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**STANDING COMMITTEE ON FINANCE
(2012-13)**

FIFTEENTH LOK SABHA

MINISTRY OF CORPORATE AFFAIRS

[Action taken by the Government on the recommendations contained in Fifty Fifth Report on Demands for Grants (2012-13) of the Ministry of Corporate Affairs]

SIXTY FOURTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2012/ Agrahayana, 1934 (Saka)

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*Presented to Lok Sabha on 6 December, 2012
Laid in Rajya Sabha on 6 December, 2012*



LOK SABHA SECRETARIAT
NEW DELHI

December, 2012/ Agrahayana, 1934 (Saka)

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COMPOSITION OF STANDING COMMITTEE ON FINANCE (2012-13)

Shri Yashwant Sinha - Chairman

MEMBERS

LOK SABHA

2. Shri Suwendu Adhikari
3. Dr. Baliram
4. Shri Udayanraje Bhonsle
5. Shri Nishikant Dubey
6. Shri Gurudas Dasgupta
7. Shri Rahul Gandhi
8. Shri Deepender Singh Hooda
9. Shri Chandrakant Khaire
10. Shri Bhartruhari Mahtab
11. Dr. Chinta Mohan
12. Shri Sanjay Brijkishorlal Nirupam
13. Shri Prem Das Rai
14. Shri S.S. Ramasubbu
15. Dr. Kavuru Sambasiva Rao
16. Shri Adv. A. Sampath
17. Vacant*
18. Shri Thakur Anurag Singh
19. Dr. M. Thambidurai
20. Shri Shivkumar Udasi
21. Shri Dharmendra Yadav

RAJYA SABHA

22. Shri Naresh Agrawal
23. Shri Rajeev Chandrasekhar
24. Smt. Renuka Chowdhury
25. Shri Piyush Goyal
26. Shri Satish Chandra Misra
27. Dr. Mahendra Prasad
28. Shri Ravi Shankar Prasad
29. Shri P. Rajeeve
30. Shri Praveen Rashtrapal
31. Dr. Yogendra P. Trivedi

SECRETARIAT

1. Shri A.K. Singh - Joint Secretary
2. Shri Ramkumar Suryanarayanan - Additional Director

* Shri Sarvey Sathyanarayana, MP ceased to be the Member of the Committee w.e.f 28.10.2012 consequent upon his induction to the Union Council of Ministers

INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorised by the Committee, present this Sixty Fourth Report on action taken by Government on the recommendations contained in the Fifty Fifth Report of the Committee (Fifteenth Lok Sabha) on Demands for Grants (2012-13) of the Ministry of Corporate Affairs.

2. The Fifty Fifth Report (15th Lok Sabha) was presented to Lok Sabha/laid in Rajya Sabha on 24 April, 2012. Replies indicating action taken on all the recommendations contained in the Report were furnished by the Government on 24 July, 2012.

3. The Committee considered and adopted this report at their sitting held on 29 November, 2012.

4. An analysis of action taken by Government on the recommendations contained in the Fifty Fifth 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;
4 December, 2012
13 Agrahayana, 1934 (Saka)

YASHWANT SINHA
Chairman,
Standing Committee on Finance

REPORT

CHAPTER I

This Report of the Standing Committee on Finance deals with action taken by Government on the recommendations/observations contained in their Fifty-Fifth Report (Fifteenth Lok Sabha) on Demands for Grants (2012-13) of the Ministry of Corporate Affairs, which was presented to Lok Sabha on 24 April, 2012 and simultaneously laid in Rajya Sabha on the same day.

2. Action taken notes have been received from the Government in respect of all the 14 recommendations contained in the Report. These have been analysed and categorized as follows:

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

Recommendation Nos. 3, 4, 5, 7, 8, 9, 10, 11, 12 and 14

(Total: 9)
(Chapter II)

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

Nil

(Total : Nil)
(Chapter III)

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

Recommendation Nos. 1,2, 6 and 13

(Total: 5)
(Chapter IV)

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

Nil

(Total : Nil)
(Chapter V)

3. The Committee desire that the replies to the recommendations/observations contained in Chapter I may be furnished to them expeditiously.

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

A. Budgetary Allocation

Recommendation (Serial No. 1)

5. The scrutiny of Demands for Grants of the Ministry of Corporate Affairs revealed substantial and persistent underutilization of the total expenditure in the Non Plan outlay. For instance, the provisions of Rs.196.62 crore at the BE stage in the year 2009-10 was increased to Rs.206.05 crore at the RE stage, while the actual expenditure was to the tune of Rs.190.15 crore only. Though, the provision of Rs.209.01 crore at the BE stage in the year 2010-11 was reduced to Rs.198.89 crore at the RE stage, the actual expenditure turned out to be Rs.183.09 crore, which was even less than the RE. Further, in the year 2011-12, provision of Rs.210.94 crore at the BE stage remained unchanged during the RE stage, still, the actual expenditure was Rs.172.56 crore only till February, 2012. This trend reflected that the formulation of Budget of Ministry of Corporate Affairs had been reduced to an exercise of unrealistic estimates projection coupled with underutilization of funds. The Committee in their earlier reports had commented upon the Ministry's failure in regard to appropriate projection of fund requirements while formulating budget estimates. However, recurrent and substantial underutilization of allocated funds indicated that the budgetary mechanism in place had been ineffective. The Committee, therefore, expected the Ministry of Corporate Affairs to exercise greater care in formulating their budget estimates and are of the view that periodic/quarterly meetings should be held to review and constantly monitor the trend and progress of expenditure.

