



A Central Asian country of incredible natural beauty and proud nomadic traditions, Kyrgyzstan¹ was annexed by Russia in 1864. It achieved independence from the Soviet Union in 1991.

Being a landlocked country, Kyrgyzstan is bordered by Uzbekistan, Tajikistan, Kazakstan and China. It is the first and one of the only countries in the region to be admitted as a WTO member (many others are still in the process of becoming so). It is also a signatory to the Commonwealth of Independent States (CIS) Treaty on the Implementation of a Coordinated Competition Policy².

Current concerns include: privatisation of SoEs, expansion of democracy and political freedoms, interethnic relations, and combating terrorism.

Economy³

Kyrgyzstan is a poor, mountainous country with a predominantly agricultural economy. Cotton, tobacco, wool, and meat are the main agricultural products, although only tobacco and cotton are exported in considerable quantity. Industrial exports include gold, mercury, uranium, and natural gas and electricity.

Kyrgyzstan has been fairly progressive in carrying out market reforms, such as improving the regulatory system

PROFILE	
Population:	5.1 million***
GDP (Current US\$):	1.7 billion***
Per Capita Income: (Current US\$)	330 (Atlas method)*** 1,620 (at PPP)**
Surface Area:	199.9 thousand sq. km
Life Expectancy:	68.4 years**
Literacy (%):	97 (of ages 15 and above)**
HDI Rank:	110***
Sources: - World Development Indicators Database, World Bank, 2004 - Human Development Report Statistics, UNDP, 2004 (**) For the year 2002 (***) For the year 2003	

and undertaking land reform. The country has adopted relatively liberal economic policies. The Government has made steady strides in controlling its substantial fiscal deficit. Together with the international financial institutions, it has been engaged in a comprehensive medium-term poverty reduction and economic growth strategy. Further, restructuring of domestic industry, and success in attracting foreign investment, are keys to future growth.

* Original paper submitted in December 2004. Revised in January 2006

¹ <http://cia.gov/cia/publications/factbook/geos/kg.html>

² The cooperation among the Competition Authorities of CIS countries is based under bilateral and multilateral cooperation frameworks. The framework for multilateral cooperation among CIS competition authorities was set by Agreement on Implementation of the Coordinated Antimonopoly Policy on December 23, 1993 in Ashgabad (the new edition of the Agreement was signed on January 25, 2000 in Moscow). Pursuant to Agreement, the Interstate Council for Antimonopoly Policy was created. The Interstate Council for Antimonopoly Policy of CIS meets at least once a year and operates on a project-based basis. The scope of activities within the framework of the Agreement is very broad ranging from simple data request to joint legal drafting. During the meetings the CIS Competition Authorities report on their progress and experience in enforcement of competition policy and consumer rights protection, major legal and operational changes in their respective jurisdictions, discuss on the proposed methodological guidelines, regulations and other normative documents, findings of the project research and define future plans of actions. One of the recent areas of discussion among the CIS Competition Authorities was introduction of competition into public utilities. Decisions of each meeting of the Interstate Council are registered in the Protocol of the Meeting and are enforced on the "good will" of each member competition authority. Each competition authority nominates two representatives, usually the head and deputy head of the authority, to represent the authority in the Interstate Council, (an email from Adham Kuchkarov of Uzbekistan's Antimonopoly Authority). *This applies to all the CIS countries.*

³ This chapter has been prepared by Emily Woodroofe, CUTS London on the basis of a paper presented by E. Uzakbaev, Chairman of the State Commission on Antimonopoly Policy and Leilia, Chief of Department of Normative Legal Provision and Financial Market Regulation, Government of Kyrgyzstan for the Seoul International Competition Forum, 2002. (Commented upon by Adham Kuchkarov of Antimonopoly Authority)

With fits and starts, inflation has been lowered to an estimated seven percent in 2001, 2.1 percent in 2002, and four percent in 2003. Much of the Government's stock in enterprises has been sold. Drops in production have been severe after the break up of the Soviet Union in December 1991, but has begun to recover by mid-1995 and exports have begun to increase.

Competition Evolution and Environment

Ten years ago, the Kyrgyz Republic, as well as the other CIS transition economies, began to recognise the market economy as the most effective way to attain social and economical wellbeing. The transition to a market economy necessitated fundamental and large-scale reforms in all spheres of life, which would enhance recovery from recession, and gradual development of the national economy.

The transition of the administrative economy of the Kyrgyz Republic to a market one, was under the conditions of a highly monopolised economy, underdeveloped market institutions and infrastructure, as well as deeply rooted traditions of State intervention.

The first Anti-monopoly Law of the Kyrgyz Republic was adopted on April 15, 1994, to restrain monopolistic activities; and to promote and protect competition.

