

FORTY-EIGHTH REPORT  
STANDING COMMITTEE ON FINANCE  
(2011-2012)

(FIFTEENTH LOK SABHA)

MINISTRY OF CORPORATE AFFAIRS

*[Action taken by the Government on the recommendations contained  
in the Thirty-seventh Report of the Standing Committee on  
Finance on Demands for Grants (2011-12) of the  
Ministry of Corporate Affairs]*

*Presented to Lok Sabha on 22.12.2011*

*Laid in Rajya Sabha on 22.12.2011*



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## CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE .....	(iii)
INTRODUCTION .....	(v)
CHAPTER I Report .....	1
CHAPTER II Recommendations/Observations which have been accepted by the Government .....	12
CHAPTER III Recommendations/Observations which the Committee do not desire to pursue in view of the Government's replies .....	22
CHAPTER IV Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee .....	24
CHAPTER V Recommendations/Observations in respect of which final replies of the Government are still awaited .....	25
ANNEXURE	
Minutes of the sitting of the Committee held on 19 December, 2011 .....	26
APPENDIX	
Analysis of Action Taken by the Government on the recommendations contained in the Thirty-seventh Report of the Standing Committee on Finance on Demands for Grants (2011-12) of the Ministry of Corporate Affairs.....	28



COMPOSITION OF THE STANDING COMMITTEE ON  
FINANCE (2011-2012)

Shri Yashwant Sinha — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Shivkumar Udasi Chanabasappa
3. Shri Jayant Chaudhary
4. Shri Harishchandra Deoram Chavan
5. Shri Bhakta Charan Das
6. Shri Gurudas Dasgupta
7. Shri Nishikant Dubey
8. Shri Chandrakant Khaire
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10. Shri Anjan Kumar Yadav M.
11. Shri Prem Das Rai
12. Dr. Kavuru Sambasiva Rao
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17. Shri N. Dharam Singh
18. Shri Yashvir Singh
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21. Dr. M. Thambidurai

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22. Shri S.S. Ahluwalia
23. Shri Raashid Alvi
24. Shri Vijay Jawaharlal Darda

25. Shri Piyush Goyal
26. Shri Moinul Hassan
27. Shri Satish Chandra Misra
28. Shri Mahendra Mohan
29. Dr. Mahendra Prasad
30. Dr. K.V.P. Ramachandra Rao
31. Shri Yogendra P. Trivedi

SECRETARIAT

1. Shri A.K. Singh — *Joint Secretary*
2. Shri R.K. Jain — *Director*
3. Smt. Meenakshi Sharma — *Deputy Secretary*

## INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorised by the Committee, present this Forty-eighth Report on action taken by Government on the recommendations contained in the Thirty-seventh Report of the Committee (Fifteenth Lok Sabha) on Demands for Grants (2011-12) of the Ministry of Corporate Affairs.

2. The Thirty-seventh Report (15th Lok Sabha) was presented to the Hon'ble Speaker on 11th July, 2011 and presented to Lok Sabha/laid in Rajya Sabha on 2 August, 2011. Replies indicating action taken on all the recommendations contained in the Report were furnished by the Government on 11 October, 2011.

3. The Committee considered and adopted this report at their sitting held on 19 December, 2011.

4. An analysis of action taken by Government on the recommendations contained in the Thirty-seventh Report of the Committee is given in the **Appendix**.

5. For facility of reference, observations/recommendations of the Committee have been printed in thick type in the body of the Report.

NEW DELHI;  
19 December, 2011  

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28 Agrahayana, 1933 (Saka)

YASHWANT SINHA,  
Chairman,  
Standing Committee on Finance.





## CHAPTER I

### REPORT

This report of the Standing Committee on Finance (Fifteenth Lok Sabha) deals with action taken by the Government on the recommendations/observations contained in their Thirty Seventh Report on the Demands for Grants (2011-12) of the Ministry of Corporate Affairs which was presented to Lok Sabha and laid in Rajya Sabha on 2 August, 2011.

2. The Report contained 8 recommendations. Action taken notes have been received from the Government in respect of all the recommendations contained in the report. These have been categorised as follows:

- (i) Recommendations/Observations that have been accepted by the Government:

Recommendation Nos. 1, 2, 4, 5, 6, 7 and 8

Total: 7  
(Chapter II)

- (ii) Recommendations/Observations which the Committee do not desire to pursue in view of the Government's replies:

Recommendation No. 3

Total: 1  
(Chapter III)

- (iii) Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee:

Total: Nil  
(Chapter IV)

- (iv) Recommendations/Observations in respect of which final replies of the Government are still awaited:

Total : Nil  
(Chapter V)

**3. The Committee desire that specific replies to the comments contained in Chapter I of this Report should be furnished to them expeditiously, in any case not later than three months of the presentation of this Report.**

4. The Committee will now deal with the action taken by the Government on some of their recommendations.

#### **A. Revenue by Renewal charges**

##### **Recommendation (Serial No. 2)**

5. The Committee noted with satisfaction that there had been a steady increase in the income generated by the Ministry in as much as an income of Rs. 1038.18 in 2006-07 had risen to Rs. 1493.44 crore in 2010-11. The Committee had hoped that the Ministry would sustain this trend while also exploring avenues to augment revenue by way of annual renewal charges, which would also help in keeping track of 'vanishing' companies.

6. In their action taken reply the Ministry of Corporate Affairs have submitted as follows:—

- “(a) This Ministry has enhanced the fee for making an application for availability of name from Rs. 500/- to Rs. 1000/- *w.e.f.* from 24th July, 2011.
- (b) The Ministry has introduced the Company Law Settlement Scheme, 2011 condoning the delay in filing documents with the Registrar, granting immunity from prosecution and charging normal filing fee and additional fee of 25% of actual additional fee payable for filing belated documents under the Companies Act, 1956 and the rules made thereunder. It is presumed that the documents will be filed with MCA pursuant to this Scheme, which might not have been filed by the companies.”