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

“The budget grant of this Ministry provides for the expenditure on the Secretariat of the Ministry of Corporate Affairs and its field & attached/subordinates offices all over India under the Non-Plan Heads i.e. Modernization, Computerisation and Networking of Corporate Affairs and its field offices (MCA21), Investor Education & Protection Fund (IEPF), infrastructure activities. It also includes Grants-in-aid-General to the Competition Commission of India (CCI). The Budget Estimates and Revised Estimates are projected on the basis of anticipated expenditure proposed by each budgetary unit of the Ministry. Shortfall in utilisation of the budgeted funds is on account of non-filling up many posts in the Competition Commission of India, Attached/Subordinate offices. Also, savings under the

various object heads were on account of strictly enforcing the austerity measures and following the prescribed ceilings on expenditure. The Ministry exercises diligence while formulating its budget estimates and the process of expenditure is periodically monitored.”

7. The Committee observe from the reply submitted by the Ministry that the underutilization of allocated funds to the Ministry is on account of non-filling up of many posts in Competition Commission of India, Attached/subordinate offices of the Ministry. Further savings under various object heads were stated to be on account of strictly enforcing the austerity measures and following the prescribed ceilings on expenditure. While the Committee appreciate the efforts of the Ministry in enforcing austerity measures, the failure to fill up vacant posts in Competition Commission of India, Attached/Subordinate Offices and the consequent underutilization of funds is a matter of concern. The Committee are constrained to note that the issue of non-filing of vacant posts has been seriously affecting the functioning of almost all important offices under the purview of Ministry viz. RoC, CCI, SFIO. The Committee are of the view that immediate steps be undertaken to ensure filing of vacant posts and if considered necessary the Ministry should review its recruitment policy and of its attached/subordinate offices in a time bound manner so that the mismatch arising between the projected and available manpower requirements is addressed at the earliest. Whenever there is an urgent requirement in the above offices, personnel should be appointed on deputation / contract on a fast-track basis by the Ministry.

**B. Registrar of Companies (ROCs)
and Competition Commission of India (CCI)**

Recommendation Serial No. 2

8. The Committee noted that inspite of the efforts made by the Ministry in trying to beef up the regulatory and enforcement machinery in its field offices, the situation at the ground level is rather disappointing with 52,201 cases pending as on 31.12.2011. The Committee in its 37th Report on Demands for Grants (2011-12) of Ministry of Corporate Affairs had 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 Committee felt that to clear the technical backlog of work the Ministry should consider engaging professionals like practicing Chartered Accountants, Company Secretaries, etc. as consultants who being peer group are better equipped to scrutinize statements and other documents prepared on behalf of companies. Since the experience of the Ministry in engaging trainees (semi-qualified professionals of ICSI and ICWAI) for 6 months and on continuous basis in the field offices and Headquarters to assist the staff members in routine work enabling them to follow up more critical activities had been found to be satisfactory, the Committee expected the Ministry to increase the scale of such engagement. To make this system work efficiently, the Committee desired the Ministry to clearly define the duties and accountability of these hired professionals in their terms of engagement.

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

“The recommendation of the Committee to increase the scale of engagement of trainees (semi-qualified professionals of ICSI and ICWAI) has been noted. The number of such trainees will be suitably increased keeping in view the requirement of the field offices and Headquarters. The present requirement of trainees has been worked out on the basis of quantum of work, pendency, backlog etc. in those offices. These trainees will help the regular staff of ROCs in routine work and the regular staff will follow up the important activities, such as;

- (i) Action against companies, which are not submitting returns.
- (ii) Investigations and inspections of defaulting companies.
- (iii) End use of funds of IPOs.
- (iv) Follow up of cases of mergers, acquisitions, demergers, winding up in courts.

2. It is brought out that such training is mandatory for these semi-qualified professionals for practicing the profession after qualifying the examination.”

10. The Committee note that while the Ministry has agreed to increase the scale of engagement of semi-qualified professionals to assist the staff members in routine work, the Ministry has evaded reply over the recommendation of engaging professionals like practising Chartered Accountants/Company Secretaries, etc. as consultants to scrutinize financial statements and other documents filed with the Registrar of Companies and to clearly define the duties and accountability of these professionals in their terms of engagement. The Committee in its 48th Report on action taken by the Government on the recommendations contained in their 37th Report on Demands for Grants (2011-12) of the Ministry of Corporate Affairs had recommended that efforts be made for filling of vacancies including selecting professionals on contract/deputation basis so as to overcome the staff crunch immediately. The Committee reiterate their recommendation that the Ministry should consider roping in professionally qualified persons on contractual basis to augment the existing cadre/personnel manning the field offices as well as the attached offices and clearly define the duties and accountability of these professionals in their terms of engagement.

C Competition Commission of India (CCI)

Recommendation Serial No. 6

11. The Committee also urged the Ministry to expedite the investigation of cartelization in cement and onion sectors and reports its findings to the Committee at the earliest. The Committee noted that in case of the aviation sector, the Commission had closed the matter as it had found no evidence on record to suggest that airlines operators raised the airfares and/or withdrew their

promotional fares across all sectors because of some agreement between them. While disagreeing with the findings of the commission, the Committee would like to have details of the investigation on the basis of which such conclusion has been drawn by the Commission.

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

“With regard to the alleged cartelization in Cement Industry, the Competition Commission of India has issued final order on 20.06.2012 in case No.29/2010 filed by Builders Association of India against Cement Manufacturers Association. The Commission has imposed penalty on 11 Cement manufacturers at 0.5. times of their profit for the years 2009-10 and 2010-11. The Commission has also imposed penalty on the Cement Manufacturers Association.

