



Welcome Readers!

Over the past quarter, CIRC has endeavoured to deliver unique opportunities in form of its speciality courses and other capacity building programmes to the inter-disciplinary students and working professionals. Our new course on Law and Practice of PPPs has received great response, which only makes us work harder to bring you new and effective professional courses.

With this edition of our quarterly newsletter, we provide you updates on the programmes, events, publications and courses that CIRC held along with updates on the upcoming events too.

Happy Reading!

Arun Talwar
COO, CIRC

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July- September 2013 Edition

A Quarterly Newsletter



THE CREW PROJECT- FIRST NRG MEETING

THE COVER STORY

- The CREW Project- First NRG Meeting

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- Second Webinar on interface between IP and Competition Laws.
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- CIRC Three Day Winter Course on Competition Law and Practice in India.
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CUTS International along with CIRC is implementing a multi-country research project entitled '**Competition Reforms in Key Markets for Enhancing Social & Economic Welfare in Developing Countries' (CREW)**. The project focuses on staple food and passenger transport sectors but they act as a "window" of providing the scope of venturing competition reforms in other sectors as well to enhance social and economic welfare in developing countries. The first *National Reference Group Meeting* (NRG) was held at New Delhi on July 24th 2013.

With support from DFID (UK) and BMZ (Germany) facilitated by GIZ (Germany), CUTS International is implementing this project from November, 2012 over a period of three years in four countries: Ghana, India, The Philippines and Zambia. The NRG is designed to act as a platform for project implementers to seek views and guidance from members on key aspects of the project. The objective of the First NRG meeting was to orient the members about the project and its progress, discuss and gather inputs about the methodology of Diagnostic Country Report with particular reference to India.

The meeting was presided by **Pradeep S. Mehta**, Secretary General, CUTS and attended by **Shyam Khemani**, former Adviser on Competition Policy World Bank; **Chittaranjan Dass**, Secretary General (ACOGOA); **Poonam Pandey**, Technical Advisor, GIZ; **Ram Tamara**, Managing Director of Nathan Economic Consulting India Private Limited; **P.G. Chengappa**, National Professor Indian Council of Agricultural Research; **TCA Srinivas Raghavan**, Editorial Adviser to CEO, Kasturi and Sons; **Arvind Kumar** and **Ashwani K. Swain**, CIRC, New Delhi; **K.L. Thapar**, Chairman, Asian Institute of Transport Development; **Udai S. Mehta**, Associate Director, CUTS; **Rijit Sengupta**, Director, CUTS and **S. Sriraman**, Professor of Transport Economics, University of Mumbai were among others to grace the meeting with their suggestions to take the research study forward.

The second meeting of the Project Advisory Meeting will be held at New Delhi on Wednesday, November 20th 2013.

COURSES ON COMPETITION POLICY AND LAW

CIRC in association with **National Law University Delhi**, commenced its 3rd and 4th batch of six month Certificate and one-year Diploma Courses on **Competition Policy and Law (CPL)**.

CPL courses are specially designed to acquire deep understanding and knowledge of competition law and related issues. The Certificate Course in CPL is a fundamental course dealing primarily with markets and business laws, competition policy and law, in general, and the Competition Act, 2002 as amended in detail.

The Diploma Course in CPL is an advance course dealing, in detail, with topics related to abuse of dominance, anti-competitive agreements, and regulation of combination across select jurisdictions.

The participants of Diploma course are exposed to emerging issues such as: interface between IPRs and competition law, cross border issues, and issues related to business strategy. The induction programme for the 4th batch was held at National Law School, New Delhi on September 21st 2013. There has been overwhelming response by the students and working professionals for this course and CIRC is looking forward to introduce other courses on similar lines as well.



Students listening to Dr. Harpreet Kaur during the Induction Programme, held at National Law University Delhi, New Delhi

Final examination for the diploma course will be held from 7th to 10th October 2013 and for the certificate course, the final examinations will be from 17th to 20th October 2013.

ONLINE COURSE ON LAW AND PRACTICE OF PPPs

CIRC announced an eight weeks online Certificate course on Law and Practice of Public Private Partnerships (PPPs). This course is intended to introduce participants to provisions of the Law and Practice of PPPs. It is aimed at providing a better understanding of the legal and economic aspects of PPP, project life, contractual agreements and management issues. The course is open for Central and State Governments, Private sector officials involved in activities related to PPP projects, officials of Municipal Corporations, Lawyers, Management Consultants and other professional as well as students. The first batch commenced on September 30th 2013.