7. The Committee note with satisfaction that in pursuance to the recommendation of the Committee to explore avenues to augment revenue collection, the Ministry have revised the fee payable for making an application for availability of names from Rs. 500 to Rs. 1000 *w.e.f.* 24th July, 2011. In addition, with a view to induce defaulting companies to opt for filing documents even after missing the annual/regular stipulated dateline, a policy of providing immunity from prosecution and charging such companies only 25% of the actual additional fees (late fees) payable has been introduced. However, the Committee are constrained to observe that the Ministry has evaded reply to their specific recommendation for levy of annual charges which could have provided them a perennial source of revenue, and helped them in tracking the vanishing companies. The

Committee are of the considered view that in order to sustain the trend in revenue collection, the Ministry should put in place a suitable mechanism or scheme. The Committee, therefore, reiterate that the Ministry must explore avenues to augment revenue by way of levying annual charges which will also help in keeping track of 'vanishing' companies.

## **B. Registrar of Companies (RoCs)**

### **Recommendation (Serial No. 4)**

8. As per the mandate provided under Section 234 and 234A of the Companies Act, the Registrar of Companies (RoCs) were required to scrutinize the Balance Sheets of Companies filed before them. In this regard, the Standing Committee on Finance in their 5th Report (2009-10) had recommended that "proper coordination between the RoCs and the SEBI in regard to technical scrutiny of Balance Sheets" should be maintained. Similarly, proper coordination would be required with other regulatory bodies such as the RBI. From the reply furnished by the Ministry of Corporate Affairs, the Committee gathered that a Committee was being proposed to be set up under the Chairmanship of Additional Secretary, Ministry of Corporate Affairs with the representatives of SEBI to share information gathered out of technical scrutiny/inspection/investigation done on the companies. While informing about the work done by the RoCs, the Ministry had submitted that there were 60,773 cases pending for disposal with the RoCs as on 31 December, 2010. Since the RoCs were acutely under staffed, the Committee were at a loss to understand as to how the Ministry of Corporate Affairs would be able to cater to the 6.84 lakh active companies and do justice to their expanding mandate. The Committee therefore, recommended that the Ministry should augment the cadre strength of the services manning the field posts and also, if required, engage qualified personnel on deputation or short-term contracts.

The Ministry of Corporate Affairs, *inter alia* submitted their reply as stated under:—

"All efforts are being made to fill all vacancies in all grades in the offices of RoCs, OLs and Regional Director Offices in accordance with rules and procedures relating to recruitment/promotion."

9. The Committee, during examination of the Demands for Grants, (2009-10) of the Ministry of Corporate Affairs had made their

recommendations (5th Report, 15th LS) on the issue of shortage of in the Ministry as stated under:—

“The manpower requirement of the Ministry and its field Offices does not correspond with the huge increase in the number of companies registered in India.....Considering the expanding volume of work, the Committee urged the Ministry to immediately fill up all the vacant posts and then, if required, also enhance the sanctioned strength of requisite posts, while also roping in professionally qualified persons at the lateral level on short term contract, wherever necessary.”

10. In their action taken reply furnished by the Ministry to the Committee on 26.03.2010 it was stated as under:—

“The Ministry has taken up the following steps to address the shortage of manpower requirement of the Ministry and its field offices:

- (i) All out efforts are being made to fill up the existing vacancies and the matter is vigorously being taken up with the Union Public Commission and the Staff Selection Commission;
- (ii) The number of vacancies reported for Civil Service Examination, 2009 for the Indian Corporate Law Service has been increased from 10 to 20;
- (iii) 20 vacancies in the Indian Corporate Law Service have been reported for Civil Service Examination, 2010;
- (iv) To increase the manpower strength and also in roping professionally qualified persons, the Ministry has proposed launching of Special Drive to fill up 30 vacancies in the Indian Corporate Law Service from the professionals *viz.* Chartered Accountants, Cost and Works Accountants, Company Secretaries and Law Graduates etc.
- (v) The Department of Personnel and Training in 2001 had introduced a scheme known as ‘Optimization of Direct Recruitment to Civilian posts’ which allowed filling up of only 1/3 vacancies in Direct Recruitment or 1% of the authorized strength, whichever is less. As a result of this scheme, the Ministry had to abolish 245 posts in 2005. Moreover, 284 posts qualify for abolition under the scheme till 31.03.2009. The matter has been taken up with the Department of Personnel and Training and the Department

of Expenditure to allow the Ministry to continue these posts so that the shortage of manpower requirement of the Ministry is addressed;

- (vi) The Ministry had undertaken Cadre Review of Indian Corporate Law Service (Group 'A') which resulted in increase of 60 new posts raising its strength from 231 to 291; and
- (vii) The proposal of Cadre Review of Group 'B' & Group 'C' posts *i.e.* feeder services of Indian Corporate Law Service *viz.*, Senior Technical Assistant, Junior Technical Assistant, Company Prosecutor, Investigating Officer and Statistical Assistant are being initiated."

**11. The Committee take note of the measures taken by the Ministry that include increasing the number of vacancies for the Indian Corporate Law Service from 10 to 20, roping in professionally qualified persons, cadre review of Indian Corporate Law Service resulting in increase in number of posts from 231 to 291 and the proposal to carry out cadre review of group B and C posts. The Committee, however, feel that these measures are not sufficient as they will not result in increasing the manpower immediately. The Ministry's silence over specific recommendation about hiring professionals on deputation basis surprises the Committee. The Committee reiterate their recommendation that efforts be made for filling the vacancies including selecting professionals on contract/ deputation basis so as to overcome the staff crunch immediately.**

#### **C. Competition Commission of India (CCI)**

##### **Recommendation (Serial No. 7)**

12. The Competition Commission of India (CCI) was established with the objectives of preventing activities/commercial practices having adverse effect on market competition; to promote and sustain competition in markets; to protect the interest of consumers; and to ensure freedom of trade. As regards its performance till date since it became operational on 1 March, 2009, the Committee find that out of 32 cases taken up, 21 cases are pending and out of 50 cases received from erstwhile MRTPC, 30 cases still remain pending. In this context, the Committee also gathered that out of 197 posts envisaged to be filled up in 2010-11, only 96 posts had been filled up so far. The Committee were unable to comprehend as to how the CCI had been functioning with minimal personnel, when the Chairman and Members

of the Commission were appointed way back in 2009. The Committee were of the view that if the Ministry had shown the same keenness and promptness to appoint the staff/personnel just as they had demonstrated in respect of the Chairman and Members, the Commission and its attached office *viz.*, the Directorate General could have been better equipped to deliver results much better than witnessed so far. The Committee, therefore, urged the Ministry to fill the vacant posts without further delay and even engage consultants and domain experts so that the purpose behind the setting up of the Commission was not defeated. Besides, in view of the wide range of responsibilities assigned to the Commission, the Committee desired that the Ministry should draw people from varied backgrounds and experience *viz.*, Law, Finance, Administration, Legislation, etc. while appointing members for the Commission; so as to enable the Commission to arrive at balanced and equitable views/conclusions.