Copy of the final order of the Commission is available on the website of the Competition Commission of India i.e. www.cci.gov.in

2. As regards Onion, the Commission took suo moto notice of increase in prices on 06.01.2011 and referred the matter to Director General for Investigation. Based on the report submitted by the Director General, the Commission closed the matter under section 26 (6) of the Act on 10.04.2012. The brief findings of the Commission in this matter are:

- Price of onions in Delhi had fluctuated due to change in demand-supply conditions in the wake of untimely and erratic rains in areas of Kharif onion producing states which damaged the crop. Not only in Delhi, there were fluctuations in other cities also in onion prices due to the supply shocks.
- No evidence of mass hoarding under an agreement could be found for the period under reference.
- Price of onions in mandis is determined by auction. The auction price ultimately affects the wholesale and retail prices in the markets. When the auction price of Onion itself was very high at all places – Delhi, Alwar, Lasalgaon, Pimpalgaon, Bhavnagar and at the other mandis of Gujarat, Rajasthan and Maharashtra in the second quarter of month of December 2010, it was natural for prices to go up further in wholesale and retail market absorbing the margins at various levels in supply chain.
- The Commission observes that there is no evidence to suggest that there was manipulation in the auction prices and while produce was auctioned at a higher rate, farmers were paid lower prices.

3. As desired by the Committee, the details of the investigation on the basis of which Commission closed the matter for the alleged cartelization by the airlines operators to raise the air fares and/or withdrawal of promotional fares is given hereunder :

4. The Commission, after going through items published in various dailies/weeklies and the details obtained from DGCA (Air Transport Circular

2 of 2010 dated 19th November, 2010), had taken suo moto notice of the issue that there appears to be concerted action by the airlines to increase the fares. The said concerted action 'prima facie' appeared to be in pursuance of a tacit collusion between the airlines. Accordingly, the Commission formed opinion of existence of prima facie case and, therefore, referred the matter to DG for investigation u/s 26 (1) of the Act.

5. Present position: The Commission has passed final order in the matter. The Commission could not find any violation of provisions of Competition Act by the Airlines. The Commission had made following observations in the order:

"The Commission notes from the findings of Director General that like in any peak season, during Diwali of 2010, load factor on airlines had increased and in some cases it was about 100%. Keeping with this trend, the percentage of tickets sold in the higher buckets of airlines had also gone up. To this extent, it may be said that there is a pattern in air fares going upwards together in a sense that during the period of high demand, fares of all airlines tend to move together. However, in absence of evidence of any organized, express or tacit collusion among the airlines, the Commission feels that it cannot be concluded that the airlines have entered into any anti-competitive agreement in violation of section 3 (3) of the Act.

The Commission also observes that in course of investigation, DG has not come across any evidence which would suggest that there was any concerted action on part of airlines to reduce the capacities with a view to raise the fares in face of high demand during February 2009 and October-November 2010. Before Director General, Airlines like GoAir, IndiGo and SpiceJet have denied that there was any reduction in number of flights during October-December 2010. In fact, IndiGo has submitted that on many sectors to cater to the demand, number of flights was increased. There is no evidence which brings out any concerted action on part of airlines to reduce capacities in February 2009 either.

Based upon the foregoing, the Commission finds that no case of contravention of any of the provisions of section 3 (3) of the Act is made out against the airlines as has been alleged in these two cases. Accordingly, the Commission concludes that since there are no evidences on record to suggest that the airlines operators raised the air fares and /or withdrew their promotional fares across all sectors because of some agreement among them during the period under investigation, the proceedings in matter deserve to be closed forthwith."

6. The Committee desired to have details of the investigation on the basis of which the Commission has decided to close the matter. In this regard findings of DG have been reflected in the order of the Commission dated 10.01.2012 at Annexure.

7. In another case, the Commission received a reference under Section 19(1)(b) of the Competition Act from Standing Committee on Finance

through Ministry of Corporate Affairs on the increase in the fares by different airlines. The Committee observed that:

- a) Due to strike of Air India, different Airlines are charging exorbitant prices for tickets;
 - b) In a normal course also, one cannot take tickets on line, even though seats are available, and tickets have to be bought at higher prices near to the date of departure.
8. The Commission, after considering the investigation report submitted by Director General on the subject, passed final Order on 11th January, 2012. The Commission could not find any violation of provisions of Competition Act by the Airlines.”

13. The Committee observe that the Commission gave its findings over the issue of alleged cartelization in the onion, cement and the airlines sectors. While in case of Onion Sector, the Commission found no evidence of cartelization, in the case of cement sector, the Commission had however imposed penalty on 11 Cement Manufacturers and on the Cement Manufacturers Association as well. The Committee are of the view that it would have been better if the Ministry had provided a copy of the final order of the CCI in the case of cartelisation in cement sector along-with their replies instead of simply advising the Committee to check the final order of the Commission in its website. The Committee find the response of the Ministry in this regard to be rather casual and would thus expect them to be more serious while furnishing replies to the Committee.

14. The Committee note that in case of the onion sector, the Commission took suo motu increase in prices on 06.01.2011 and referred the matter to Director General for Investigation. The Director General submitted his report on 10.04.2011 and the matter remained under the consideration of the Commission for almost a year before it gave its final order of closing down the case.

15. In case of the airline sector, the Commission took suo motu notice of the issue of concerted action by the airlines to increase the fares around the Diwali season of 2010. While the Director General found no evidence of cartilization among the airlines, the final order of the Commission was passed after more than a year in the month of January, 2012, in which the Commission concluded that no case of cartelization was made out against the airlines.

16. The Committee thus observe that the Competition Commission of India (CCI) has been taking unduly long time in arriving at their decisions. They are, therefore, of the view that CCI should be more prompt while deciding issues of price-cartelization and price rigging, resulting in faster disposal of cases.

**D. Corporate Governance
Recommendation Serial No. 13**

17. In the light of emerging industrial practices and evolving accounting/financial norms and standards, the Committee desire that the Ministry may review the role, functions and scope of the two related professions, namely Chartered Accountants and Cost Accountants and bring necessary amendments, if required, in their respective statutes so that the ambiguities and grey areas are duly addressed.

