns from premier institutions like IITs, Delhi School of Economics, national law universities etc have been recruited under the CIRC Internship Programme (CIP).
- c) **Library:** A small and functional library has been established at CIRC. The Institute subscribes to select magazines and journals such as 'The Economist', 'Economic & Political Weekly', 'Consumer Voice' etc. Full access to Manupatra - a highly informative legal portal - has also been subscribed to by CIRC. Electronic access to several useful journals in the areas of interest has also been established.
- d) **Administrative Procedures:** CIRC Service Rules, 2009 and other rules relating to accounting and administrative procedures have been put in place for transacting the business of CIRC efficiently. A detailed work distribution plan has also been made operational to streamline work and responsibility within the institution.

#### Section - II: Institutional and Core Funding

- a) **Funding Raised So Far:** The fundraising efforts for CIRC were initiated in 2008 and an initial support of Rs. fifteen lacs, Rs. five lacs was provided by IDFC and HDFC respectively. The fundraising effort received a boost when Mr. Nandan Nilekani committed to contribute up to Rs. one crore, subject to CIRC raising a matching amount of Rs. one crore. In order to achieve this target, CIRC published a policy souvenir wherein advertisements were sought from a large number of companies and organizations. A collection of articles/essays on various themes of infrastructure regulation both from Indian and global perspective were presented in the souvenir. The fund raising drive through advertisements culminated in meeting the challenge of Shri Nilekani, who in turn paid a matching donation of Rs. 1 crore in April 2009. CIRC thus

raised an approximate amount of Rs two crores by January 2010.

Though this amount was not adequate to launch the activities of CIRC on a scale that was originally envisioned, it was still decided to start the operations at a minimal level and to expand the activities as and when more funds were received.

### Section - III: CIRC Events and Participation

CIRC has organized several capacity building and policy events during this time period. Also, CIRC staff has participated in various events.

#### 1) Training programmes:

- a) Training Programme on Consumer Protection: Independent regulation is a relatively new development in developing countries like India. The basic premise of independent regulation is that specialised agencies that are independent of influence from the Government can make decisions for maximising social welfare. Regulatory decisions try to strike a balance among the conflicting interests of various stakeholder groups. Therefore, quality of representation from stakeholder groups, their capacity, and that of regulators and their staff become crucial for regulatory effectiveness. Keeping this perspective in view, a four-day Training Programme entitled "Training Programme on Consumer Protection" was organized by the Institute with support from the Forum of Regulators, Central Electricity Regulatory Commission at New Delhi, from 16<sup>th</sup> to 20<sup>th</sup> February, 2009.
- b) It was followed by another programme entitled "Regulation, Competition and Consumer Issues in the Electricity Sector in India" organized from 18th to 21st May, 2009 at Bhagsunag, Dharamshala in Himachal Pradesh. The objectives were to impart knowledge to SERC officials on theories of economic regulation and their application in the electricity sector, and build better understanding and appreciation of SERC officials on issues relating to regulation, competition and consumer protection in the Indian electricity sector. This programme was also supported by the Forum of Regulators, Central Electricity Regulatory Commission.
- c) CIRC, with the support of the Ministry of Commerce, Government of India conducted two programmes on "Trade Remedial Measures" focused on anti-dumping, anti-subsidy and safeguards measures. The first 3 days' programme was organized at Delhi from 23<sup>rd</sup> to 25<sup>th</sup> April, 2009. The second 3 days' programme was held at Mumbai from 8<sup>th</sup> to 10<sup>th</sup> October, 2009. The programme content included: WTO basic principles and overview of GATT and specific trade remedy measures; Indian anti-dumping and countervailing duty law and practice; concept and issues in dumping margin calculations; overview of requirements for filing applications before Designated Authority; strategies and approach to anti-dumping, anti-subsidies and safeguard measures against Indian exports to major partners.
- d) German Technical Cooperation (GTZ) and Department of Consumer Affairs, Government of India, have partnered to set up consumer advice centers in five states, namely Gujarat, Madhya Pradesh, Orissa, Tamil Nadu and West Bengal. GTZ commissioned CIRC to conduct two training programmes for consumer advice staff at Bhubaneswar and Bhopal. CIRC organized these two programmes entitled "Training of Consumer Advisors" at Bhubaneswar from 26th April to 1<sup>st</sup> May, 2010 and at Bhopal from 3<sup>rd</sup> May to 8<sup>th</sup> May, 2010. The objectives of the programme were (i) to create a cadre of professionals who can advise consumers with regard to problems faced by them, and (ii) to impart knowledge to develop inter-personal skills. As part of the project, CIRC developed four training modules on: (i) Basics of Law (ii) Law of Torts (iii) Sale of Goods and Services and (iv) Consumer Protection Act, 1986. Along with the modules, CIRC also extensively documented frequent occurring problems (FOPs) to the consumers across twenty four goods and services sectors.

