Chapter 2. Market Structure and Reported Competition Issues

2.1 The aspects of Agricultural Production, Marketing, Supply and Distribution need to be thoroughly studied for the purpose of determining the marketing structure and other issues related to agriculture sector. The said aspects, further, needs to examined in the light of relevant agricultural laws, rules, regulation, policies, schemes etc. the said laws are broadly classified under the following major heads i.e.

(i) Agriculture Marketing (ii) Agriculture Produce (ii) Mechanisation and Technology (iv) Plant Protection (v) Fertilizers, (vi)Horticultures (vii) Cooperation and (viii) seeds. The central laws dealing on the above aspects have been given in annexure-I. The subject 'agriculture' basically is a state subject under the Indian constitution, hence, respective state governments have also been vested with the power to enact laws on this subject. The list of such sample laws passed by state governments on different aspects of agriculture is given in Annexure-II.

2.2 A review of literature on the subject revealed the fact that a considerable number of studies have been carried out globally as well as national level. However it has been decided to briefly refer to two major reports i.e. one global report[1] and one national report[2]

Global Study:

2.3 Facilitating Efficient Agricultural Markets in India; an assessment of competition and regulating reform requirements. The Australian Centre for International Agricultural Research, Australian Government August, 2011

2.3.1 Major Findings & Impacts:

This report came to the finding that agricultural supply chains in India are subject to numerous form of regulating interventions such as input subsidies, APMC Markets and the activities of

[1] Facilitating Efficient Agricultural Markets in India; An Assessment of Competition and Regulation reform requirements. The Australian Centre for International Agricultural Research, Australian Government August, 2011 (policy no. ADP/2007/062)

[2] First report of Committee of State Minister In-Charge of agriculture marketing to promote reforms, appointed by Government of India, Ministry of Agriculture, April, 2001

Food corporation of India[3]. The impacts noticed and policy obtains proposed, in brief are listed below:

(1) Impacts:

(a) **Sceintific Impacts now and in 5 years[4].**

1. The regulatory intervention by government in the form of providing input subsidies, APMC Market and the activities of FCI are generally inefficient in meeting their stated public policy objectives and therefore unnecessarily restrict competition and significantly distort price signals through to the farm Level .

(b) Capacity impacts now and in 5 years[5] The response by government to declining yields and resource degradation has been ongoing increases in input and output subsidies. The Government of India agreed with the proposed approach to request that further work be undertaken on the Indian onion to assess whether regulatory restriction on competition and and/or anti competitive behaviour could explain recent high onion prices.

Community impacts – now and in 5 years[6]

(i) Economic impacts[7]

India is facing immediate food price inflation and declining agricultural productivity. By providing an approach to agricultural policy reform and identifying specific reform options in relation to the Food Corporation of India, the Indian Government now has a number of agricultural policy reform initiatives in place through agencies such as the Competition Commission of India.

(ii) Social impacts[8]

Agricultural policy based on subsidised input and output prices inevitably leads to lower farm incomes, over exploitation of the natural resource base and increasing public sector debt.

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[3] Para 8.1. at f.n.1
[4] Para 8.1 at f.n. 1
[5] Para 8.2 at f.n. 1
[6] Para 8.3 at f.n. 1
[7] Para 8.3.1 at f.n. 1
[8] Para 8.3.2 at f.n.1

(iii) Environmental impacts[9]

Current agricultural policy settings are leading to increased degradation of India's natural resource base. Subsidised electricity prices are, for example, leading to excessive ground water pumping, salinity, depleted aquifers and production systems characterised by high levels of greenhouse gas emissions. The reform of subsidised food grain commodity prices and input subsidies would directly address these problems.

2.3.2 Policy Options

Recognising that policy reform is the domain of the Indian Government, the study put towards the following policy options for its consideration based on the project analyses[10]:

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[9] Para 8, Executive Summary

[10] That the Indian Government, with the Competition Commission of India, move to adopt a 'market failure' based policy framework to guide agricultural policy reform.

1. Key components of that framework include:

- a transparent legislation/regulation review process, whereby agricultural regulation that significantly influences competition and food chain prices is subject to an independent, rolling, 5 year review process;
- as part of a broader agricultural policy reform program, government objectives need to increasingly focus on facilitating efficient input and output markets with necessary targeted assistance and safeguards for vulnerable groups;
- regular monitoring and surveying of the farm sector to enable a sound understanding of developments in farm incomes and productivity in response to the government's policy reform agenda, to be shared with key stakeholders; and
- the strategic application of competition law.