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

“The process of review of the Chartered Accountants Act and Cost Accountants Act is on going and grey areas as and when identified are suitably addressed.”

19. The Committee would reiterate their earlier recommendation that the process of reviewing and identifying the grey areas in the functioning of the professional bodies governing the related professions, namely Chartered Accountants and Cost Accountants be expedited and corrective measures initiated by bringing out necessary amendments in the governing statutes of these professions.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation Serial No. 3

Paragraph No. 3

Early Warning System(EWS)

The Committee observe that the Early Warning System put in place by the Ministry of Corporate Affairs has achieved some results in generating early alerts about defaulting companies. The Committee, however, desire that this system should be made more robust by developing an interdepartmental IT enabled interface in which related Government agencies like SEBI, Enforcement Directorate and Income Tax Department, etc. are able to share system generated early warning alerts about potential corporate defaults so that timely action could be taken by the respective Government Departments.

Reply of the Government

Apart from the existing mechanism of Early Warning System based on statutory filings by Companies, additional alerts have been developed based on the financial statements filed by a select class of companies in the XBRL (eXtensible Business Reporting Language) format from the year 2010-11.

2. XBRL offers significant enhancement over previously used 'pdf based reporting of financial statements' as it ensures improved data quality and standardization of accounting concepts as well as increased compliance of provisions of Companies Act, 1956 and other laws governing the corporate functioning. Adoption of XBRL filing by MCA would also be of definite help for other government regulators like RBI, SEBI, Enforcement Directorate, Income Tax, IRDA etc. in carrying out and facilitating their regulatory roles most efficiently. MCA has been in constant interaction with these regulators (e.g., RBI, SEBI) for capture of their regulatory disclosures alongwith annual statutory filing of financial statement by companies to MCA. MCA has also requested other regulators like Enforcement Directorate, IRDA, CBEC, CBDT, Central Electricity Regulatory Commission (CERC), etc to inform about their regulatory requirements from companies so that these may also be captured in XBRL filings by companies. Based upon regulatory requirements by other government regulators, the MCA taxonomy (an electronic dictionary or classification of accounting elements used for XBRL filing) would be suitably revised.

3. The financial statements filed by companies in XBRL using such taxonomy could be shared and used by multiple regulators for their purposes. XBRL assures improved data quality, viz., consistency, accuracy and standardization of accounting concepts that could be gainfully exploited by regulators to arrive at objective conclusions.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

Competition Commission of India (CCI)

The Competition Commission of India was constituted in the year 2009 with the main objective of promoting and sustaining competition and to make markets more responsive to consumer preferences. The Committee feel that since CCI is still in its formative years, it has to increase its visibility amongst all the stakeholders. This would require involving law colleges, professional institutes like ICSI, ICAI etc., and Chambers of Commerce for conducting various workshops and seminars.

Reply of the Government

The Commission, in exercise of proviso under Section 49 of the Competition Act, has undertaken following measures for creating awareness amongst various stakeholders:-

1. (i) Secretaries of Central Government Ministries/Departments, Chief Secretaries of States and Chief Secretaries/Administrators of Union Territories have been sensitized about the importance of framing competition coherent policies and the need of undertaking competition assessment of existing Government policies. (ii) Most of the Central Government Ministries/ Departments have nominated 'Nodal Officers' to engage with CCI. The 'Nodal Officer' would act as an interface between the Ministry/ Department and the Competition Commission of India (CCI) for inducing principles of competition in various Government policies, rules and regulations so as to make them competition coherent. (iii) CCI is in the process of organizing a Roundtable to build capacity of the respective Ministries/Departments in conducting the competition impact assessment. (iv) Similar exercise will be replicated for State Governments/Union Territories which have yet to fully respond in nominating the Nodal Officers.
2. To carry forward the outreach programme of competition advocacy and to nurture competition culture in the society, CCI has also been using a media campaign through both Print and Electronic Media.
3. Lectures have been organized at various educational institutions including law colleges, professional institutes and senior secondary schools. Moot Court Competitions at various Law Universities are being organized regularly National Level Essay Competition for students of senior secondary schools, undergraduate courses and professional courses are being organized annually.
4. Seminar/workshops have been organized with Central Public Sector Undertakings on 'Public Procurement & Competition Law'. Workshops/Seminars are organized for Industry Associations and Chambers of Commerce.
5. Seminars are organized in Training Academies for probationers of Govt. Services.
6. Workshops have been organized for Consumer Forums. The Commission is proposing to organize few Regional Workshops to create awareness among Consumer Dispute Redressal Machinery and Consumer Forums.
7. Advocacy literature/booklets in simplified language has been designed for various stakeholders for creating awareness about the benefits of competition law inter-alia role & functions of the Commission and distributed in various forums.

8. With the objective to familiarize students with the various provisions of Competition Law and related issues, the Commission provides internship facility to the students pursuing their study on subjects like Economics, Law, Management and Finance.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

Recommendation Serial No. 5

Paragraph No. 5

Competition Commission of India (CCI)

The Committee further observe that CCI has also undertaken market studies to identify market distortionary activities. Considering the scale and size of the Indian economy, these studies have covered very few sectors. The Committee, therefore, expect the Commission to increase the scale and size of its market research studies in the coming years.

Reply of the Government

After enforcement of the Competition Act, the Commission had outsourced three market studies viz 'Steel, Paper & Agricultural marketing with special focus on Onion.' The studies on Steel and Paper have been completed while study on Agricultural Marketing commissioned to ISEC, Bangalore is on-going. The Commission also wants to expand research and understanding of the informal economy including Agriculture markets. With a view to ensure cohesive integration of economic analysis into the enforcement of Competition Act, 2002, the Commission is contemplating having a Dedicated Research Unit within some external agency to carry forward this agenda.

