

# Competition Forum

Sector Regulators and Competition Commission

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# Evolution of Independent Regulators

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- Entry of private sector and foreign entities permitted in many sectors
- Public sector bodies continue to have a major role
- Independent regulators established to promote sector, and to ensure level playing field
- Examples: TRAI, PNGRB, IRDA

# Regulatory Structure

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Supreme Court and High Courts

Sector Tribunals  
and Regulators

Competition  
Commission and  
Appellate Tribunal

Consumer Courts

## Structural Issues

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- Conflicts of interest – regulator dons too many hats
- Regulation -- Public sector vs. Private sector
- Overlap with functions of CCI
- No independent regulator for a number of areas
- “Regulation” vs. “Licensing”

# Overlap with Competition Commission

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## Example 1

### The Petroleum and Natural Gas Regulatory Board Act, 2006

“11. Functions of the Board.-The Board shall-

...

(f) in respect of notified petroleum, petroleum products and natural gas-

...

(vi) monitor transportation rates and take corrective action to prevent restrictive trade practice by the entities;”

# Overlap with Competition Commission

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## Example 2

### The Warehousing (Development and Regulatory) Authority Bill, 2005

“35 (2) Without prejudice to the generality of the foregoing provisions, the powers and functions of the Authority shall include the following, namely: –

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(j) to regulate the rates, advantages, terms and conditions that may be offered by warehousemen in respect of warehousing business;”

# Level Playing Field Issues

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## Example

### The Indian Post Office Amendment Bill (draft)

- Mail regulatory and Development Authority to make recommendations on matters such as cancellation of registration and promotion of competition.
  - All members to be serving or retired civil servant; Chairman from postal services
- USO Fund to be set up. All private sector players to contribute. DoP exempt.
- Department of Posts has monopoly over items below 300g. It is being exempted from the provisions of the Consumer Protection Act, 1986. Other service providers subject to the provisions of this Act.

# Dealing with the Overlapping Authority

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## The Telecom Regulatory Authority of India Act, 1997

“Authority to settle disputes

(2) The bench ... shall exercise ... jurisdiction, powers and authority ... on any matter relating to-(i) technical compatibility and inter-connections between service providers; (ii) revenue sharing arrangements between different service providers; (iii) quality of telecommunication services and interest of consumers

Provided that nothing in this sub-section shall apply in respect of matters relating to-

- (a) the monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of section 5 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969);
- (b) the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commission established under section 9 of the consumer Protection Act, 1986 (68 of 1986);”



## Big Picture Issues to be Addressed

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- Is there need for a “model” structure for sector regulators with respect to their constitution, powers and duties?
  - Demarcation of powers and duties vis-à-vis CCI and Consumer Courts
- Who shall regulate the regulator?