2. Analysis of alternative mechanisms for meeting the current government objectives pursued through FCI operations indicates that current problems with wasteful levels of stocks and denial of food to needy consumers can be minimised by:

- addressing the FCI's food security objective through the introduction of targeted programs which effectively meet those food security objectives in relation to the rural and urban poor, such as a food stamp program;
- addressing the FCI's farm income objective through alternative arrangements, such as a guaranteed price deficiency payment scheme;
- requiring the FCI to focus on the management of the buffer stock.

3. Given that much information already exists in relation to the adverse effects of agricultural policy involving the provision of government assistance through input and output prices, early reform priority be placed on:

- improving the ability of rural labour and farm families to adopt more efficient farm practices and to move into other sectors of the economy; and
- implementing an orderly transition program from currently provided input subsidies to new farm programs which focus on more appropriate measures of productivity and the market failure issues typically associated with agricultural production systems.
- To request the Indian Government that further work be undertaken on the Indian onion market to assess whether regulatory restrictions on competition and and/or anti competitive behaviour could explain recent high onion prices.
- Given that a key objective of the project was to engage with Indian policy makers, the success of the project was further heightened by an invitation from the Chief Economic Advisor to the Indian Government, Professor Kaushik Basu, to meet with

2.4 National Study:

First report of Committee of State Minister, In-Charge of agriculture marketing to promote reforms, appointed by Government of India, Ministry of Agriculture, April, 2011[11].

2.4.1 As per the recommendation of the conference of State Ministers of Agriculture, India held on 23rd April, 2008, a Committee of State Minister, In-charge of Agriculture Marketing was set up on 2nd March, 2010 under the Chairmanship of Hon'ble Minister of Marketing, and Cooperation, Government of Maharashtra with ten members from the state of Andhra Pradesh, Assam, Bihar, haryana, Gujarat, Madhya Pradesh, Maharashtra, Odisha, Karnataka and uttarakhand and Agricultural Marketing Adviser to the Government of India as Member Secretary, with the primary objective to guide the implementation of Agriculture Marketing reform initiatives in general and ToR in particular specified there in[12] **.** The said Committee of State Ministers has studied and analysed the following three major aspect in brief.

(A) PRESENT AGRICULTURAL MARKETING SYSTEM IN INDIA[13]:

(i) The present agricultural marketing system in the country revolves around enactment and enforcement of various legislations to protect the interests of producers and regulate market functionaries in the marketing channel.

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him following the workshop to discuss the project findings. He was particularly interested in the proposed reforms to the Food Corporation of India given the recent high food inflation being experienced despite the high stock holdings of the FCI.

[11] infra at f.n. 2

[12] The Terms of Reference of the Committee will be:-

(i) To persuade various Sate Governments/Administration of Union Territories (UT) to implement the reforms in agriculture marketing through adoption of model APMC Act and model APMC Rules;

(ii) To suggest further reforms necessary to provide a barrier free national market for benefit of farmers and consumer;

(iii) To suggest measures to effectively disseminate market information and to promote grading, standardization, packaging, and quality certification of agricultural produce.

[13] Summary of First report of Committee of State Minister, In-Charge of agriculture marketing to promote reforms, appointed by Government of India, Ministry of Agriculture, April, 2011. Prepared by DMI, Faridabad, Ministry of Agriculture Government of India, Para 1,

(ii) Except the States of Jammu and Kashmir, Kerala, Manipur and small Union Territories such as Dadra and Nagar Haveli, Andaman and Nicobar Islands, Lakshdweep, etc. all other States and UTs in the country have enacted State Marketing Legislations. The Government of Bihar had repealed its APMC Act since September 2006.

(iii) The APMCs in the country collects market fee in lieu of the services provided by them to facilitate marketing transactions. The rate of market fee varies from as less as 0.5% in Gujarat to maximum of 2% in States like Punjab and Haryana, etc.

(iv) APMCs came into existence as service oriented institutions operating to protect the interests of farmers and to check malpractices, if any, in marketing transactions for commodities and jurisdiction notified for the purpose. The advent of regulation of markets helped in mitigating marketing problems of the farmers to a considerable extent but they did not come up to the expectations of efficient marketing system. Over the year, they gradually shifted from service-oriented institutions towards revenue generating institutions for the State.

(B) FUTURE CHALLENGES:

After having consultation with State Governments on the recommendations made by Inter-Ministerial Task Force constituted on 4th July, 2001 the Ministry of Agriculture, Government of India formulated a Model Law on Agriculture Marketing in the year,
2003 and circulated to State Governments for implementation.