2. In the current year, studies on sectors like pharmaceutical industries and two wheeler automobile industries are in the pipeline and Commission is exploring the possibility of outsourcing the studies to some external agencies of repute.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

Recommendation Serial No. 7

Paragraph No. 7

Competition Commission of India (CCI)

The Committee note marginal increase in the budget allotment of CCI from Rs.39.49 crore at the BE stage of 2011-12 to Rs.44.74 crore at the BE stage of 2012-13. According to Committee, such increase in budgetary allocation may be adequate to meet the increase in salary, allowances and other administrative expenses of the Commission but to incur additional expenditure in promoting competition advocacy, conducting market research studies to identify anti-competitive practices in the economy, etc. the Committee suggest to the Ministry to increase the budgetary support to CCI.

Reply of the Government

The Commission has been provided with Rs.40.42 crore under Budget Estimates 2012-13 after mandatory 10% cut imposed under Non-Plan expenditure in all Object Heads excluding "Salaries" and Plan expenditure for the said financial year. Additional Budget, if required, would be duly considered at the RE stage.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

Recommendation Serial No. 8

Paragraph No. 8

Competition Commission of India (CCI)

The Committee fail to understand as to why the Commission has not filled the sanctioned strength of posts both in the CCI and the DG office year after year. The Committee desire the Commission to chalk out a revised recruitment strategy to attract young and qualified talent from a diverse pool. The Commission may also consider empanelment of professionals on annual basis to tide over the shortage of skilled manpower.

Reply of the Government

At present, 100 posts are filled while 95 posts are vacant in the Commission (including in the O/o Director General). CCI is committed to fill up all the vacancies either by deputation or by direct recruitment. Sometime back, 37 posts had been advertised for being filled up by deputation in CCI. Out of these posts, 3 posts have been filled and one more is likely to be filled soon. Three more posts are likely to be filled in the near future and thereafter the remaining posts will be re-advertised for being filled on deputation basis.

2. The posts in the Office of the Director General are filled by the Ministry of Corporate Affairs. On the basis of recent advertisement for filling up vacant posts in the O/o Director General, two candidates have already joined. Offers of appointment have been issued to three candidates and offers are being issued to three more candidates. The remaining vacancies will be re-advertised for being filled on deputation basis.

3. 33 posts had also been advertised for being filled on direct recruitment basis. The process of selection is over and only four candidates could be selected. Further action to advertise the remaining posts is being taken separately. In addition, it is submitted that the Commission also engages Experts in the different fields viz., Law, Economics, Financial Analysis etc. from time to time, as per requirement.

4. At present, a total of 14 Experts have been engaged by the Commission (11 in the field of Law, 2 in the field of Economics and one in the field of Management). The Commission also proposes to engage 15 more Experts for which applications have already been received and are being scrutinized.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

Serious Fraud Investigation Office (SFIO)

SFIO is a multi-disciplinary investigating agency wherein experts from the field of banking, Capital Market, Company Law , Forensic, Audit, Taxation, Information Technology, etc. work together to unravel a corporate fraud. The Committee notice that on one hand, the Ministry have proposed statutory status to the SFIO through Companies Bill, 2011 while on the other hand the budgetary provision for FY 2012-13 has been reduced from Rs.595 lakh in RE of the year 2011-12 to Rs.511 lakh in BE of the year 2012-13. The reason furnished by the Ministry for this shortfall that since there has been an overall reduction in the Budget allocation of the Ministry of Corporate Affairs, budgetary allocation for SFIO had also been pro-rata reduced is not convincing. In view of SFIO's enhanced powers and responsibilities in the proposed company law regime, the Ministry will have to beef up its resources, both human and technological. The Committee are apprehensive that the reduced outlay for running such important attached office of the Ministry would hamper the investigation of complex corporate frauds, having inter-departmental and multi-disciplinary ramifications. The Committee, therefore, urge the Ministry to provide enhanced funds and skilled manpower to SFIO so that it can effectively discharge its functions.

Reply of the Government

Companies Bill, 2011 seeks to give statutory status to the Serious Fraud Investigation Office (SFIO). New Regional Offices of SFIO have already been opened at Chennai and New Delhi. It has also been decided to open Regional Offices at Kolkata, Hyderabad and Ahmedabad in due course of time.

2. All out efforts are being made to recruit people on deputation by issuing advertisements in the Newspapers/Employment News and requests to different Heads of organizations through D.O. letters have been made to select skilled manpower having expertise in the required field. In addition, to cope up with the shortage in various disciplines, Consultants in different fields like Banking, Forensic Audit, Company Law, Investigation, Chartered Accountancy have been engaged. Government is hopeful of meeting the challenges of effective investigation through the skilled manpower in the form of experts in different fields.

3. For opening of new Regional Offices and filling up of vacancies in the different disciplines in SFIO, additional funds will be needed which will be sought at the RE stage.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

Investor Education and Protection Fund (IEPF)

The Committee note that the Ministry has established the IEPF with the objective of promoting investor awareness and protecting their interest including the small investors. The Committee welcome the move of the Ministry to get Investor Awareness Programmes conducted through Regional Directors, as this would help in covering region-wise maximum number of investors spread across different regions of the country. However, the Ministry has made allocation of Rs.3.6 crore to Regional Directors for investor awareness programmes by reducing the annual fund allocation of IEPF to Rs.1.4 crore. The Committee have been recommending time and again to the Ministry for augmenting the corpus of IEPF 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. While emphasizing to treat investor awareness and protection with due seriousness, the Committee reiterate the demand for more allocation under this head and suggest the Ministry to devise interactive methods of conducting investor awareness programmes through out the country.

