

## Hospitals - India

## SC order on pricing – Just noise or real threat?

Industry Overview

## SC order on CGHS standard rates

A media article yesterday highlighted a Supreme Court judgement criticizing the Centre for not being able to implement the Clinical Establishment Act 2010 mandating notification of a standard rate for specific procedures in consultation with states. The SC bench warned the govt that if the provisions of the act are not implemented, SC will *“consider petitioner’s plea for implementing Central Government Health Services prescribed standardized rates for treatment of patients across India”*. The news article has raised questions on the likely implementation of such a regulation on impact of hospitals. While there are limited details on the order, we do not expect any earnings impact but would monitor the news flow for possible regulatory overhang on valuations.

## A risk to capacity creation?

Indian hospitals’ margins have benefitted from strong ARPOB growth in the last 3 years (10%+ for listed cos) that has been driven by case mix and higher insurance penetration rather than tariff increase (low single digit for the industry). Therefore, a key question from investors on this has been if this order could be a real risk to pricing or just noise given a supply starved healthcare services market in India. Industry participants see any such regulation dis-incentivizing private sector to invest in capacity creation just as the sector enters expansion model. While margins have improved, hospitals have long gestation with new facilities achieving sustainable RoIC in 4-5 years with increasing capital costs and higher duties on imported equipment. Moreover, standardizing treatment and procedure costs can be tough given the variance in the skills/experience of doctors and procedure protocols/consumables (types of lens, stent, implant, etc.). We would expect pushback from stakeholders in the industry on such a regulation.

## Pricing regulation is also complex in India

Healthcare service is a state subject in India and therefore, pricing regulations can differ across states. Even in case of such a regulation, there is complexity in adopting standard rates in each of the states given different government healthcare schemes (rather than CGHS) and pricing structure. As per the industry, there are some states where govt schemes pricing is not materially lower than non-scheme patients.

## A case from past seems quite contrasting

In contradiction to this recent judgement, the SC in 2021 rejected Maharashtra govt’s plea against HC ruling that quashed the state govt’s notification regulating private hospital rates for non-covid treatment. The SC bench in this case had noted that the state govt cannot issue such notifications when it itself *“does not have necessary infrastructure to treat non-Covid patients at govt hospitals.”* The HC with regards to the same case had earlier observed that *“govt’s notification were clearly an encroachment over the fundamental rights of the petitioner under Article 19(1)(g) of the Constitution of India to practice any profession.”* The petitioners here are doctors.

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CGHS: Central Government Health Scheme

ARPOB: Average Revenue Per Operating Bed

SC: Supreme Court

HC: High Court

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