The draft Model Legislation provided for[14]:

(i) The Establishment of Private markets/yards, Direct Purchase Centers, Consumer/Farmers markets for direct sale and promotion of Public private Partnership in the management and development of agricultural markets in the country.

(ii) Separate constitution for Special Markets for Commodities like Onions, Fruits, Vegetables, Flowers, Etc.

(iii) Prohibition of commission agency in any transaction of agricultural commodities with the producers.

(iv) Redefinition of the role of State Agricultural Marketing Boards to promote standardization, grading, quality certification, market led extension and training of farmers and market functionaries in marketing related areas.

[14] ibid, Para 2.1

(v) Constitution of State Agricultural Produce Marketing Standards Bureau for promotion of Grading, Standardization and Quality Certification of agricultural produce.

(C) THE PRESENT AGRICULTURAL MARKETING SYSTEM: CONCERNS AND SUGGESTIONS[15]:

(i) **Promotion of Markets in Private or Cooperative Sector[16]**

Some States have (also) prescribed a minimum distance of these markets from the APMC markets. Such stipulations are likely to be prohibitive and may not encourage private markets.

(ii) **Establishment of Purchase Centres and direct purchase from farmers[17].**

In Andhra Pradesh, the license fee (Rs 50,000) prescribed for such a procurement centre is prohibitive. Direct procurement needs to be encouraged by way of simplification of its licensing system to provide fro rationalized registration mechanism with adequate protection for farmers and a provision of waiver of market fee on it.

(iii) **Contract Farming[18]:**

Only 12 States have exempted the market fee on purchases under contract agreements.

(iv) **Market Fee[19]:**

Rationalization of market fee and levy of single point market fee is needed facilitate the free movement of the produce inside a State, price stabilization and reduce price differences between the producer and consumer markets.

(v) Commission Agents[20]:

The Commission rates have not been reduced despite infrastructure development the APMC Markets. The high incidence of commission charges on agricultural / horticultural produce renders their marketing cost high, an undesirable outcome.

(vi) Establishment of Farmers' Markets (Direct Sale by Farmers)[21]

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[15] ibid, Para 3.2

[16] ibid, Para 3.2.(i)

[17] ibid, Para3.2.(ii)

[18] ibid, Para 3.2.(iii)

[19] ibid, Para3.2.(iv)

[20] ibid, Para 3.2.(v)

Long before the circulation of Model Act, 2003, Several States have promoted farmers Markets. These include Punjab (Apni Mandi), Haryana (Apni Mandi), Rajasthan (Kisan Mandi), Andhra Pradesh (Rythu Bazar), Tamil Nadu (Uzhavar Sandai), Maharashtra (Shetkari Bazar), Karnataka (Raithara Santhe) and Orissa (Krushak Bazar). These markets have benefited both farmers and consumers.

(vii) **Sale of Notified Agricultural Produce Outside the Market Yard by Farmers[22].**

Once a particular area is declared a market area, no person or agency is allowed to carry on wholesale marketing activities in that area without obtaining license for the same. This restriction has led to large intermediation and effectively resulted in limiting market access to farmers and prevented development of a competitive marketing system in the country.

(viii) **Declaration of some Markets as Special or Specific Commodity Markets[23]**

Already there are special markets for fruit and vegetables. The Model Act 2003 provides for declaration of any market as a special market or special commodity market with proper market infrastructure. Nine States have only made this provision in their amended Act.

(ix) **Mandatory Utilization of Market Committee Fund/Development Fund for Marketing Development[24].**

There is no specific provision in the APMC Act, which prohibits spending of Market Committee fund or development fund on purposes other than market development. As a consequence, a considerable part of these funds built out of market fee is transferred to general account of the State Governments. To check such practices, the Model Act provides for application of said fund for creation and promotion, on its own or through public-private partnership, infrastructure of post-harvest handling, cold storage, pre-cooling facilities, pack houses, etc. for modernizing the marketing system.

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[21] ibid, Para 3.2.(vi)

[22] ibid, Para 3.2.(vii)

[23] ibid, Para 3.2.(viii)

[24] ibid, Para 3.2.(ix)

(x) **Reorientation of Activities of APMCS and State Agriculture Marketing Boards (SAMBS)[25].**

APMCs and SAMBs should pay more attention to development of 'markets' and empowerment of farmers in post-harvest management.