Reply of the Government

The Ministry has been organizing the investor awareness programmes through Professional Institutes regularly. It was felt that Regional Directors as the representative of the Ministry in the field should be actively involved to monitor and steer these programmes. It was decided to allocate funds to Regional Directors to involve them more in this activity. It is brought to the notice of the Committee that the total fund allotment (i.e. Rs. 5.00 crore) has not been reduced. Enhancement of funds under IEPF will be considered at Revised Estimates stage keeping in view the expenditure incurred and the benefits accrued thereon.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

Investor Education and Protection Fund (IEPF)

The Committee note that the Ministry has decided to discontinue the Investor Helpline Project as it has restructured its complaint module on MCA-21 System. The Committee, however, feel that since net penetration in India is rather low, especially in tier II and tier III cities and remote areas of the country, the Ministry should reconsider its decision to discontinue Investor Helpline Project.

Reply of the Government

The Ministry has examined the utility aspect of the website www.investorhelpline.in before discontinuing the financial support. It was observed that the number of complaints on this website was showing a declining trend. In the meantime, a complaint monitoring module was made functional in MCA -21 Systems where such complaints were monitored and progressed by the field offices of the Ministry. In order to avoid duplicacy of work and save government money, a decision was taken to discontinue financial support to this website. The aspect of re-continuation of financial support was examined in the Ministry again and was not agreed to. The point about low penetration of net in India is agreed. However, it is informed that all complaints received in the Ministry and the field offices are entered into MCA -21 System for better monitoring and traceability. To reach out to the investors of tier II & tier III towns and remote places, the Ministry organized 2000 (approximately) investor awareness programmes through Professional Institutes (PIs) covering the entire nation.

Out of these investor awareness programmes, about 1800 programmes were conducted in tier II and tier III cities. Registrars of Companies receive physical copies of complaints which they enter into MCA – 21 System.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

Corporate Governance

The Committee note that the Ministry have forwarded a committee to formulate a policy document on corporate governance. The proposed Committee on Corporate Governance will enable the Government to have free and frank opinion of all stakeholders in the corporate sector, academics and members of public before finalizing any policy document on corporate governance. The Committee feel that in order to avoid Satyam like scandals, it is imperative to have strong corporate governance standards in the Country to provide a uniform and well- defined framework of good corporate governance. The Committee, while noting that the Companies Bill, 2011 has recognized the importance of strengthening the audit mechanism of Companies and independence thereof, urge the Ministry to come out with a formal whistle blower policy on the lines of corporate governance policy, so that adequate and uniform safeguards are put in place against victimization of persons who report instances of corporate misgovernance and scams.

Reply of the Government

The Companies Bill, 2011 has recognized the importance of strengthening audit mechanism of companies (in Chapter X clauses 139 to 148) and independence thereof. Clause 177 (9) & (10) of the Companies Bill, 2011 provides that a vigil mechanism has to be set up by the listed companies on the basis of rules to be prescribed for the purpose. A committee has been set up under the Chairmanship of Shri Adi Godrej to prepare a draft policy document on corporate governance.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

Corporate Governance

The Committee observe that many companies float their own NGOs and Trusts for Corporate Social Responsibility (CSR) activities and have received government grants and funds instead of spending their own money on CSR activities. The Committee recommend that the proposed corporate governance framework should suggest ways and means of monitoring CSR commitments of the Companies. The proposed framework should also suggest methods to check the release of funds from Central and State Governments to such NGOs, Trusts, Foundations, which are often aligned to the business objectives of their respective companies, so that the extent of financial support received by these organizations from their patron companies is clearly brought out.

Reply of the Government

Clause 135 of the Companies Bill, 2011 provides for a class of companies to constitute Corporate Social Responsibility (CSR) Committee of the Board to formulate and recommend CSR policy, to take up CSR activities as per Schedule-VII of the Bill and also monitor the CSR policy from time to time. The Board of such companies shall make every endeavour to ensure that the company spends, in every financial year, at least two percent of the average net profits of the company on CSR activities. In case the company fails to spend such amount, the Board shall disclose the reasons for such failure. Thus monitoring of CSR under the Companies Bill, 2011 is through disclosure norms.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

CHAPTER III

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

-NIL-

CHAPTER IV

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

Recommendation Serial No. 1

Paragraph No. 1

Budgetary Allocation

The scrutiny of Demands for Grants of the Ministry of Corporate Affairs reveals substantial and persistent underutilization of the total expenditure in the Non Plan outlay. For instance, the provisions of Rs.196.62 crore at the BE stage in the year 2009-10 was increased to Rs.206.05 crore at the RE stage, while the actual expenditure was to the tune of Rs.190.15 crore only. Though, the provision of Rs.209.01 crore at the BE stage in the year 2010-11 was reduced to Rs.198.89 crore at the RE stage, the actual expenditure turned out to be Rs.183.09 crore, which was even less than the RE. Further, in the year 2011-12, provision of Rs.210.94 crore at the BE stage remained unchanged during the RE stage, still, the actual expenditure was Rs.172.56 crore only till February, 2012. This trend reflects that the formulation of Budget of Ministry of Corporate Affairs has been reduced to an exercise of unrealistic estimates projection coupled with underutilization of funds. The Committee in their earlier reports had commented upon the Ministry's failure in regard to appropriate projection of fund requirements while formulating budget estimates. However, recurrent and substantial underutilization of allocated funds indicate that the budgetary mechanism in place has been ineffective. The Committee, therefore, expect the Ministry of Corporate Affairs to exercise greater care in formulating their budget estimates and are of the view that periodic/quarterly meetings should be held to review and constantly monitor the trend and progress of expenditure.