13. In their action taken reply the Ministry of Corporate Affairs have submitted as follows:

“The Government has noted the concern expressed by the Committee with regard to vacancies in the Competition Commission of India. Right from the beginning the concerted efforts are being made by the Commission and the Ministry to fill up all the posts. So far, 95 posts have been filled up on deputation and direct recruitment basis. Further, eight officers have been selected for appointment on deputation basis who are likely to join the office of DG, CCI shortly.

To fill up the remaining vacant posts, the vacancies are being advertised and applications invited. It may, however, be appreciated that given the responsibilities attached to these posts care needs to be taken to ensure induction of persons of adequate experience and quality which at times entails some extra efforts. It must also be candidly admitted that responses to advertisement and special efforts to invite candidatures is often not very encouraging—this coupled with the need to maintain quality is causing back-log of unfilled posts for which the Ministry and the Commission assure to make all out efforts to improve the situation.

It may be added that while appointing Members for the Commission, the Ministry is already drawing people from varied backgrounds as per Section 8(2) of the Competition Act, so as to enable the Commission to arrive at balanced and equitable views/conclusions.”

14. The Committee note from the reply of the Ministry that only 8 officers have been selected for the office of the Director General (DG) of the CCI though the number of vacant posts were 102. According to the Ministry, the need to maintain quality and the demand for persons with adequate experience and qualification to fill up the vacant posts has been the factor responsible for back-log vacancies in the Commission. While declining to accept the reason adduced by the Ministry for the posts remaining vacant in CCI till date, the Committee are of the opinion that with a large number of posts remaining vacant in the Commission, the functioning of the Commission would certainly be crippled. The Committee, therefore, reiterate and desire the Ministry to make sustained all out efforts to fill the vacant posts without further delay so as to ensure smooth and efficient functioning of the Commission.

15. The Committee are given to understand that appointment of Members of the Commission is being done as per section 8(2) of the Competition Act, 2002. In this regard the Committee desire that, in future the Ministry may also consider person with experience and background in "legislation" apart from the areas of experience already specified in the aforesaid provision in order to enlarge the scope of eligibility meant for the Members of the Commission.

#### Recommendation (Serial No. 8)

16. The Committee further desired that the Ministry should apprise the Committee of the work done and decisions taken by the CCI to address the issues currently in their hand *viz.* sugar prices, hike in air fares, hike in onion prices, hike in cement prices and cartelization of gas cylinder prices etc. The Committee would also like the Competition Commission to remain alive and alert to issues of price-cartelization, price-rigging and other such market-distorting practices widely prevalent even in the PSUs today in order to prevent such measures and to protect the interest of the consumers.

17. In their action taken reply the Ministry of Corporate Affairs have submitted as follows:—

"The Competition Commission of India, engages external agencies/ research institutions from time to time for conducting market studies on various industries/sectors, which (based on information available in the public domain), do not appear to be functioning well. The Commission also carries out the performance and conduct analysis of certain selected sectors internally to identify anti-competitive trends. The objective of such studies is to identify

signs of market distortion or features tending to prevent, restrict or distort competition in domestic markets where the findings of such analyses are indicative of violations of the Competition Act, the Commission initiate appropriate action.

Sections 3 & 4 of the Competition Act, 2002 relating to 'Anti-competitive Agreements' and 'Abuse of Dominant Position' were notified by the Government of India on 20th May, 2009. Subsequently, the Commission started considering information received for violation of above stated Sections of the Competition Act. In addition to this, some cases were also transferred from Office of DGIR and MRTP Commission under Section 66(6) of the Competition Act. The Commission also took cognizance of the facts and material published in various media reports and initiated *suo moto* proceedings in some of the important cases keeping in mind the overall economic growth of the country. Gist of some of the important cases considered/being considered by the Commission is given hereunder:

#### **Hike in Cement Prices**

Competition Commission of India received certain information against Cement Manufacturers — one filed by Builders' Association, while the other was transferred from DGIR of the erstwhile MRTP Commission. The complaints alleged unfair trade practices, controlling prices, limiting production and restricting supplies and collusive price fixing etc. The Commission got the matters investigated through the Director General (Investigation). The investigation reports were considered and been sent to the parties concerned to file their reply/objections in terms of the provisions under the Competition Act. Further action is awaited.

#### **Hike in Sugar Prices**

After taking cognizance of news reports regarding the alleged formation of cartels by the Indian Sugar Mills Association and the National Cooperative Sugar Mills Federation (NCSF) to increase the ex-factory price 4-6% to the Commission considered the matter *suo moto*. After such consideration the Commission was of *prima facie* opinion that there is violation of Section 3(3)(b) of the Competition Act, 2002. The matter was referred to Director General (Investigation) for further investigation under section 26(1) of the Competition Act, 2002. The Director General submitted his investigation report and the matter is under consideration of the Commission.



### **Hike in Air Fare**

Last year there were reports in the media alleging that some domestic carriers were charging exorbitant fares from passengers by taking advantage of increased demand. It was, further, alleged that while the passenger demand had soared, the capacity of the airlines had not kept pace. Similarly, a number of Aircraft were kept grounded to encourage a mistake between demand and availability.