#### 2) Policy Events

- a) CIRC organized a roundtable on "Developing Infrastructure through an Ideal Regulatory Framework" in New Delhi on 16<sup>th</sup> January, 2009. Dr. C. Rangarajan, Member of Parliament and President of the Governing Council of CIRC, presided over the roundtable. While speaking on the occasion, he emphasized the growing importance of competition law and its enforcement in the light of the transformation of the Indian economy from a highly regulated one in the 1970s to one where productivity and performance are of prime importance. Dr. Rangarajan also pointed out that both over-regulation and under-regulation lead to serious adverse consequences. Three major objectives of infrastructure

regulations - investment generation, consumer protection, and efficient production of services - were highlighted by Dr. Rangarajan. A panel discussion in the event had distinguished speakers, namely Shri N.K.Singh, Member of Parliament, Shri Nandan Nilekani, Co-Chairperson of Infosys Technologies, Shri Nripendra Misra, Chairman, Telecom Regulatory Authority, Shri Vikram S Mehta, Chairman of Shell Group of Companies in India, Shri Arvind Mayaram, Additional Secretary, Govt, of India, Shri Pramod Deo, Chairman, CERC. The Roundtable concluded with recommendations for improving the regulatory system in India.

- b) CIRC organized a policy seminar on "Achieving Inclusive Growth through Better Infrastructure Regulation", at New Delhi, Friday, 17 July, 2009. Shri Salman Khurshid, Hon'ble Minister of State for Corporate Affairs was the Chief Guest. He released the policy souvenir "Developing Infrastructure through an Ideal Regulatory Framework", published by CIRC. The souvenir - a compilation of articles advocating regulatory reforms in the infrastructure sector - was published as part of the fund-raising drive by CIRC.
- c) CIRC in association with NERA Economic Consulting organized an International Conference on the "Interface between Competition Policy & Law and Business Strategy" at New Delhi on 25-26 November, 2009. The participants were distinguished personalities from the competition enforcement authorities, legal community, corporate houses and academia. On this occasion, Shri Salman Khurshid, Minister for Corporate Affairs, released a Tool Kit on the Competition Law in India, published jointly by CUTS and CIRC.