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 & attached/subordinates offices all over India under the Non-Plan Heads i.e. Modernization, Computerisation and Networking of Corporate Affairs and its field offices (MCA21), Investor Education & Protection Fund (IEPF), infrastructure activities. It also includes Grants-in-aid-General to the Competition Commission of India (CCI). The Budget Estimates and Revised Estimates are projected on the basis of anticipated expenditure proposed by each budgetary unit of the Ministry. Shortfall in utilisation of the budgeted funds is on account of non-filling up many posts in the Competition Commission of India, Attached/Subordinate offices. Also, savings under the various object heads were on account of strictly enforcing the austerity measures and following the prescribed ceilings on expenditure. The Ministry exercises diligence while formulating its budget estimates and the process of expenditure is periodically monitored.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24 .07.2012

Registrar of Companies (ROCs)

The Committee note that inspite of the efforts made by the Ministry in trying to beef up the regulatory and enforcement machinery in its field offices, the situation at the ground level is rather disappointing with 52,201 cases pending as on 31.12.2011. The Committee in its 37th Report on Demands for Grants (2012-13) of Ministry of Corporate Affairs had 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 Committee feel that to clear the technical backlog of work the Ministry should consider engaging professionals like practicing Chartered Accountants, Company Secretaries, etc. as consultants who being peer group are better equipped to scrutinize statements and other documents prepared on behalf of companies. Since the experience of the Ministry in engaging trainees (semi-qualified professionals of ICSI and ICWAI) for 6 months and on continuous basis in the field offices and Headquarters to assist the staff members in routine work enabling them to follow up more critical activities has been found to be satisfactory, the Committee expect the Ministry to increase the scale of such engagement. To make this system work efficiently, the Committee desire the Ministry to clearly define the duties and accountability of these hired professionals in their terms of engagement.

Reply of the Government

The recommendation of the Committee to increase the scale of engagement of trainees (semi-qualified professionals of ICSI and ICWAI) has been noted. The number of such trainees will be suitably increased keeping in view the requirement of the field offices and Headquarters. The present requirement of trainees has been worked out on the basis of quantum of work, pendency, backlog etc. in those offices. These trainees will help the regular staff of ROCs in routine work and the regular staff will follow up the important activities, such as;

- (i) Action against companies which are not submitting returns.
- (ii) Investigations and inspections of defaulting companies.
- (iii) End use of funds of IPOs.
- (iv) Follow up of cases of mergers, acquisitions, demergers, winding up in courts.

2. It is brought out that such training is mandatory for these semi-qualified professionals for practicing the profession after qualifying the examination.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

Competition Commission of India (CCI)

The Committee also urge the Ministry to expedite the investigation of cartelization in cement and onion sectors and reports its findings to the Committee at the earliest. The Committee note that in case of the aviation sector, the Commission has closed the matter as it has found no evidence on record to suggest that airlines operators raised the airfares and/or withdrew their promotional fares across all sectors because of some agreement between them. While disagreeing with the findings of the commission, the Committee would like to have details of the investigation on the basis of which such conclusion has been drawn by the Commission.

Reply of the Government

With regard to the alleged cartelization in Cement Industry, the Competition Commission of India has issued final order on 20.06.2012 in case No.29/2010 filed by Builders Association of India against Cement Manufacturers Association. The Commission has imposed penalty on 11 Cement manufacturers at 0.5. times of their profit for the years 2009-10 and 2010-11. The Commission has also imposed penalty on the Cement Manufacturers Association.

Copy of the final order of the Commission is available on the website of the Competition Commission of India i.e. www.cci.gov.in

2. As regards Onion, the Commission took suo moto notice of increase in prices on 06.01.2011 and referred the matter to Director General for Investigation. Based submitted by the Director General, the Commission closed the matter under section 26 (6) of the Act on 10.04.2012. The brief findings of the Commission in this matter are:

- Price of onions in Delhi had fluctuated due to change in demand-supply conditions in the wake of untimely and erratic rains in areas of Kharif onion producing states which damaged the crop. Not only in Delhi, there were fluctuations in other cities also in onion prices due to the supply shocks.
- No evidence of mass hoarding under an agreement could be found for the period under reference.
- Price of onions in mandis is determined by auction. The auction price ultimately affects the wholesale and retail prices in the markets. When the auction price of Onion itself was very high at all places – Delhi, Alwar, Lasalgaon, Pimpalgaon, Bhavnagar and at the other mandis of Gujarat, Rajasthan and Maharashtra in the second quarter of month of December 2010, it was natural for prices to go up further in wholesale and retail market absorbing the margins at various levels in supply chain.
- The Commission observes that there is no evidence to suggest that there was manipulation in the auction prices and while produce was auctioned at a higher rate, farmers were paid lower prices.

3. As desired by the Committee, the details of the investigation on the basis of which Commission closed the matter for the alleged cartelization by the airlines

operators to raise the air fares and/or withdrawal of promotional fares is given hereunder :

4. The Commission, after going through items published in various dailies/weeklies and the details obtained from DGCA (Air Transport Circular 2 of 2010 dated 19th November, 2010), had taken suo moto notice of the issue that there appears to be concerted action by the airlines to increase the fares. The said concerted action 'prima facie' appeared to be in pursuance of a tacit collusion between the airlines. Accordingly, the Commission formed opinion of existence of prima facie case and, therefore, referred the matter to DG for investigation u/s 26 (1) of the Act.

5. **Present position:** The Commission has passed final order in the matter. The Commission could not find any violation of provisions of Competition Act by the Airlines. The Commission had made following observations in the order:

“The Commission notes from the findings of Director General that like in any peak season, during Diwali of 2010, load factor on airlines had increased and in some cases it was about 100%. Keeping with this trend, the percentage of tickets sold in the higher buckets of airlines had also gone up. To this extent, it may be said that there is a pattern in air fares going upwards together in a sense that during the period of high demand, fares of all airlines tend to move together. However, in absence of evidence of any organized, express or tacit collusion among the airlines, the Commission feels that it cannot be concluded that the airlines have entered into any anti-competitive agreement in violation of section 3 (3) of the Act.