(xi) **Lack of Competition in Regulated Markets[26]**

The licensing of commission agents/traders in the regulated markets has led to a monopoly situation in many States. For new licensing of traders/commission agents, owning space/shop within the market yards has been made compulsory. This acts as a major entry barrier for a new entrepreneur and thus prevents competition.

(D) **Policy Recommendations made by the Committee of State Ministers, 2011[27]:**

The committee made several policy recommendations under the following major heads:

(a) Reforms to Agriculture Markets[28]

(b) Promotion of Investment in Marketing Infrastructure Development [29]

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[25] ibid, Para 3.2.(x)

[26] ibid, Para 3.2.(xi)

[27] ibid, Page No. 6

[28] 1. The States are required to amend the APMC Act on the lines of Model Act and the reforming States may also notify Rules at an early date. It is necessary that Member States may complete the process early

2. The reformed States may come forward for development of Terminal Market Complex in their State. In order to simplify the procedure and promote private sector investment in development of Wholesale and Terminal Market Complex in the country, it was decided that there should be Unified single registration for main market (Hub) and Collection Centers (Spokes). It was also suggested that Collection Centers be treated as sub-yard under the Act to provide for a unified registration system.

3. The professionals are required for efficient management of existing markets for which either CEO of the Market Committee from outside the cadre may be appointed or existing personnel may be given professional training to manage the APMCs efficiently;

4. There is a need for independent regulator for market operation for which the post of Director Marketing as regulator may be segregated from the post of M.D. of Marketing Board as the Operator and Director Marketing should not draw salary and allowances from the Marketing Board. Thus, the role of service provider and regulator should be demarcated;

5. In many of the States, there is a provision that for taking a license, there should be shop in the mandi yard, which is hindrance for increasing the number of buyers in the market. Therefore, it was decided that the Member States de-link the provisions of compulsory requirement of shop for registration of traders / market functionaries for increasing the competition.

[29] 6. Under Essential Commodities Act, there is a need to have distinction between genuine service provider and black marketeers/hoarders, to encourage investment and better service delivery to the farmers. It was recommended to provide exemptions to Direct Marketeer, Contract Farming sponsor and Godown owner to the limit of their capacity of utilization of previous year;

7. Member States may maintain a separate account of market fee realized from purchase /sale of perishable horticultural produce and utilize the same for development of marketing infrastructure for horticultural produce

(c) Rationalization of Market Fee/Commission Charges[30].

(d) Contract Farming[31]:

(e) Barrier Free Markets[32].

(f) Market Information System[33]

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exclusively. Member States are required to amend their corresponding Rules to facilitate the same pending with which Member States may consider by issuing and instant appropriate orders to implement the same.

8. It was unanimously agreed that investment in marketing infrastructure under RKVY be increased to minimum 10-15% of State RKVY spending in reformed states. A letter should be issued to the Chief Secretaries of States stipulating such minimum investment. It was further stipulated that efforts be made to encourage certain minimum private investment in marketing infrastructure outside the APMCs also.

9. In order to enhance the private sector investment in marketing and market infrastructure development projects, there is need of incentivizing such investments, being long gestation period projects, by way of **Viability Gap Funding** and treating them "as infrastructure project" so as to help attract FDI and ECB for their development;

[30] 10. It was decided that Market fee/cess including Rural Development Fund. Social Development Fund and Purchase tax etc. should be maximum 2% of the value and the commission charges should be not more than 2% for food grains/oilseeds and 4% for fruits and vegetables;

11. it is necessary to link the mandi fee with the service and infrastructure being provided for transaction of agricultural commodities. If the direct marketing entrepreneur provides minimum specified infrastructure facility and backward linkage to the farmers, the concerned States/APCM should waive off market fee on such direct marketing;

[31] 12 To encourage contracting parties, the following is recommended for simplifying & rationalizing the registration process:

(a) District level authority may be set up for registration of contract farming and no market fee should be levied under it. The APMC should not be the authority for registration / dispute settlement under contract farming; and

(b) The disputes may be settled within five days and the decretal amount of appeal should not be more than 10 per cent of the amount of goods purchased under contract farming. Appeal should be disposed off within 15 days. No solvency certificate / bank guarantee may be required, if payment is made to the farmers on the same day of procurement of their produce.

[32] 13. The system of licensing of traders, commission agents etc. should be replaced by simpler & more progressive system of Registration. The validity period of registration should not be less than five years and such private markets should also be given exemption on land ceiling for smooth development of market infrastructure in the country. In order to ensure smooth and efficient marketing of agricultural produce, it was decided that there should be single window unified single registration for traders/market functionaries across the State to facilitate.