#### 3) Participation of CIRC Staff in Conferences/ Events

- a) CIRC encourages its knowledge staff to attend conferences, summits and trainings to enrich and develop their skills and capabilities. The following are some such participations by CIRC staff:
  - Dr Pallavi Kishore, Fellow, CIRC, attended a national conference on 'State of Competition in Indian Economy' organized by Competition Commission of India (CCI) in New Delhi on June 11-12, 2009. It covered a wide range of issues such as implementation, competition assessment framework, market studies of specific sectors such as Civil Aviation, Ports, Railways, Pharmaceuticals Energy, Steel, Petroleum refining.
  - Mr. Arpan De Sarkar, Jr. Fellow, CIRC, attended the 6<sup>th</sup> Water Summit organized by Confederation of Indian Industry (CII) in New Delhi from June 11-12, 2009. It laid emphasis on Public-Private Community Participation (PPCP) to contribute towards water resource management.
  - Dr Pallavi Kishore, Fellow, CIRC, attended a training of trainers' workshop under International Finance Corporation, Bangladesh Investment Climate Fund (IFC-BICF) Project of CUTS in competition policy and law in Bangladesh, Dhaka on July 9-11, 2009
  - Dr Navneet Sharma, Fellow, CIRC, participated in the 10<sup>th</sup> Regulatory and Policy Retreat during July 23<sup>rd</sup> -27<sup>th</sup>, 2009 at Goa. This annual event is a high level forum to discuss contemporary issues related to infrastructure regulation and competition.
  - Mr. Arpan De Sarkar, Jr. Fellow, CIRC, attended the National Conference on Regulation and Electricity Services to the poor, organized by Prayas Energy Group, Pune at New Delhi on August 07-08, 2009.
  - Mr. Mukesh Kacker, Director General, CIRC, participated in a high level conference on "Building Infrastructure: Challenges & Opportunities" at New Delhi on 23<sup>rd</sup> March, 2010 organised by the Planning Commission.

### Section - IV:

#### Development of a Work Agenda

- a) In addition to trying to secure core and institutional funding, CIRC has been making efforts to explore various possibilities to raise activity/project-based funds through offering advisory services and capacity building programmes in related fields. The present focus is on the following areas:
  - Execute term-bound assignments (research, survey, capacity building etc.);
  - Get long-term project support;
  - Build in-house capacity for offering competition law/policy related courses;
  - Develop institutional partnerships to jointly organise various activities, and
  - Develop other research and capacity building verticals on:

- ✓ Consumer studies,
- ✓ Regulatory impact assessment,
- ✓ Competition advisory and due diligence,
- ✓ Infrastructure regulation, and
- ✓ Competition and regulation in government procurement.

b) Under "term-bound assignments" the following projects/ proposals have been submitted by CIRC to different funding agencies:

- A concept note on "Capacity Building Programme on Competition Law for Indian Small and Medium Enterprises Sector" was submitted to the Department of Micro, Small & Medium Enterprises, Government of India in the month of February, 2010. After the Ministry showed interest in the subject and after a meeting with Secretary, department of MSME, a more detailed proposal was submitted.
- Three expressions of interest (Eols) have been submitted to the Department of Planning and Development, Government of Jharkhand - 1. capacity building for decentralized district planning (training needs assessment, designing of training modules, training to government officials and community leaders); 2. action research study on existing planning process in the state, and, 3. action research study on public private community partnership models.
- Regulatory Impact Assessment in the Electricity Sector in Madhya Pradesh – this proposal has been submitted to the Ministry of Statistics and Programme Implementation (MoSPI), Government of India, after meetings with the Secretary, Department of Statistics & Programme Implementation and DG, Statistics.
- It is planned that one more proposal on indicator framework on government procurement in India will be submitted to MoSPI in August, 2010.
- Competition Issues in Disinvestment – a concept note is being prepared. It will be submitted to the Department of Disinvestment, Ministry of Finance, Government of India.
- The Institute has prepared a concept paper to conduct research on competition issues in the Indian oil and natural gas sector. It will be submitted to the Petroleum and Natural Gas Regulatory Board.
- A concept note on competition issues in the Indian civil aviation sector is under preparation. It will be submitted to the Airport Economic Regulatory Authority (AERA).
- As follow up of the two initial programmes supported by Forum of Regulators/CERC, the Institute has approached various state level electricity regulatory commissions and distribution utilities for future programmes.

c) The Institute is making the following efforts to get long-term (project duration of more than a year) project support:

