

Inaugural Address of
Shri Prem Chand Gupta,
Hon'ble Minister of State for Company Affairs
(Independent Charge) at,
"Competition Advocacy Seminar for Industry"
organized by
Competition Commission of India
On 16 April, 2005

It gives me great pleasure to inaugurate the 'Competition Advocacy Seminar for Industry' organized by the Competition Commission of India for the apex chambers and associations of commerce and industry. I gather that leaders of industry, top managers and senior representatives from the chambers and associations are participating in this seminar.

At the outset, I would like to congratulate the Competition Commission for taking the initiative to hold this seminar to raise the awareness level about competition law and policy amongst the business community. This would facilitate voluntary and better compliance with the law. Such seminars are also meant to give the Commission better insight into the business community's perceptions with regard to the Competition Act, and enable it to internalize such perceptions in its functioning.

I understand that the Commission has been interacting, with the bodies of trade and industry on a continuous basis. Representatives of trade and industry bodies have been included on important committees set up by the Commission to advise it in key areas of work, such as the **Advisory Committees** on Competition Advocacy, on Regulations, on Market Studies and Research Projects, etc. I am sure that the Trade and Industry will join me in appreciating this market friendly approach of the Competition Commission.

For several decades after independence, India followed economic policies based on the **'command and control' regime**. However, in the 1980s, it was beginning to be clear that many of these policies had ceased to serve their objectives. This resulted in the country embarking on the path of **economic reforms** which started, more particularly, around 1991. The wide ranging reforms covered areas such as **trade policy, industrial policy, reservations for public sector, privatization of state owned enterprises, etc.**

Amongst the first changes to be made were amendments to the MRTP Act to delete certain restrictive provisions that created **pre-investment barriers**. Since then, there has been a more competition-friendly regime, with greater freedom for business entities which has released the energies of the private sector and resulted in a more dynamic and faster growing economy. The forces of competition have brought benefits both for the business sector as well as for the consumers. The **ADB's Outlook 2005**, has credited **India** as one of the **fastest growing economies in Asia**.

Free and fair competition is one of the pillars of an efficient economy. Competition stimulates innovation and productivity and leads to optimum allocation of resources in the economy. However, some enterprises undermine the market by resorting to anti-competitive practices for individual gain. For example, they may form cartels, or big companies may abuse their dominant position. Such practices, if not checked, can completely nullify or frustrate the gains from competition.

It is in this context that there is a need for a competition law to discipline such market behaviour in the larger interest of the economy and the consumers. For this reason, countries across the globe that are embracing market economy are also reinforcing their economies through enactment of a competition law. Today, almost hundred countries have a new competition law with modern competition authorities.

Keeping pace with the process of economic reforms, India too realized the need for a competition law. It was felt that the MRTP Act had become obsolete in certain respects in the light of international economic developments relating more particularly to competition laws, and there was **need to shift the focus from curbing monopolies to promoting competition.** A high-level committee was set up by the Government to study the matter. After considering its report and undertaking wide ranging consultations, a Competition Bill was introduced in the Parliament in 2002 which became law in January, 2003. Certain aspects of this law were challenged in the Hon'ble Supreme Court.

Hon'ble Supreme Court delivered its judgment recently. Keeping in view the submissions made before the Supreme Court and the judgment, certain amendments are being carried out by the Government to the Competition Act.

The Competition Commission was set up in October, 2003 but in view of the case pending before the Hon'ble Supreme Court, the Commission could undertake only advocacy work; and that too, at a low key. However, I am glad to note that Shri Vinod Dhall, the only Member of the Commission, along with his small team of dedicated officers, has been undertaking intensive foundational and preparatory work essential to equip the Commission for its full responsibilities. The Commission has been studying the complex economic principles and legal issues involved in the Act, it has been undertaking systematic capacity building work, it has also studied the working of other competition authorities and their practices, and it has co-opted leading economists, legal professionals, representatives of industry and other experts in its work. Overall it has established the goal of shaping itself into a modern, highly professional body, incorporating the best available global practices.

I wish to compliment Shri Dhall and his team for demonstrating such commitment and professionalism and for making progress in extremely difficult circumstances, full of various road-blocks.