14. With the view to move towards barrier free National market, it was unanimously agreed by the Member. States that market fee/Cess can be levied at first transaction only between farmer and trader and in subsequent trading between trader to trader, there should be service charge related to service in the State as well as across the country.

15. In some of the States, there are check-gates for recovery of market fee, which hinders smooth movement of agricultural commodities particularly the fruits and vegetables, causing unnecessary delay and wastage. Therefore, it was decided that the Member States should take Initiative to remove such physical barriers, if any;

16. Member States deliberated on the requirement of documents for farmers to be carried with the consignment and it was decided that States should notify the type of documents to be a farmer, so that his consignment is not halted by the check posts / barrier; and

(g) Grading and Standardization[34]

2.5 A discussion held with the officials of the Directorate of Marketing Inspection (DMI). Faridabad, Ministry of Agriculture, Government of India has further revealed the following major problems faced in the process of Marketing agricultural Produce through APMC markets throughout the country.

(i) Not to provide or allow alternative marketing channels

(ii) Compulsory requirement of owning shops within APMC premises

(iii) Requirement of minimum distance from existing APMC Market.

(iv) Compulsory payment of Market Fee even if sale transaction takes place outside the market yard.

(v) Restriction on trading in another Mandi.

(vi) Regulator and licence issuing authority one and the same.

(vii) Levy of Market fee at each stage.

2.6 Monopoly procurement of Agricultural Produce by government Agencies through Minimum Support Price (MSP)

2.6.1 The Farmers in India, often, do not get fair and reasonable price for their produce after harvest. Further, due to lack of adequate storage facility coupled with pressure from the creditors, the farmers resort to distress sale of their produce, at times, far below the cost of production of such commodities.

2.6.2 The government of India, with a view to ensure remunerative prices to the growers for their produce announces Minimum Support prices (MSP) for procurement of for 27 Commodities[35].

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[33] 17. Member States will make effort to ensure proper and regular data entry in AGMARKNET nodes provided in the Regulated Markets in the State for the benefit of the farmers.

18. In order to enhance the private sector investment in marketing and market infrastructure development projects, there is need of incentivizing such investments, being long gestation period projects, by way of **Viability Gap Funding** and treating them "as infrastructure project" so as to help attract FDI and ECB for their development;

[34] 19. There is a need for grading of agricultural produce before it is sold to facilitate the farmers to fetch the prices commensurate the quality. States should provide Directorate of Marketing and Inspection (DMI), necessary inputs such as name of commodity, quality parameters important for formulation of grade standards for producers' level grading under Agricultural Produce (Grading & Marking) Act, 1937, which would be relevant and specific to their State;

20. To promote the grading and testing of agricultural produce, States are required to take initiative for establishing grading units with trained manpower in the market to attend to work of grading and to promote private laboratories for testing agricultural produce on use-charge basis.

2.6.3 The procurement of Agricultural Commodities at MSP are being carried out by the following Government agencies with monopoly status:

(i) Food Corporation of India (FCI) for food stuffs.

(ii) Cotton Corporation of India (CCI) for cotton.
(iii) Jute Corporation of India for Jute.
(iv) Central Ware housing Corporations (CWC) for oil seeds and pulses.
(v) National Agricultural Marketing Federation of India (NAFED)
(vi) National consumer Cooperative Federation (NCCF)
(vii) Tobacco Board.

Further, the Government of India reimburses upto 15 per cent of MSP in case of the losses, if any incurred by the said central agencies while undertaking Price Support Scheme (PSS) are reimbursed. Besides Government also provide working capital to the central agencies to undertake PSS.

2.7 The status of Agriculture Markets in India

2.7.1 As per the National Commission on Agriculture (NCA), one market each within the radius of 5 KMs should be established in India. The status of Agriculture Markets in India as on 31.3 2011 is given below:

Table: 2 Status of Agriculture Markets in India as on 31.3.2011

Sl. No.	Particulars	No. of Markets
1	Required number of Markets (as per NCA)	41, 868
2	Regulated Markets	7246
3	Wholesale markets	6534
4	Rural Primary markets	21,238

[35] **Cereals**- Paddy, Wheat, Jowar, Bajra, Maize, Ragi and Barely.
Pulses: Moong, Urad, Arhar, Gram Lentil , Pea’s.
Oil Seeds: Ground nut, Rapeseed and Mustard, Niger seed, Soyabean, Sunflower.
Fiber Crops: Cotton and Jute
Others: Sugarcane, VFC Tobacco, Onion Potato and Coconut

5	Sub total(2+3+4)	27,777
6	Total Agricultural markets (5+2)	35,023
7	Market needs to be established (1-6) (as per NCA estimate)	6845

Source: Number Of Whole Sale, Rural Primary & Regulated Markets In India (Final) as on 31 .03.2011 (Directorate of Marketing & Inspection **,** Department of Agriculture & Cooperation**,** Ministry of Agriculture, A-Block, CGO Complex, NH-IV**,** Faridabad (Haryana) -121 001)

2.7.2 The state wise details of markets along with other parameters are given in Annexure IV.

2.7.3 It is sad to note that the average area served by each market is far in excess of the area to be served as per the recommendation of NCA ie. Radius of 5 KMs.

The UT of Pondicherry tops the list with an average of 54.67 sq. kms served by each market. On the contrary, the average area served by a market in Meghalaya extends to 11,214.50 sq kms.

An analysis of the state wise data of Agriculture Markets in India (Table 2.1) clearly reveal the following major inferences.

(i) Not even a single state/UT is in any way nearer to the average areas to be served by each market (ie 5 sq. kms)

(ii) The farmers have to travel on an average between 55 kms to over 1200 kms for the purpose of marketing their harvested agricultural produce.

(iii) Due to non-availability of agricultural markets for their Agricultural produce within a reasonable distance, the farmers, perhaps, are forced to sell their produce to the private traders at throw away price. In such a situation, the private trader virtually becomes the dictator of the price of agricultural produce, often, far below the cost of cultivation.

2.7.4 This coupled with several other factors lead to commission of suicides by farmers. As per the latest data available, one farmer for every 30 minutes die in India.[36]

2.7.5 One possible recourse to revert the situation could be to encourage the entry of private markets. Such a move, will not only minimise the current problems faced by farmers

[36] The Hindu daily, 29th October. 2011.

towards marketing their agricultural produce but also shall definitely infuse competition among existing markets, private traders and proposed private markets.

2.8 **Agriculture Credit flow to Farmers**:

The government of India, at times, comes out with policy measures, to enhance the flow of institutional credit to farmers. Such measures introduced in the past (June, 2004) inter-alia, include:

- Doubling of agriculture credit flow in the next three years
- Debt restructuring of farmers in distress and farmers in arrears
- Special One Time Settlement Scheme for settling the old and chronic loan accounts of small and marginal farmers
- Extension of financial assistance by banks for redeeming the loan taken by farmers from private money lenders
- Commercial banks to provide financial assistance @ 100 farmers per branch and 50 lakhs new farmers to be financed in a year.

The Government of India, w.e.f. khariff 2006-07, enabled the farmers to receive crop loans upto a principal amount of Rs. 3 Lakh @ seven per cent rate of interest. The government, during the year 2010-11, provided an additional two percent interest subvention, as an incentive to those farmers who repay short term crop loans as per schedule, which was further enhanced to three percent from the year 2011-12, thereby, ultimately enabling the farmers to an effective rate of interest of four per cent only.[37]

2.8.1 But, the said interest concession and facilitates are made applicable only to Public Sector Banks, Regional Rural Banks and Cooperative Banks. The farmers who avail such financial assistance from private banks and money lenders are being denied of such concession and facilities. This, perhaps, pave way for exploitation of farmers who are in need of financial assistance in many ways including parting the benefits with Banks, government and other officials.

[37] Based on a brief note prepared by ministry of Agriculture and Cooperation on “Briefly on Agriculture Credit Flow”. 2011.

2.8. 2 Therefore, the benefits in the form of interest concession and other benefits, hitherto to made available to Public Sector Banks, Regional Rural Banks and Cooperative Banks need to be extended to the farmers availing financial assistance from money lenders and private banks as well with a view to, inter-alia, minimise and eradicate slowly, the corrupt practices prevalent in the process of extending concession by government.