- The Institute has established contact with the Indian Council for Social Science Research (ICSSR) to get funds for institutional support. ICSSR usually first develops a comfort level with the Institute by providing regular project support (projects of one-year duration) for two/three years and then considers recognizing an institution. CIRC has submitted two proposals to the ICSSR: (i) Regulatory and competition issues adversely affecting the public procurement system in India. (ii) Proposal for organizing a two-day orientation workshop on competition & regulatory issues in infrastructure sector in India.
- The Institute intends to approach the Ministry of Consumer Affairs, Government of India to get long-term project support under the Consumer Welfare Fund. This support will be requested for establishing a dedicated centre within the Institute to work on consumer impact assessment of regulatory reforms in India.
- The Institute will be approaching Sir Ratan Tata Trust and Asia Foundation to get support for research and capacity building activities on competition policy and law and infrastructure regulations in India. A concept paper is being prepared.
- CIRC is also working with the Rajasthan Urban Infrastructure Finance and Development Corporation on a comprehensive proposal for developing the capacity of ULB (urban local bodies) officials in the state of Rajasthan.

d) CIRC has plans to launch a post-graduate level professional course in the area of competition policy and law. After extensive in-house preparations and consultations with external experts, CIRC has been able to produce fourteen modules on:

- Module 1 : Introduction to competition policy and law
- Module 2 : Organizational structure of competition law enforcement authorities in India
- Module 3 : Economics for competition analysis
- Module 4 : Dealing with abuse of dominance in Indian markets
- Module 5 : Substantive provisions relating to abuse of dominance across jurisdictions
- Module 6 : Dealing with anti-competitive horizontal agreements and cartels in India
- Module 7 : Dealing with anti-competitive vertical agreements in India
- Module 8 : Substantive provisions relating to anti-competitive agreements across jurisdictions
- Module 9 : Regulation of combinations in India
- Module 10 : Substantive provisions relating to regulation of combinations across jurisdictions
- Module 11 : Remedies under Competition Act, 2002
- Module 12 : Interplay between intellectual property resources (IPRs) and competition law
- Module 13 : Cross-border competition issues and future of competition law
- Module 14 : Interface between competition law and business strategy

The Institute has approached the National Law University of Delhi (NLUD) to accredit this programme. Both the organisations are discussing the launch of the programme on a large scale.

#### **Section - V: Outreach**

a) During the period under report, CIRC published four newsletters: "CIRCulars" with a cover story on topics having relevance to contemporary issues relating to competition reforms. These are summarized as under:

- |                       |   |
|-----------------------|---|
| • Jan to March 2009   | Better regulations – a catalyst to growth.  |
| • April to June 2009  | Capacity building of electricity regulators.  |
| • July to Sept 2009   | Infrastructure- an essential ingredient for Industrial Growth.                            |
| • Oct to Dec 2009     | Building a better competition regime in India   |
| • January – June 2010 | A double issue is in the process of preparation is likely to be released in August, 2010. |

b) CIRC in Media: Mr. Mukesh Kacker, Director General, CIRC has been contributing by writing articles in the leading economic news papers from time to time. Recently his article entitled "Petroleum price fixation" appeared on 30<sup>th</sup> April, 2010 in the Economic Times. Another recent article entitled "One sector, three regulators" appeared on 19<sup>th</sup> May, 2010 in the Financial Express/ Indian Express.

c) The website – www.circ.in- is updated from time to time.

d) Marketing: The marketing approach of CIRC for events and programmes includes advertisement through news papers, website, e-mail/internet to clientele as per data base, write-ups and discussion forums, press/news release and personal contacts through telephone.

#### **Section - VI: Infrastructure**

a) Office Premises: CIRC is presently housed at R-75, 1<sup>st</sup> floor, Greater Kailash-I, New Delhi.

#### **Section - VII: Governance**

a) Governing Council: The 5<sup>th</sup> meeting of the Governing Council (GC) was held on 28/8/2009 at CIRC office (R-75, GK-I, New Delhi). Apart from approving the minutes and 'Action Taken Report' thereof, GC also considered and approved the audited balance sheet of CIRC as on 31/3/09.

b) Annual General Meeting: The 2<sup>nd</sup> Annual General Meeting (AGM) was held on 28/8/2009 at CIRC office (R-75, GK-I, New Delhi). The main agenda of the meeting was to: