

REPORT: WORLD COMPETITION DAY



A special programme was organised by CUTS International and CUTS Institute of Regulation and Competition (CIRC) to commemorate the World Competition Day on the 6th of December, 2014 at Delhi. The programme began with a welcome address by Mr Arun Talwar, Chief Operating Officer, CIRC. He expressed his gratitude to everyone for taking out their time to be part of the celebration of World Competition Day. He enlightened the guests with a brief introduction about the need and relevance of the programme.

The programme started with an introductory session by Ms Simran Dhir, Sr. Associate at S&R Associates. Ms. Dhir explained the basic concepts of Competition Law throwing light on the significance of innovation and efficiency in the market that encourages more competition, ultimately proving beneficial to the consumers. She further elaborated that competition law is a code to deal with matters relating to the existence and regulation of competition and monopolies, evolved as part and parcel with liberalisation, releasing the entrepreneurial effects in the economy. She specified that after the repeal of Monopolies and Restrictive Trade Practices Act, 1969, that was not adequately equipped to tackle the competition aspect of the Indian market, the Competition Act, 2002 came into being.

Ms. Dhir dealt with the fundamental provisions of the Competition Act, namely anti-competitive agreements, abuse of dominance and mergers and acquisitions and commented that the law revolves around the 'rule of reason' approach in most of the cases.

Taking forward the discussion, Mr. Udai Singh Mehta professed the importance of having a Competition law quoting Joseph Stiglitz: *“A strong Competition Policy is not just a luxury to be enjoyed by rich countries, but a real necessity for those striving to create democratic market economies”*. Elaborating on the subject of celebrating World Competition Day, Mr. Mehta indicated that in order to ensure that consumers from across the world realise the potential benefits from an effectively implemented competition regime and to accelerate the agenda of attracting attention of the society to burning and vital issues of competition, CUTS proposes that the 5th of December be declared a World Competition Day.

Delving into the theme further, Mr. Mehta explained that the United Nations (UN) General Assembly formally adopted the UN Set of Competition Principles at its 35th meeting on 5th December 1980 indicating that being the reason behind selecting the 5th of December as World Competition Day. He discussed that since 2010 different themes have been adopted for every year revealing ‘Competition Issues in Public Procurement’ would be the theme for 2014. Mr. Mehta also detailed that various countries such as the United States, the United Kingdom, Russia, Bolivia, Nigeria, Sweden, Pakistan, Bangladesh and Mauritius among others, have supported the theme and Philippines adopted 5th December as the National Competition Day.

In continuance of the discussion, Ms. Bulbul Sen, Former Chief Commissioner, Income Tax and Consultant, CUTS International presented the keynote address speaking about competition in the field of public procurement. She elaborated that since there is no particular law regarding public procurement in India the officials of procuring agencies enjoy monopolistic powers in the sector. Commenting on Section 11 of the Public Procurement Bill Ms. Sen stated that there should not be any discrimination between foreign and domestic players in the industry and the principles of WTO should be followed in India in public procurement sector too. She mentioned that India is still not a part of the Government Procurement Agreement of the WTO which is a setback for the industry and adopting WTO’s principles of Most Favoured Nations and National Treatment would encourage competition in the market. She concluded her address stating that competition must be brought into picture in public procurement regime since in a country like India laws will not make a difference but culture of competition will.

The last speaker of the programme was Dr. Vijay Singh, Deputy Director, Law, CCI, began addressing the gathering by declaring competition and public procurement interlinked. He elaborated that Article 14 of the Indian Constitution requires for government owned parties to allow competition in the market to benefit the ultimate consumer. He further emphasized that a public procurement law is required to prosecute the officials colluding quoting the example of railways in India and professed to remove the unnecessary restraints to let the competition flow in the public procurement regime.

The floor was then left open for discussion, suggestions and questions wherein it was deliberated that India is looking at both the pros and cons of the Government Procurement Agreement of the WTO and is willing to make advances once it is competitive enough to challenge the global industry. Also, the group discoursed that corruption is a major issue in the case of public procurement and the system needs to be more stringent regarding the same. Participants asked very interesting questions and speakers made the gathering aware of “Competition Issues in Public Procurement” and suggested that India needs to adopt the critical approach for competition in the public procurement sector too.