2.8.3 The National Bank for Agriculture and Rural Development (NABARD), provide financial assistance and support inter-alia to farmers through Public Sector Banks, Regional Rural Banks and Cooperative Banks. At present, NABARD is not extending the said support to Private Banks and other agencies such as National Cooperative Development Corporation (NCDC) as the target clientele remains the same for all. However, time has come that NABARD should provide financial assistance to NCDC under Rural Infrastructure Development Fund,

2.8.4 **National Cooperative Development Corporation of India (NCDC)**

National Cooperative Development Corporation of India (NCDC) was established by an Act of parliament in the year, 1963. The primary purpose and objective of NCDC, inter-alia is planning and promoting programmes for the production processing, marketing, storage, export and import of agricultural produce, foodstuffs, industrial goods, livestock, certain other commodities and services[38]. NCDC provides direct finding[39] as well as indirect finding through state/central government guarantees. The percentage of direct finding and indirect finding provided by NCDC in the year 2001-2002 was of the order of 9 per cent and 91 per cent respectively. The situation in the year 2010-11 changed completely to the extent that the direct finding has gone upto 89 percent and indirect finding plummeted to 11 percent. The said trend compelled the NCDC to resort to market borrowings at an higher rate of interest. The mandate of NCDC is to provide financial assistance to cooperative institutions with in a view to undertake related activities of agriculture such as processing, marketing, storage etc. hence, the NCDC deserve concessional financial assistance and treatment from government, RBI and NABARD.

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[38] National Cooperative Development Corporation of India (NCDC), Act, 1962

[39] Refers to the extention of financial assistance to cooperative institutions based on the viability of proposal and security provided by cooperative institutions

2.9 Proposed National Food Security Bill 2011 introduced in the Lok Sabha (Bill 2011 no. 132 of 2011)

2.9.1 The Food Security entitlements provided in the bill are listed below

1. Every person belonging to priority households and general households, is entitled to receive every month from the State Government, under the Targeted Public Distribution System, seven kilograms of food grains per person per month for priority households and not less than three kilograms of food grains per person per month for general households, at subsidised prices. The entitlements at subsidised prices shall extend up to seventy-five per cent. of the rural population and up to fifty per cent. of the urban population.
2. The subsidised food grains for priority House Holds shall be distributed @ not exceeding Rs. 3 per kg of rice, Rs. 2 per kg. for wheat and rupee 1 per kg for coarse grains.
3. The same for General House Hold shall be distributed @ not exceeding 50 per cent of the minimum support price for wheat and coarse grains and not exceeding 50 percent of derived minimum support price for rice.
4. The priority household shall constitute (not less than) 46 percent of rural and 28 percent of the urban population.
5. The subsidised prices shall extend upto 75 percent of the rural population and upto 50 percent of the urban population.
6. Every pregnant woman and lactating mother shall be entitled to meal, free of charge, during pregnancy and six months after child birth, through the local Anganwadi, so as to meet the nutritional standards specified in the Act .
7. To provide to such women maternity benefit of rupees one thousand per month for a period of six months in accordance with a scheme, including cost sharing, payable in such installments as may be prescribed by the Central Government.
8. Every child up to the age of fourteen years shall be entitled to (a) age appropriate meal, free of charge, through the local anganwadi so as to meet the nutritional standards specified in the Act in the case of children in the age group of six months to six years; (b) one mid day meal, free of charge, everyday, except on school holidays, in all schools run by local bodies, Government and Government aided schools, up to class VIII, so as to meet the nutritional standards specified in the Act in the case of children in the age group of six to fourteen years;

9. The State Government is required to identify and provide meals through the local anganwadi, free of charge, to children who suffer from malnutrition, so as to meet the nutritional standards specified in the Act and implement schemes covering entitlements of women and children in accordance with the guidelines, including cost sharing, between the Central Government and the State Governments in such manner as may be prescribed by the Central Government.
10. The destitute persons at shall be entitled to least one meal every day, free of charge, in accordance with such scheme, including cost sharing as may be prescribed by the Central Government.
11. In case of homeless persons an affordable meals at community kitchens, in accordance with such scheme, including cost sharing as may be prescribed by the Central Government;
12. The State Government, is of the opinion that an emergency or disaster situation exists, If to provide the affected households, two meals, free of charge, for a period up to three months from the date of disaster in accordance with such scheme including cost sharing as may be prescribed by the Central Government;
13. The State Government is required to identify persons, households, groups, or communities, if any, living in starvation or conditions akin to starvation and provide to all such persons, meals, two times a day, free of charge, in accordance with a scheme, including cost sharing, as may be prescribed by the Central Government, for six months from the date of such identification; and any other relief considered necessary by the State Government;
14. Entitle the eligible persons covered under of the proposed legislation, are made entitled to receive such food security allowance from the concerned State Government to be paid to each person, in case of non-supply of the entitled quantities of food grains or meals, within the time and manner prescribed by the Central Government;

2.9.2 The National Security Bill introduced in the Lok Sabha has already created lot of debate and controversy. The additional demand owing to be created in the event of implementation of various entitlements provided there in shall warrant additional procurement and storage of food grains by FCI, CWC & SWCs and creating warehousing. The defective mechanism at present inforce in relation to procurement, sale, storage and distribution of Essential Commodities through Public Distribution Scheme shall also, *ipso facto* shall become applicable once the scheme is implemented. Hence, the Government should also study the issues discussed in this paper in relation to procurement, sale, storage and distribution of Essential Commodities.