The Commission after preliminary consideration took *suo moto* notice and held that *prima facie* such concerted action amounts a tacit collusion between the Airlines. The action of Airlines is anti-competitive and seems to be violative of section 3(3)(b) of the Competition Act, 2002. The matter was referred to Director General (Investigation) under Section 26(1) of the Act during December, 2010. Director General submitted his Report on 30th May, 2011 and the matter is still under consideration of the Commission.

### **Hike in Onion Prices**

In December, 2010, Onion prices rose to Rs. 60-70 per kg. It was observed that this steep rise was due to 'hoarding and speculation'. Media also reported 'the speculative build up of stocks by traders could have also led to the unexpected price rise'. The primary reports/information gathered through various sources revealed that there appears to be existence of forces and factors other than demand and supply factors like cartels which are operating in the market and having appreciable adverse effect on the competition within the markets in India, which shows the violation of the section 3 of the Competition Act.

After considering various reports/data, the Commission has come to the conclusion that there exists a *prima facie* case which was fit for taking *suo moto* action under Section 19 of the Act. As such, the Commission directed Director General, CCI to conduct investigation. Director General submitted his report on 11th April, 2011 and the matter is under consideration of the Commission.

### **Bid Rigging by LPG Gas Cylinder Manufacturers**

During October, 2010, Director General, CCI submitted his Report in a case titled M/s Pankaj Gas Cylinder Ltd. Vs. Indian Oil Corporation Ltd. The Report of Director General revealed that:

- (i) Indian Oil Corporation (PSU) started the process of procurement of 14.2 Kg. cylinder through tender system during the year 2001 only;

- (ii) The bids submitted by bidders were found to be similar/ identical pattern; and
- (iii) Director General noted that the cylinder manufacturers have colluded together, acted like a cartel, fixed the bid rates which in turn raised the cost of procurement of gas cylinders by the Indian Oil Corporation.

The Report of Director General *prima facie* proved that the manufacturers of LPG cylinders manipulated the bids and procured orders for supply of 14.2 kg. LPG cylinders by quoting identical rates in violation of provisions of section 3(3) (d) of the Act.

Accordingly, the Commission, by exercising its powers *suo moto* under Section 19 of the Act referred the matter to Director General for investigation into the matter of 'bid rigging' for award of tenders for procuring 14.2 kg. LPG cylinders by the public sector gas marketing companies *viz.*, Indian Oil Corporation Ltd. (IOC), Bharat Petroleum Corporation Ltd. (BPCL) and the Hindustan Petroleum Corporation Ltd. (HPCL). The Director General submitted his Report on 16th May, 2011 which is still under consideration of the Commission.

#### **Reference received from Central Government**

CCI received a reference (information) under Section 19 (1)(b) of Competition Act, 2002 from Ministry of Corporate Affairs on 6th May, 2011 stating that the Standing Committee on Finance pointed out the following facts relating to airfare:

- (a) Due to strike of Air India, different Airlines are charging exorbitant prices for tickets; and
- (b) In a normal course also one cannot take tickets online, even though seats are available and tickets have to be bought at higher prices near to the date of departure.

Ministry of Corporate Affairs requested the Commission to consider passing suitable interim orders to provide relief to the public, as per the provisions of the Act.

Based on the input received from Ministry of Corporate Affairs and also the feedback provided by Director General, Civil Aviation referred the matter to the Director General, CCI for investigation under Section 26(1) of the Act. For passing orders under section 33 of the Act, the Commission decided to direct the concerned

domestic airlines *viz.*, Jet Airways, IndiGO, JetLite, Kingfisher, Spicejet, Air India (Domestic) and Go Air to file their views/submissions and oral hearing. The matter is under investigation with Director General, CCI.”

18. The Committee observe from the reply submitted by the Ministry that CCI has acted mostly after incidence of malpractices/market-distortions are reported by print/electronic media. The Committee find that the Commission hardly acquire information about “mis-happenings” in the market on their own and had the Commission been alert, it could have initiated investigations well before the media reported about the anti-competitive and unethical marketing activities. The Committee are further constrained to note that even after the DG submitted investigation reports, most of the cases pertaining to hike in the prices of sugar, airfare, onion etc. have been kept pending with the Commission for several months for their consideration. The Committee deeply concerned about the state of affairs of the CCI and the plight of consumers in the country, reiterate that the Commission should be proactive to issues of price-cartelization, price-rigging and other such market-distorting practices like abuse of dominant position including PSUs and Government departments/agencies providing public services to protect the interest of the consumers.

19. The Committee are further constrained to point out that on the issue of onion prices, farmers are often under the false impression that export of the item/commodity (onion) is banned. In this regard the Committee desire that Competition Commission of India (CCI) may ensure that Export Reserve Price (ERP) is announced before or during harvesting of the crop, and that adequate awareness campaign should be made for the farmers by making advertisement in the local print as well as electronic media so that farmers are not misled by cartels.

## CHAPTER II

### RECOMMENDATIONS/OBSERVATIONS, WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

#### **Recommendation (No. 1)**

##### **Budgetary allocation**

The Committee note that the year-wise total expenditure (non-plan) from 2006-07 to 2010-11 were Rs. 122.57 crore, Rs. 113.66 crore, Rs. 205.46 crore, Rs. 227.00 crore and Rs. 215.61 crore respectively against budget allocation/estimates of Rs. 145 crore, 185.10 crore, Rs. 223.00 crore, Rs. 239.05 and Rs. 249.01 crore respectively. This clearly indicates that the Ministry of Corporate Affairs have persistently reported a shortfall in utilization of budgeted funds under the Non-Plan head for the last five years. Such a recurring negative trend in utilization of funds has obviously reduced the budgeting exercise to a ritual. The reasons advanced by the Ministry are rather routine and thus not very convincing, particularly considering the recurring nature of the problem. The Committee therefore observe and suggest the Ministry to put their systems in order so that the entire budgeting exercise is taken more seriously and executed with due care and caution.

##### **Reply of the Government**

The budget grant of this Ministry provides for the expenditure on the Secretariat of the Ministry of Corporate Affairs and its field and attached/subordinate offices all over India under the non-plan head on Modernization, Computerisation and Networking of Corporate Affairs (MCA21 e-Governance Project) & its field offices, Investor Education & Protection Fund (IEPF), infrastructure activities. It also caters Grants-in-aid-General to Competition Commission of India (CCI). The Budget Estimates, Revised Estimates are projected on the basis of the anticipated expenditure proposed by the each budgetary unit of the Ministry. Shortfall in utilization of the budgeted funds is preliminary due to fact that the various posts in different grades could not be filled up in the Competition Commission of India and attached/subordinate offices. Also the savings under the various object heads were on account of the strictly enforcing the austerity measures and following the prescribed ceilings on expenditure.

[Ministry of Corporate Affairs, O.M. No. G.20018/22/2011-BGT,  
dated 11.10.2011]

### **Recommendation (No. 2)**

The Committee note with satisfaction that there has been a steady increase in the income generated by the Ministry in as much as an income of Rs. 1038.18 in 2006-07 has risen to Rs. 1493.44 crore in 2010-11. The Committee hope that the Ministry would sustain this trend while also exploring avenues to augment revenue by way of annual renewal charges, which will also help in keeping track of 'vanishing' companies.

### **Reply of the Government**

- (a) This Ministry has enhanced the fee for making an application for availability of name from Rs. 500/- to Rs. 1000/- *w.e.f.* from 24th July, 2011.
- (b) The Ministry has introduced the Company Law Settlement Scheme, 2011 condoning the delay in filing documents with the Registrar, granting immunity from prosecution and charging normal filing fee and additional fee of 25% of actual additional fee payable for filing belated documents under the Companies Act, 1956 and the rules made thereunder. It is presumed that the documents will be filed with MCA pursuant to this Scheme, which might not have been filed by the companies.

[Ministry of Corporate Affairs, O.M. No. G.20018/22/2011-BGT,  
dated 11.10.2011]

### **Recommendation (No. 4)**

#### **Registrar of Companies (ROCs)**

As per the mandate provided under Section 234 and 234A of the Companies Act, the Registrar of Companies (ROCs) are required to scrutinize the Balance Sheets of Companies filed before them. In this regard, the Standing Committee on Finance in their 5th Report (2009-10) had recommended that 'proper coordination between the ROCs and the SEBI in regard to technical scrutiny of Balance Sheets' should be maintained. Similarly, proper coordination would be required with other regulatory bodies such as the RBI. From the reply furnished by the Ministry of Corporate Affairs, the Committee gather that a Committee is being proposed to be set up under the Chairmanship of Additional Secretary, Ministry of Corporate Affairs with the representatives of SEBI to share information gathered out of technical scrutiny/inspection/investigation done on the companies. While

informing about the work done by the ROCs, the Ministry have submitted that there are 60,773 cases pending for disposal with the ROCs as on 31 December, 2010. Since the ROCs are acutely under staffed, the Committee are at a loss to understand as to how the Ministry of Corporate Affairs will be able to cater to the 6.84 lakh active companies and do justice to their expanding mandate. The Committee would therefore recommend that the Ministry should augment the cadre strength of the services manning the field posts and also, if required, engage qualified personnel on deputation or short-term contracts.

### **Reply of the Government**

All efforts are being made to fill all vacancies in all grades in the offices of ROCs, OLs and Regional Director Offices in accordance with rules and procedures relating to recruitment/promotion.

[Ministry of Corporate Affairs, O.M. No. G-20018/22/2011-BGT,  
dated 11.10.2011]

### **Recommendation (No. 5)**

#### **Early Warning System (EWS)**

The Committee are happy to note that the number of risk parameters under the Early Warning System (EWS) instituted in 2009 to prevent and detect corporate frauds has been enhanced. The Committee hope that this system of generating 'early warning alerts' is nurtured earnestly and followed up rigorously with strict enforcement. It should also provide an electronic platform for related agencies like SEBI, RBI, SFIO, Directorate of Enforcement, Income Tax Department etc. to share valuable information about corporate entities and governance practices for necessary follow-up within their respective domain. The Committee would like to emphasise further that the EWS should also be gainfully utilized to inform and caution investors about defaulting companies.

### **Reply of the Government**

The Ministry of Corporate Affairs regularly sending information/ extracts of the Scrutiny/inspection/investigation report to the other regulatory bodies such as SEBI, RBI, Income Tax Department and PF Authorities etc. The Ministry has also revisited and revised the criteria for identifying companies under Early Warning System and has prepared a list of companies of which salient features are given below:—

- (i) The companies (listed & unlisted) are first scanned through five parameters as 'first filter';

- (ii) The set of the companies identified/selected through the 'first filter' are examined against a set of another five parameters for listed and unlisted companies separately as 'second filter'; and
- (iii) Lists of listed and unlisted companies are also generated in various categories such as (a) disqualification of directors, (b) companies which failed to repay the matured deposits and interest thereon, (c) companies having 'charges' (*i.e.* incumbencies) but have not filed balance sheets and annual reports.

Such companies are being examined from the point of view of 'public interest'. For the purpose of this examination, public interest is taken to mean companies (i) having accepted deposits have not repaid matured amount and interest; (ii) having collected money through IPO; and (iii) having taken secured loan but have not filed their due annual returns with the ROCs.

About 150 companies is being shortlisted for detailed scrutiny under Section 234 of the Companies Act, 1956.

[Ministry of Corporate Affairs, O.M. No. G-20018/22/2011-BGT,  
dated 11.10.2011]

#### **Recommendation (No. 6)**

##### **Investors Education and Protection Fund (IEPF)**

The Committee note that the Ministry has established the Investors Education and Protection Fund (IEPF) to promote investor awareness and ensure investor protection. They appreciate the various programmes undertaken by Ministry in this regard by involving professional bodies such as the Institute of Chartered Accountants of India (ICAI), the Institute of Companies Secretaries of India (ICSI) and the Institute of Cost and Works Accounts of India (ICWAI). The Committee believe that this is a large task requiring adequate resources for its accomplishment. The Committee had therefore recommended in their earlier reports for better utilization of funds by way of conducting awareness programmes for investors across the country. The Committee had also recommended for augmenting the corpus of Rs. 5 crore, which is being allocated for IEPF every year, in view of the magnitude of the problems faced by vast number of investors located in different parts of the country. The Committee are surprised that the Ministry are barely able to spend this amount, let alone increase the allocation.

The Committee are therefore constrained to observe that the Ministry are not treating investor awareness and protection with requisite gravity. As this is an emerging area of concern with an ever-increasing number of grievances and widening scope for redressal involving multitudes of people and organizations, the Committee desire that the Ministry of Corporate Affairs should not only consider enhancing the corpus of IEPF but also devise effective methods of communicating with investors through workshops, seminars, grievance-redressal meetings, net-based interface etc. In this context, the Committee would also expect the Ministry to keep a check on companies in coordination with SEBI for ensuring proper disclosures and transparency while approaching the investors.

### **Reply of the Government**

During the year 2011-12, the Ministry has decided to entrust investor awareness programmes primarily to the three professional institutes — ICSI, ICAI & ICWAI. It is aimed to have around 30 such programmes in 'Metros and big cities' and 1200 programmes in the State Capitals and District Headquarters by the PIs themselves. The approved scale of financial allocation for such programmes varies from Rs. 25,000 to Rs. 30,000 per programme. At towns and District Headquarters level the Programmes are being organised through Resource Persons (RPs) to be appointed by the professional institutes at a unit outlay @ Rs. 5000 each.

It is also proposed to take up media campaigns for the programmes regularly.

The Committee on IEPF has also decided to conduct an Impact Assessment Study, jointly with SEBI to ascertain the impact of the relevant initiatives. The cost for conducting this study will be shared with SEBI.

Steps have been taken to increase the number of investors education programme, to improve the quality of such programmes by engaging the Professional Institutes, to review the efficacy of such programme by conducting Impact Assessment Study. Besides, the Ministry has restructured its complaint module on MCA-21 System with a view to make investor grievance redressal more effective and responsive.

[Ministry of Corporate Affairs, O.M. No. G-20018/22/2011,  
dated 11.10.2011]



### **Recommendation (No. 7)**

#### **Competition Commission of India (CCI)**

The Competition Commission of India (CCI) was established with the objectives of preventing activities/commercial practices having adverse effect on market competition; to promote and sustain competition in markets; to protect the invest of consumers; and to ensure freedom of trade. As regards its performance till date since it became operational on 1 March, 2009, the Committee find that out of 32 cases taken up, 21 cases are pending and out of 50 cases received from erstwhile MRTPC, 30 cases still remain pending. In this context, the Committee also gather that out of 197 posts envisage to be filled up in 2010-11, only 96 posts have been filled up so far. The Committee are unable to comprehend as to how the CCI has been functioning with minimal personnel, when the Chairman and Members of the Commission were appointed way back in 2009. The Committee are of the view that if the Ministry had shown the same keenness and promptness to appoint the staff/personnel just as they had demonstrated in respect of the Chairman and Members, the Commission and its attached office *viz.*, the Directorate General could have been better equipped to deliver results much better than witnessed so far. The Committee would therefore, urge the Ministry to fill the vacant posts without further delay and even engage consultants and domain experts so that the purpose behind the setting up of the Commission is not defeated. Besides, in view of the wide range of responsibilities assigned to the Commission, the Committee desire that the Ministry should draw people from varied backgrounds and experience *viz.*, Law, Finance, Administration, Legislation, etc. while appointing members for the Commission; so as to enable the Commission to arrive at balanced and equitable views/conclusions.

#### **Reply of the Government**

The Government has noted the concern expressed by the Committee with regard to vacancies in the Competition Commission of India. Right from the beginning the concerted efforts are being made by the Commission and the Ministry to fill up all the posts. So far, 95 posts have been filled up on deputation and direct recruitment basis. Further, eight officers have been selected for appointment on deputation basis who are likely to join the office of DG, CCI shortly.

To fill up the remaining vacant posts, the vacancies are being advertised and applications invited. It may, however, be appreciated that given the responsibilities attached to these posts care needs to be

taken to ensure induction of persons of adequate experience and quality which at times entails some extra efforts. It must also be candidly admitted that responses to advertisement and special efforts to invite candidatures is often not very encouraging-this coupled with the need to maintain quality is causing back-log of unfilled posts for which the Ministry and the Commission assure to make all out efforts to improve the situation.

It may be added that while appointing Members for the Commission, the Ministry is already drawing people from varied backgrounds as per Section 8(2) of the Competition Act, so as to enable the Commission to arrive at balanced and equitable views/conclusions.

[Ministry of Corporate Affairs, O.M. No. G-20018/22/2011-BGT,  
Dated 11.10.2011]

#### **Recommendation (No. 8)**

The Committee further desire that the Ministry should apprise the Committee of the work done and decisions taken by the CCI to address the issues currently in their hand *viz.* sugar prices, hike in air fares, hike in onion prices, hike in cement prices and cartelization of gas cylinder prices etc. The Committee would also like the Competition Commission to remain alive and alert to issues of price-cartelization, price-rigging and other such market-distorting practices widely prevalent even in the PSUs today in order to prevent such measures and to protect the interest of the consumers.

#### **Reply of the Government**

The Competition Commission of India, engages external agencies/ research institutions from time to time for conducting market studies on various industries/sectors, which (based on information available in the public domain), do not appear to be functioning well. The Commission also carries out the performance and conduct analyses of certain selected sectors internally to identify anti-competitive trends. The objective of such studies is to identify signs of market distortion or features tending to prevent, restrict or distort competition in domestic markets where the findings of such analyses are indicative of violations of the Competition Act the Commission initiate appropriate action.

Sections 3 & 4 of the Competition Act, 2002 relating to 'Anti-competitive Agreements' and 'Abuse of Dominant Position' were notified by the Government of India on 20th May, 2009. Subsequently, the Commission started considering information received for violation

of above stated Sections of the Competition Act. In addition to this, some cases were also transferred from Office of DGIR and MRTTP Commission under Section 66(6) of the Competition Act. The Commission also took cognizance of the facts and material published in various media reports and initiated *suo moto* proceedings in some of the important cases keeping in mind the overall economic growth of the country. Gist of some of the important cases considered/being considered by the Commission is given hereunder:

#### **Hike in Cement Prices**

Competition Commission of India received certain information against Cement Manufacturers — one filed by Builders' Association, while the other was transferred from DGIR of the erstwhile MRTTP Commission. The complaints alleged unfair trade practices, controlling prices, limiting production and restricting supplies and collusive price fixing etc. The Commission got the matters investigated through the Director General (Investigation). The investigation reports were considered and been sent to the parties concerned to file their reply/objections in terms of the provisions under the Competition Act. Further action is awaited.

#### **Hike in Sugar Prices**

After taking cognizance of news reports regarding the alleged formation of cartels by the Indian Sugar Mills Association and the National Cooperative Sugar Mills Federation (NCSF) to increase the ex-factory price 4-6% to the Commission considered the matter *suo moto*. After such consideration the Commission was of *prima facie* opinion that there is violation of Section 3(3)(b) of the Competition Act, 2002. The matter was referred to Director General (Investigation) for further investigation under Section 26(1) of the Competition Act, 2002. The Director General submitted his investigation report and the matter is under consideration of the Commission.

#### **Hike in Air Fare**

Last year there were reports in the media alleging that some domestic carriers were charging exorbitant fares from passengers by taking advantage of increased demand. It was, further, alleged that while the passenger demand had soared, the capacity of the airlines had not kept pace. Similarly, a number of Aircraft were kept grounded to encourage a mistake between demand and availability.

The Commission after preliminary consideration took *suo moto* notice and held that *prima facie* such concerted action amounts a tacit collusion between the Airlines. The action of Airlines is anti-competitive

and seems to be violative of section 3(3)(b) of the Competition Act, 2002. The matter was referred to Director General (Investigation) under Section 26(1) of the Act during December, 2010. Director General submitted his Report on 30th May, 2011 and the matter is still under consideration of the Commission.

### **Hike in Onion Prices**

In December, 2010, Onion prices rose to Rs. 60-70 per kg. It was observed that this steep rise was due to 'hoarding and speculation'. Media also reported 'the speculative build up of stocks by traders could have also led to the unexpected price rise.' The primary reports/information gathered through various sources revealed that there appears to be existence of forces and factors other than demand and supply factors like cartels which are operating in the market and having appreciable adverse effect on the competition within the markets in India, which shows the violation of the section 3 of the Competition Act.

After considering various reports/data, the Commission has come to the conclusion that there exists a *prima facie* case which was fit for taking *suo moto* action under Section 19 of the Act. As such, the Commission directed Director General, CCI to conduct investigation. Director General submitted his report on 11th April, 2011 and the matter is under consideration of the Commission.

### **Bid Rigging by LPG Gas Cylinder Manufacturers**

During October, 2010, Director General, CCI submitted his Report in a case titled M/s. Pankaj Gas Cylinder Ltd. Vs. Indian Oil Corporation Ltd. The Report of Director General revealed that:—

- (i) Indian Oil Corporation (PSU) started the process of procurement of 14.2 kg. cylinder through tender system during the year 2001 only;
- (ii) The bids submitted by bidders were found to be similar/identical pattern; and
- (iii) Director General noted that the cylinder manufacturers have colluded together, acted like a cartel, fixed the bid rates which in turn raised the cost of procurement of gas cylinders by the Indian Oil Corporation.

The Report of Director General *prima facie* proved that the manufacturers of LPG cylinders manipulated the bids and procured orders for supply of 14.2 kg. LPG cylinders by quoting identical rates in violation of provisions of section 3(3)(d) of the Act.

Accordingly, the Commission, by exercising its powers *suo moto* under Section 19 of the Act referred the matter to Director General for investigation into the matter of 'bid rigging' for award of tenders for procuring 14.2 kg. LPG cylinders by the public sector gas marketing companies *viz.*, Indian Oil Corporation Ltd. (IOC), Bharat Petroleum Corporation Ltd. (BPCL) and the Hindustan Petroleum Corporation Ltd. (HPCL). The Director General submitted his Report on 16th May, 2011 which is still under consideration of the Commission.

#### **Reference received from Central Government**

CCI received a reference (information) under Section 19 (1)(b) of Competition Act, 2002 from Ministry of Corporate Affairs on 6th May, 2011 stating that the Standing Committee on Finance pointed out the following facts relating to air fare:—

- (a) Due to strike of Air India, different Airlines are charging exorbitant prices for tickets; and
- (b) In a normal course also one cannot take tickets online, even though seats are available and tickets have to be bought at higher prices near to the date of departure.

Ministry of Corporate Affairs requested the Commission to consider passing suitable interim orders to provide relief to the public, as per the provisions of the Act.

Based on the input received from Ministry of Corporate Affairs and also the feedback provided by Director General, Civil Aviation referred the matter to the Director General, CCI for investigation under Section 26(1) of the Act. For passing orders under section 33 of the Act, the Commission decided to direct the concerned domestic airlines *viz.*, Jet Airways, IndiGO, JetLite, Kingfisher, Spicejet, Air India (Domestic) and Go Air to file their views/submissions and oral hearing. The matter is under investigation with Director General, CCI.