We are committed to operationalize the Commission fully and as soon as possible. This forms a part of the thrust areas identified by my Ministry and approved by the Hon'ble Prime Minister. You are well aware that promoting competition is an important agenda in the National Common Minimum Programme (**NCMP**) of the UPA Government and I quote: **"It will not support the emergence of any monopoly that only restricts competition. All regulatory institutions will be strengthened to ensure that competition is free and fair. These institutions will be run professionally"**. **Unquote**

On this occasion, I should share with you that my Ministry has taken several initiatives in the last 10 months with the ultimate objective of ensuring that the legal frame work as well as the physical infrastructure meant to regulate the corporates in the country, are in tune with the present day requirements.

One thing that always bothered me was the out-dated Companies Act, which was enacted in the year 1956 and amended 24 times. Most of the amendments came as patch-work. The law became complicated, confusing, difficult to comply and also difficult to administer. Here, I would like to be frank with you. The trade and Industry also could not impress upon the successive Governments, the need for a comprehensive revision of the law. In this background, the first task which I took-up, immediately on taking charge of the Ministry, was putting this task on fast track. We decided to adopt a consultative and participative approach and prepared a Concept Paper aiming to modernize the law, condense and simplify it, and to de-link the procedural aspects from the substantive law. Large number of suggestions were received from all concerned. We have set up an expert committee under the chairmanship of **Dr. J.J. Irani** to study the comments and responses received from various stakeholders on the Concept Paper, and to advise the Ministry in this regard. Representatives from apex bodies of trade and industry, the professional bodies, relevant regulators and Government departments are members of the Irani Committee. The Committee

has undertaken this work in an intensive manner and recommendations are expected in the first week of June, this year. These recommendations will help us to give final shape to the new Companies Bill. We shall try to bring the Bill before the Parliament at the earliest.

You would be aware that there are about 640000 companies registered with different ROC offices in the country. On an average each company is required to file about 100 sheets annually. Considering the non-filers, about 30 Million papers are received by the ROCs in a year. These papers are to be retained for several years. The ROC offices have, virtually, become go-downs. Under such a situation, it is humanly not possible to do any meaningful scrutiny of the papers filed by the companies. Because of the infructuous burden, our officers are not able to deliver satisfactory services to the corporates and other stake-holders. Therefore, we have launched an e-Governance project, namely **MCA-21** on 9 February, 2005. The project aims at easy and secure online access to all the services being provided by the Ministry; including registration and filing of

documents throughout the country on an '**any time, any place**' basis. It would help achieve **speed, transparency and savings for everybody**. The project with an estimated cost of Rs. 341 crores is to be implemented in **60 weeks**.

The **protection of interests of investors** is a commitment of the UPA Government in the national Common Minimum Programme. The Ministry has established **Investor Protection Cells**, at all the three levels- namely- the Ministry, Regional Directors and Registrars of Companies. We have also set-up an **online investor grievances redressal system** for helping the investors. We are strengthening the activities under Investor Education and Protection Fund (**IEPF**) and taking active cooperation of reputed NGOs. I may mention that our Ministry has sponsored a web site- [www. watchoutinvestors.com](http://www.watchoutinvestors.com) developed by Prime Investors Protection Association and League (**PIPAL**). This website is meant to be a national web-based registry covering entities including companies, intermediaries and wherever available, persons associated with such entities, who have been indicted for an economic offence or default because of non-

compliance of laws, rules, regulations etc. administered by the various regulatory bodies. Through this website the investors will be able to do a free, fast and user friendly search on the defaulting entities/persons before making any new investments.

We are also determined to take effective action against **vanishing companies** that have defrauded investors and brought a bad name to the corporate sector.

There are many more initiatives being taken by us, basically with two ultimate objectives-

Firstly- The corporates should be given hassle-free environment so that they are able to face the competition effectively and contribute to the national economy in the best possible way.

Secondly- The conduct of the companies should be fully transparent and they must strike proper balance between the interests of the company on one hand and interests of share-holders, depositors and other stake-holders, on the other.

I conclude, by wishing this Seminar all success and by calling upon the apex industry associations to join in our efforts to create greater awareness in the business community about the competition law and policy so as to foster a healthy competition culture in the country for the benefit of our economy and consumers.

JAI HIND