For any further query contact through website or on the following email id: ppp@circ.in

ONLINE COURSE ON COMPETITION ACT, 2002

This eight weeks online Certificate course on 'Competition Act 2002 in India' is intended to introduce participants to provisions of the Competition Act, 2002 in India and its enforcement. It aims to create better understanding of market concepts, restrictive business practices, IPRs, and cross border issues. Each of the seven modules has a simple quiz at the end of each Module for self-practice.

At the successful completion of the course, participants will be awarded with a Certificate signed by Chairman, CIRC. The 3rd and 4th batch commenced in July and September 2013 respectively. The final examination of students of 3rd batch has taken place and for the fourth batch will be held from 27th to 28th October 2013.

For any further query contact through website or on the following email id: ca02-expert@circ.in

INDIA COMPETITION AND REGULATION REPORT (ICRR IV)

CUTS Centre for Competition, Investment & Economic Regulation (CUTS-CCIER) and CIRC has undertaken a project on India Competition and Regulation Report (ICRR) against the background that while India has embraced market-oriented economic reforms, there is, as yet, no periodic review to assess functioning of markets in the country.

Considering the important role of market forces in a liberalised economic regime, there is a need to do periodic assessment of competition and regulation scenario in the country. ICRR is an attempt to fill this vacuum. It would highlight various distortions in economic management of the country and provide inputs on a periodic basis to policy community as well as other stakeholders for taking necessary actions to promote well-functioning markets. The project is supported by the Ministry of Foreign Affairs through the Royal Norwegian Embassy in New Delhi (India).

The project undertakes research to evaluate the quality of regulations and competition in chosen sectors such as coal, railways, primary health, financial services and regulatory issues. The next report will be published in November 2013.

WEBINAR ON INTERFACE BETWEEN IP AND COMPETITION LAW.

CIRC organised its first Webinar on Interface between Intellectual Property Laws (IP) and Competition Law by Vipul Puri, Deputy Director, Financial Analysis, Competition Commission of India at New Delhi on September 08, 2013.

The webinar was primarily focussing on the clash and convergence of IP laws with Competition regime in India. It also discussed views on how competition law regulates IP and in turn how IP laws check anti-competitive practices. The discussion further revolved around the debate, whether granting IPs can be termed as monopoly under Competition Law. More than 30 cross disciplinary professionals and students participated.

For further details on upcoming webinars and contact through website or on the email id: webinar@circ.in

REGULATION IN INFRASTRUCTURE DEVELOPMENT: THE ROLE OF CONSUMER PARTICIPATION.

India has an ancient history of consumer protection. Ideally, market dynamics should ensure that the interests of the consumer and the interest of the provider of goods or services are balanced.

However, markets do not always function ideally and are often characterised by one or more elements of failure. Given that, economic interests of powerfully organised producers and inadequately organised consumers often clash at the level of the industry, there is a case for regulators which not only takes into account views and interests of all stakeholders but ensure that consumers have the opportunity as well as capacity to voice their opinions regarding the conduct of regulation and supply of the services.

It is in this backdrop, the paper examines and elaborates the importance of consumer participation in infrastructure regulation through information exchange between regulators and consumers; consultation with consumers; and facilitating partnerships.

Besides, the paper through examining the electricity reforms in India, outlines the importance of having an independent regulator for each sector and demonstrates that consumer participation is limited not because of the absence of regulatory provisions but of necessary information, human capital and training facilities and programmes.

This Working Paper can be accessed at:

http://circ.in/pdf/Consumer_Participation_in_Infrastructure_Regulation.pdf

IS THERE A CASE FOR ESSENTIAL FACILITIES DOCTRINE IN INDIA?

Competition in market is frequently defined as a process of rivalry with the objective of garnering higher market share or more profit. Sometimes, the competitive process faces obstacles when a market player does not have access to certain facilities without which it cannot compete effectively.

These are known as 'essential facilities'. The duty to share is mandated by the essential facilities doctrine. This doctrine imposes on firms, that control an essential facility, 'the obligation to make the facility available on non-discriminatory terms.' Though EFD has been incorporated in the telecom, electricity and oil & gas sector, however, in the case of the issue of access to medicine, pharmaceutical sector, and networking goods, the guidelines are either not present or are inadequate.

It is in this backdrop that this paper examines the viability and justification of invoking and implementing the essential facilities doctrine in India. The paper also outlines EFD in other jurisdictions and emphasis on the need for an advancing role of the competition regime to promote and effectuate the doctrine in India.

This Working Paper can be accessed at:

http://circ.in/pdf/Essential_Facilities_Doctrine_India.pdf

THE CASE OF (UN)HEALTHY AGREEMENTS

The Case of (Un)healthy Agreements is the second issue note that has been published by CIRC.

Institutionalisation of unethical and illegal drug promotional practices has been put under strict guard, yet, collusion of different kinds exists. The issue note highlights the current and pervasive practices of referrals in the healthcare sector and the need for the Competition Commission of India to intervene and investigate such practices.

This issue note can be accessed at:

http://circ.in/pdf/Unhealthy_agreements.pdf



LANDING ANOTHER BLOW?

This parliamentary session saw various bills taking shape of legislative Acts. One such bill was Land Acquisition, Rehabilitation and Resettlement Bill, 2013.

With the Land Acquisition Act, 1894, being ready to be replaced by the Land Acquisition, Rehabilitation and Resettlement Bill, 2013 (LARR), many think that the history of abuse of the power of eminent domain is set to be expunged. However, having given the emphasis on the transparency and swift acquisition of land for industrialisation and development of essential infrastructure facilities, is the bill really expunging the abuse of its predecessor or creating a new bureaucratic abuse & legislative ambiguity? These questions are being answered through this issue note by raising plausible doubts pertaining to the practical enforcement of the provisions of this Act vis-a-vis Indian bureaucracy.

This issue note can be accessed at:

http://circ.in/pdf/Landing_Another_Blow.pdf

INTELLECTUAL PROPERTY AND COMPETITION LAW: THE INNOVATION NEXUS

There has been a long fought battle between the IP Laws and Competition Law and their objectives seem to be contradicting each other.

The issue note highlights the common objectives of framing both the set of laws which include promoting innovation, creativity and a better market for consumers.

The note analysis the legislative intent behind both the laws and envisages that the common objective of framing of both the laws is promoting innovation, creativity and a better market for consumers.

This issue note can be accessed at:

http://circ.in/pdf/Intellectual_Property_and_Competition_Law-The_Innovation_Nexus.pdf

UPCOMING EVENTS & COURSES @ CIRC

WEBINAR ON INTERFACE BETWEEN THE IP LAWS AND COMPETITION LAW IN INDIA.

CIRC will be organising its second Webinar on Interface between the Intellectual Property Laws and Competition Law in India, at New Delhi on October 14th, 2013.

The webinar will be conducted by **Raman Mittal**, Associate Professor, Faculty of Law, University of Delhi, New Delhi and **Amit Tayal**, Deputy Director, Competition Commission of India, New Delhi, as the presenters. The discussion subtopics have been taken considering the constant debate over the clash and convergence of IP laws and Competition law in India. Through this webinar, CIRC aims at delineating the complexities between these two laws and understand their objective, nature and scope.

To know more about the webinar and to register yourself visit our website or mail us at webinar@circ.in

CIRC FACULTY DEVELOPMENT PROGRAMME (FDP)

CIRC will be organising a Faculty Development Programme at New Delhi on November 19th 2013.

Through this programme CIRC will be conducting a half a day workshop for the faculties of colleges and institutions from law, economic and commerce background. **R.S. Khemani**, former advisor on competition policy at the World Bank along with **Frederic Jenny**, Chairman OECD Committee on Competition has obliged us by becoming the presenters for this Workshop.

The FDP provide inputs on process and practice of faculty development, communication and inter-personal skills, creativity, problem solving, achievement motivation training, and inputs on resource and knowledge industries.

To know details of the FDP visit our website www.circ.in

UPCOMING COURSES @ CIRC

CIRC taking its vision forward will soon launch comprehensive capacity building solutions on regulatory matters pertaining to various sectors and related aspects. The list of upcoming courses at CIRC is as follows:

Dedicated Sector based Online Courses

Energy Law & Policy
Corporate Social Responsibility
Water Law & Regulation
Public Procurement Practices & Law

Competition Act, 2002: Online Course 5th Batch

Eight weeks online Certificate course on "Competition Act 2002 in India" is intended to introduce participants to the provisions of the Competition Act, 2002 in India and its enforcement. The last day of registration is November 05th, 2013.

Certificate & Diploma Course on Competition Policy & Law

CIRC- NLUD would be bringing forward the next term of the most sought after certificate & diploma courses in the industry on the CPL. The fifth intake of the CPL course has been announced.

For any further query contact through website or on the following email id: sk@circ.in

Winter Student Course on 'Competition Law & Practice in India'

CIRC is going to announce the Winter Student Course on 'Competition Law & Practice in India', which will be held at New Delhi during 21 to 23 December 2013. The Course is mainly designed for law and economics students and career aspirants.

CIRC-CRESSE Winter School on "Role of Economics in Competition Law"

CIRC in association with Competition and Regulation European Summer School and Conference (CRESSE), is holding a five-day winter school for young professionals, to familiarize participants with the new economic literature, legal developments and to establish a clear link between the new theories and the day to day work of practitioners.

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