[Ministry of Corporate Affairs, O.M. No. G-20018/22/2011,  
dated 11.10.2011]

### CHAPTER III

#### RECOMMENDATIONS/OBSERVATIONS, WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLIES

##### **Recommendation (No. 3)**

##### **Major works, Lands & Building, Indian Institute of Corporate Affairs (IICA)**

The Committee note that there have been wide variations between the Budget Estimates (BE) (Rs. 30 crore) and Actual Expenditure (AE) (Rs. 60 crore) in 2008-09 and BE Rs. 34 crore and AE Rs. 75.34 crore in 2010-11 under detailed Head—Major Works, Lands and Buildings (IICA). In both the years, the AEs overshoot the BEs by twice the amounts allocated. The Committee understand that the IICA building and campus at Manesar was scheduled to be completed by May, 2011 with an initial Plan Outlay of Rs. 211 crore. However, such gross mismatch between the Budget Estimates and Actual Expenditure under this head of account, where the expenditure incurred has been mainly for payment of cost of land and construction of building of the Indian Institute of Corporate Affairs (IICA) indicates cost overrun, not anticipated and budgeted for by the Ministry. The Committee would therefore like the Ministry to apprise them of the extent of cost overrun that has occurred in this project, while ensuring completion of the construction of IICA building and campus at the earliest without further exceeding the estimated outlay. The Committee would expect the Ministry to exercise greater prudence and financial discipline while planning and executing such important projects involving large costs.

##### **Reply of the Government**

A Plan Scheme with allocation of Rs. 211 crore was approved for establishment of the IICA. Activities of the establishment were spread over respective financial years within the Eleventh Plan period, 2007-2012. The Project was to be completed by May, 2011 within the approved allocation. Requirement of funds for each financial year was estimated as per the projections given by the executing agency, the NBCC in consultation with the IIT, Kharagpur (KGP). With these

observations, comments on observations of the Committee are offered as follows:—

#### **2008-09**

As against the allocation of Rs. 30.00 crore on the Capital side, requirement of funds grew up as follows:—

- (i) Purchase of land with upward revision of cost consummated and demand for Rs. 45.00 crore was received from the HSIIDC.
- (ii) Construction activities on the piece of land allotted took off entailing expenditure of Rs. 15.00 crore.

The accrued expenditure had to be met and could not be put back as the Institute had to be raised. Hence the requirement of additional funds from within the approved allocation of Rs. 211.00 crore. It may be appreciated that since the object of the scheme is establishment of an entity, the activities could not be halted to ensure restricting expenditure within the budgetary allocations of each financial year.

#### **2010-2011**

Against this Ministry's demand of Rs. 87.36 crore only an amount of Rs. 40.00 crore was allocated. Going by the target fixed for completion, the outgo of the funds was estimated to be Rs. 81.36 crore. The allocation initially made was insufficient and it was apprehended that this will result in break of continuity of construction, which in turn will result in cost overrun. Hence, the demand for additionality over initial allocations. It may be mentioned that the entire allocation has been exhausted.

It is further submitted that the Project needs to be looked into in its entirety and not on segmented basis of financial year. Viewed thus, there are no cost overruns as the Project is the entire amount of Rs. 211.00 crore allocated for it upto 2011-12 will stand exhausted but this will be exactly within the ceiling initially approved.

Time over run.

The civil part of the construction of the campus has completed and from the new campus of the institute has commenced functioning.

[Ministry of Corporate Affairs, O.M. No. G-20018/22/2011-BGT,  
dated 11.10.2011]

**CHAPTER IV**

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH  
REPLIES OF THE GOVERNMENT HAVE NOT BEEN  
ACCEPTED BY THE COMMITTEE

—NIL—



**CHAPTER V**

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH  
FINAL REPLIES OF THE GOVERNMENT ARE STILL AWAITED

—NIL—

NEW DELHI;  
19 December, 2011  
28 Agrahayana, 1933 (*Saka*)

YASHWANT SINHA,  
*Chairman,*  
*Standing Committee on Finance.*

ANNEXURE

MINUTES OF THE SEVENTH SITTING OF THE STANDING  
COMMITTEE ON FINANCE (2011-12)

The Committee sat on Monday, the 19th December, 2011 from  
1700 hrs. to 1800 hrs.

PRESENT

Shri Yashwant Sinha—*Chairman*

MEMBERS

*Lok Sabha*

2. Shri Bhakta Charan Das
3. Shri Nishikant Dubey
4. Shri Bhartruhari Mahtab
5. Shri Prem Das Rai
6. Shri Rayapati S. Rao
7. Shri Magunta Sreenivasulu Reddy
8. Dr. M. Thambidurai
9. Shri Shivkumar Udasi

*Rajya Sabha*

10. Shri Piyush Goyal

SECRETARIAT

1. Shri R.K. Jain — *Director*
2. Shri Ramkumar Suryanarayanan — *Deputy Secretary*
3. Smt. Meenakshi Sharma — *Deputy Secretary*

2. The Committee took up following draft Reports for consideration  
and adoption:—

- |       |   |   |   |   |
|-------|---|---|---|---|
| (i)   | * | * | * | * |
| (ii)  | * | * | * | * |
| (iii) | * | * | * | * |
| (iv)  | * | * | * | * |

- (v) Draft Report on action taken by the Government on the recommendations contained in the Thirty-seventh Report (15th Lok Sabha) on Demands for Grants (2011-12) of the Ministry of Corporate Affairs.

3. The Committee adopted the draft reports at Sl. Nos. (ii) and (iv) without any modification and those at Sl. Nos. (i), (iii) and (v) with minor modifications. The Committee authorised the Chairman to finalise the Reports in the light of the modifications suggested and present these Reports to Parliament.

*The Committee then adjourned.*

## APPENDIX

(Vide Para 4 of the Introduction)

ANALYSIS OF THE ACTION TAKEN BY GOVERNMENT ON THE  
RECOMMENDATIONS CONTAINED IN THE THIRTY-SEVENTH  
REPORT OF THE STANDING COMMITTEE ON FINANCE  
(FIFTEENTH LOK SABHA) ON DEMANDS FOR GRANTS  
(2011-2012) OF THE MINISTRY OF  
CORPORATE AFFAIRS

	Total	% of Total
(i) Total number of Recommendations	8	
(ii) Recommendations/observations which have been accepted by the Government (Vide Recommendations at Sl. Nos. 1, 2, 4, 5, 6, 7 and 8)	7	87.50
(iii) Recommendations/observations which the Committee do not desire to pursue in view of the Government's replies	1	12.50
(iv) Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee	Nil	0.00
(v) Recommendation/observation in respect of which final reply of the Government is still awaited	Nil	0.00