The adoption of the Law was an important point in realising reforms aiming to develop competition in the Republic. The Law determines the organisational and legal bases for the development of competition; and actions to prevent, restrain, and suppress monopoly activity and unfair competition, providing an environment for the creation and effective function of the national commodity markets.

The Law is implemented by the State Committee on Antimonopoly Policy under the Government of Kyrgyz Republic (or the "Antimonopoly Agency"), which, along with this basic law, also implements other regulatory and legal acts, such as the law 'On Protection of Consumers' Rights', 'On Natural and Allowed Monopolies in the Kyrgyz Republic' and 'On Advertisement'. Furthermore, the Kyrgyz Government has developed and approved the following regulations:

- Procedure for investigations of Anti-monopoly law infringement;
- Provision on downsizing and sharing of large business entities;
- Methodical recommendations for determining the dominant position of a business entity in a commodity market;
- Methodical recommendations for analysing and assessing the state of the competitive environment in the commodity markets; and
- Methodical recommendations for suppressing unfair rivalry.

There are certain economic areas in which market pricing is not optimal. Such spheres include, first, natural monopolies, i.e. those market segments in which the development of competition is technologically impossible or economically inefficient. On natural monopolies, the major aim of the Government is not suppression of monopolistic activity, but rather the creation of conditions to regulate those particular businesses.

For this purpose, the Kyrgyz Republic has adopted the *Law On Natural And Allowed Monopolies In The Kyrgyz Republic* (October 08, 1999) that, today, is the principal legal instrument regulating competition or lack of competition inherent in the sphere of natural and allowed monopolies.

The regulation of the activities of natural monopoly entities occurs in the following sectors:

- Gas pipeline transportation;
- Transmission of electric and thermal power;
- Rail transportation;
- Airport and airport terminal services; and
- Electric power, postal services and other public services.

Today, the major regulatory bodies according to this Law are the Antimonopoly Agency; and other branch control bodies, such as the State Energy Agency and the State Communications Agency.

Competition Policy and Law

The development of the market economy in the Kyrgyz Republic has made fresh advances lately. A large number of small- and medium-sized business entities have now come up due to denationalisation and privatisation. It is necessary to further improve the normative base in order to regulate them effectively. In pursuing the aims to harmonise the Anti-monopoly law to comparative laws in the countries from the CIS and the world over, the Kyrgyz Government has developed a draft law called the *Kyrgyz Law 'On Competition'*.

This draft law is expected to determine the organisation and legal foundations of the national policy in the field of promotion and protection of competition; measures to prevent, limit, and suppress monopolistic activity; and to provide the conditions under which the national commodity market may operate effectively.

This draft law 'On Competition' has a wider and more comprehensive scope of application concerning various kinds of monopolies in the market. It will forbid combining the functions of the executive bodies with those of business entities; and assign business entities with functions of state control. It will also provide for state monitoring of the process of formation, reorganisation, and liquidation of the business entities, based on definite criteria for asset values at the time of creation or balance on the reporting date.

In addition, control over M&A type of transactions will be exercised when a business entity (a group of people or affiliated people) purchase shares, a partner's interest from another business entity, production facilities, etc. The necessity of such type of control is necessary to prevent capital concentration and resources in the hands of a few market operators, what may result in the elimination or restriction of competition, detrimental to the Kyrgyz national economy.

The draft Kyrgyz Law 'On Competition' is based on the constitutional principles providing:

- Freedom for economic activity;
- Identity of economic space;
- Free flow of commodity, services and financial instruments;
- Support of competition; and
- Prevention of businesses' abuse of dominance in markets and operation of artificially high or low prices, and unfair rivalry.

Anticompetitive Business Practices

At this point, the thrust of the Anti-monopoly laws of the Kyrgyz Republic is directed at the dominant position of a business entity in the market. A dominant position is deemed as an entity possessing an excess of 35 percent share of the respective commodity market of a definite product or a limit value annually established by the Antimonopoly Agency of the Kyrgyz Republic.

To exercise Governmental control over business entities holding a monopoly position in the markets, a State Register of Monopolistic Business Entities was created to include any business entities, regardless of the form of their ownership and Governmental intervention, in the following cases:

- An entity is a natural monopoly, if its share on the respective commodity market is over 35 percent; and
- Its activity or non-activity infringes the Anti-monopoly Law and consumers' rights.

Today, the State Register lists 101 enterprises, including 25 in the Republican register, and 76 in the Regional register.

At present, the aim is to change the Register from being a tool determining infringements of a mainly administrative or pricing character, into an instrument for control over business entities which are dominant in the commodity markets, by way of expanding the range of methods to regulate monopolies.

It should be noted that the effectiveness of the Anti-monopoly laws depends significantly on the coordination of actions by administrative authorities among themselves,

regarding *inter alia* investment, customs-tariffs, structure, financial policies and many other issues.