The Commission also observes that in course of investigation, DG has not come across any evidence which would suggest that there was any concerted action on part of airlines to reduce the capacities with a view to raise the fares in face of high demand during February 2009 and October-November 2010. Before Director General, Airlines like GoAir, IndiGo and SpiceJet have denied that there was any reduction in number of flights during October-December 2010. In fact, IndiGo has submitted that on many sectors to cater to the demand, number of flights was increased. There is no evidence which brings out any concerted action on part of airlines to reduce capacities in February 2009 either.

Based upon the foregoing, the Commission finds that no case of contravention of any of the provisions of section 3 (3) of the Act is made out against the airlines as has been alleged in these two cases.

Accordingly, the Commission concludes that since there are no evidences on record to suggest that the airlines operators raised the air fares and /or withdrew their promotional fares across all sectors because of some agreement among them during the period under investigation, the proceedings in matter deserve to be closed forthwith.”

6. The Committee desired to have details of the investigation on the basis of which the Commission has decided to close the matter. In this regard findings of DG have been reflected in the order of the Commission dated 10.01.2012 at Annexure.

7. In another case, the Commission received a reference under Section 19(1)(b) of the Competition Act from Standing Committee on Finance through Ministry of Corporate Affairs on the increase in the fares by different airlines. The Committee observed that:

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

8. The Commission, after considering the investigation report submitted by Director General on the subject, passed final Order on 11th January, 2012. The Commission could not find any violation of provisions of Competition Act by the Airlines.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

Recommendation Serial No. 13

Paragraph No. 13

Corporate Governance

In the light of emerging industrial practices and evolving accounting/financial norms and standards, the Committee desire that the Ministry may review the role, functions and scope of the two related professions, namely Chartered Accountants and Cost Accountants and bring necessary amendments, if required, in their respective statutes so that the ambiguities and grey areas are duly addressed.

Reply of the Government

The process of review of the Chartered Accountants Act and Cost Accountants Act is on going and grey areas as and when identified are suitably addressed.

Ministry of Corporate Affairs O.M. No.G-20018/17/2012-BGT dated 24.07.2012

CHAPTER V

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

-NIL-

**New Delhi;
4 December, 2012
13 Agrahayana, 1934 (Saka)**

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

**MINUTES OF THE FIFTH SITTING OF THE STANDING COMMITTEE ON FINANCE
(2012-13)**

The Committee sat on Thursday, the 29th November, 2012 from 1530 hrs to 1730 hrs.

PRESENT

Shri Yashwant Sinha – Chairman

MEMBERS

LOK SABHA

2. Dr. Baliram
3. Shri Rahul Gandhi
4. Shri Deepender Singh Hooda
5. Shri Bhartruhari Mahtab
6. Shri Sanjay Brijkishorlal Nirupam
7. Shri Prem Das Rai
8. Shri S.S. Ramasubbu
9. Shri Thakur Anurag Singh
10. Dr. M. Thambidurai
11. Shri Shivkumar Udasi

RAJYA SABHA

12. Shri Piyush Goyal
13. Dr. Mahendra Prasad
14. Shri Praveen Rashtrapal

SECRETARIAT

1. Shri A. K. Singh – Joint Secretary
2. Shri Ramkumar Suryanarayanan – Additional Director
3. Shri Sanjay Sethi – Under Secretary

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

- (i) Draft Report on action taken by the Government on the recommendations contained in the Fifty First Report (15th Lok Sabha) on Demands for Grants (2012-13) of the Ministry of Finance (Departments of Economic Affairs, Expenditure, Financial Services and Disinvestment);
- (ii) Draft Report on action taken by the Government on the recommendations contained in the Fifty Second Report (15th Lok Sabha) on Demands for Grants (2012-13) of the Ministry of Finance (Department of Revenue);

- (iii) Draft Report on action taken by the Government on the recommendations contained in the Fifty Third Report (15th Lok Sabha) on Demands for Grants (2012-13) of the Ministry of Planning;
- (iv) Draft Report on action taken by the Government on the recommendations contained in the Fifty Fourth Report (15th Lok Sabha) on Demands for Grants (2012-13) of the Ministry of Statistics and Programme Implementation; and
- (v) Draft Report on action taken by the Government on the recommendations contained in the Fifty Fifth Report (15th Lok Sabha) on Demands for Grants (2012-13) of the Ministry of Corporate Affairs.

3. The Committee adopted the draft reports at Sl.no. (iv) without any modification and those at Sl.nos. (i), (ii), (iii) and (v) with modifications. The Committee also authorized the Chairman to present all the Reports to Parliament in the current session.

The Committee adjourned at 1730 hours.

APPENDIX

(Vide Para 4 of the Introduction)

ANALYSIS OF THE ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE FIFTY FIFTH REPORT OF THE STANDING COMMITTEE ON FINANCE (FIFTEENTH LOK SABHA) ON DEMANDS FOR GRANTS (2012-2013) OF THE MINISTRY OF CORPORATE AFFAIRS

	Total	% of Total
(i) Total number of Recommendations	14	
(ii) Recommendations/observations which have been accepted by the Government (Vide Recommendations at Sl. Nos. 3, 4, 5, 7, 8, 9, 10, 11, 12 and 14)	10	71.42
(iii) Recommendations/observations which the Committee do not desire to pursue in view of the Government's replies	NIL	0.00
(iv) Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee (Vide Recommendations at Sl. Nos. 1, 2, 6 and 13)	04	28.58
(v) Recommendation/observation in respect of which final reply of the Government is still awaited	NIL	0.00