2.10 Case laws decided by Competition Commission of India

1. A firm engaged in the business of health services and also entered into the warehousing business in Utter Pradesh filed a complaint[40] against the Secretary, Ministry of Agriculture and Cooperation, Government of India (GOI) New Delhi with the following allegations:

(i) The practices adopted by Food Corporation of India (FCI), Central Warehousing Corporation (CWC) and State Warehousing Corporations (SWCs) (towards hiring of storage capacity for storing the operational and buffer stock of food grains to ensure national food security) is anti-competitive and in abuse of dominant position.

(ii) The policy of Government of India in giving absolute right and contract of procurement to FCI even though FCI has no capacity to procure fresh crops in covered godowns appears to be anti-competitive and in abuse of dominant position besides being against the interest of the country and national food security.

(iii) The FCI and associates (CWC & SWCs) are abusing their dominance and have formed an anti- competitive cartel amongst them.

(iv) FCI/ CWC/SWCs by forming amongst themselves cartel have levied various discriminatory conditions on the owners of private godowns that are willing to rent out their godwons to FCI.

The Competition Commission of India after hearing the complaint observed noted as under:

(i) The FCI and CWC/SWCs are discharging their statutory functions within the framework of their respective laws viz the Food Corporation Act, 1964 and

[40] Krishna Mohan Hospitals & Allied ,Medical Research Centre Private Limited V. The secretary Ministry of Agriculture & Cooperation New Delhi by Competition Commission of India case No. 75 of 2011 dated December, 28, 2011.

Warehousing Corporations Act, 1962 within the policy framework of government of India.

(ii) The relief sought for by the aggrieved party relate to the policy domain and as such cannot be granted by the CCI.

(iii) The aggrieved party, except making bold references to the Acts of the opposite parties as anti-competitive and in abuse of dominant position, has not placed before the Commission any such anti-competitive agreement or material data to define the relevant market.

(iv) The complaint ant has sought compensation Such prayers are not maintainable as the Commission does not have the power to grant compensation.

The commission finally concluded that the complainant failed to bring out coherently any competition issue or contravention of the Act, instead, his main grievances seems to be not hiring his godown by SWC or CWC.

From the above case, the commission made it clear that with regard to issues raised, if any alleging anti competitive practices or abuse of dominant position, related to the policy domain, the commission cannot grant the required relief grant the required relief.

2. In Re: Sugar Mills case (suo-moto case no. 1 of 2010, order dated 30.11.2011

This suo-moto case initiated by the competition commission of India (CCI) relates to the allegations of certain anti-competitive practices of sugar mills appeared in News article titled “Cartelization by Industry to Push Sugar Prices: Traders”, published in the “The Economic Times” on 26.07.2010. It was alleged in the article that the cooperative and private sugar mills have formed a cartel (by holding a meeting called by Indian Sugar Mills Association and the National Cooperative Sugar Mills Federation attended by its members) to boost ex-factory price of sugar by an average of Rs. 3 per kg strategically just one month before the peak demand season.

The CCI, by taking note of the said news item regarding cartelization sought comments from the Ministry of Consumer Affairs, food and Public Distribution, the Bombay Sugar Merchants Association based on the comments received from the said associations and replies submitted by the concerned Ministry Government of India, the CCI came to be following findings/ observations.

1. The sugar Mills operating from few states (Maharashtra, Gujarat, Andhra Pradesh, Karnataka and Tamil Nadu) have not contravened the provisions of S.3(3) of the competition Act, 2002 during the period of investigation and that actions have not caused "Appreciable Adverse Effect on Competition" (AAEC) in the market.
2. The sugar industry is not free from control and is at present highly controlled and regulated.
3. There are complex forces at play which distort and in a way proscribe the market from working in a competitive and free manner.

The CCI after considering the above facts and views, expressed the view that the government may after taking into account all aspects including need to have measures in place which may be necessary for overall socio and economic welfare frame a policy which allows the market and competitive forces to play a bigger role in the sector.