The work implemented to create a sound competitive environment largely depends on the effectiveness of the Governmental control over observance of the Anti-monopoly Law; procedure for price and tariff setting; and protection of producers' and consumers' rights.

Box 18.1: Flat Price for Electricity

The National agency of anti-monopoly policy and competition is considering introducing a flat tariff on electricity. In due course, an information leaflet titled, 'What is flat tariff?' will be published.

The leaflet highlights that a flat tariff is a tariff of consumed energy regardless of the volume. From May 01, 2006, flat tariff of 62 'tina' per kilowatt/hour will be introduced in Kyrgyzstan. This tariff will help consumers to know and regulate how much energy they consume.

Moreover, this will regulate unfair price increase of electricity as well as prevent distorted deals between suppliers and consumers. This will also reduce the level of corruption in the energy sector.

Source: www.competition.kg

Sectoral Regulation

Telecommunications Sector

Kyrgyzstan⁴, having followed a disciplined programme of economic reform, has steadily moved into a market economy, and has been achieving strong economic growth. As a consequence, the country has been able to attract foreign investment and assistance of various types.

The consequential benefits have flowed to the telecommunications sector, which is being restructured in the final phase of Kyrgyzstan's extensive privatisation programme. Although the country has been expanding and upgrading its telecommunications network since 1991, much work remains to be done.

Under the current Telecom Law, all telecommunication services and local networks are already liberalised with the exception of international and long distance voice telephony. Majority State-owned JSC Kyrgyz Telecom (KT) currently possesses an exclusive right, which was originally valid until January 2003, over the utility, though establishment of alternative infrastructure is permitted for so long as it does not carry voice telephony. KT's licence

4 www.budde.com.au/publications/annual/asia/central-asian-market-summary.html

has recently been reissued to reflect the planned withdrawal of KT's exclusivity in January 2003, in accordance with the government's WTO commitments. A new license was issued in January 2003, when the previous license expired.

Two operators: Katel (D-AMPS) and Bitel (GSM), provide mobile telephony services in Kyrgyzstan. The mobile market is still in its infancy, with services covering less than three percent of the population at end of 2003. Annual growth, however, is running in excess of 100 percent.

Kyrgyzstan has the largest number of Internet users per capita of any country in Central Asia. This sector of the market has been helped, to some extent, by an Asian Development Bank (ADB) loan for education and computers. Access to the Internet in Kyrgyzstan, as with other telecom services, is strongly biased towards the urban consumer.

The WTO⁵ has made the privatisation of Kyrgyzstan's telecom sector one of the most important preconditions for the country's accession to this organisation. In 2004, the Government asked for a price of US\$80mn for a 49 percent minority stake in KT, but found no takers, so they simply cut the price in half and lowered the investment obligations. The Kyrgyz Government is, currently, in negotiations with, among others, Telenor (Norway) and Turkcel (Turkey). Ten percent of Kyrgyz Telecom is already in private hands.

The State monopoly prevents mobile providers like Areopag and Katel from offering services via fixed lines, and Internet providers EICat and AsiaInfo from handling long distance and international calls via the Internet. Even after the privatisation, Internet providers and private telecom operators may still be barred from providing long distance and international services for less archaic reasons.

To ensure that a US\$500mn loan from the World Bank to build Kyrgyzstan's telecom infrastructure is repaid, a decree has been issued granting the buyer of Kyrgyz

Telecom exclusive rights to long distance and international services until 2008. This is sending confusing signals. The Kyrgyz telecom infrastructure is in desperate need of upgrading, while investment in the private sector is going up.

Consumer Protection

Once every year, the State Commission, involving Ministries, departments, and governmental organisations, holds a Consumers' Rights Protection Conference to discuss consumer related issues. It discusses the shortcomings in the administration; outlining the ways for further improvement of the mechanisms to implement the Kyrgyz Law on Consumers' Rights Protection, and to strengthen the interaction between governmental and NGOs to solve the resulting problems.

The State Commission has initiated the establishment of inspectorates, operating to reinforce consumers' rights protection. At present, this line of work is performed according to the coordinated plan of measures to implement the Law 'On Consumers' Rights Protection' of the Kyrgyz Republic.

Concluding Observations and Future Scenario

In order to fulfil the objectives of the competition law, the State Anti-monopoly Commission requires better coordination of activities by other ministries and departments, to resolve issues regarding the growing competitiveness of domestic enterprises; and awareness generation among the business enterprises.

A higher level of professionalism of the staff in the Anti-monopoly body plays an important role. Secondly, the all round growth of efficiency in work is needed to prevent unfair competition and suppress manifestation of monopolistic abuses. Thirdly, improvement of Kyrgyz interaction with competition agencies in other countries, for exchange of professional experience and harmonisation and strengthening of competition laws, is fundamental.

5 <http://www.internationalreports.com/ciscentralasia/99/kyrgyzstan/4.html>