Competition Distortions in India
– A Dossier

(CDI - 3: August – September, 2009)

For earlier Dossiers please see: http://cuts-ccier.org/Competition_Distortions_India.htm

This periodic dossier produced by CUTS looks at the interface of policy issues having an impact, both negative and positive, on competition in India. The dossier relies on published news from reputed sources but at the same time CUTS does not guarantee its accuracy. The purpose is to flag issues to the layman as well as to the specialised policymakers and regulators, rather than be judgmental about them. Judgments would require greater analysis particularly in terms of cost and benefits therewith.

This is the 3rd volume of the bimonthly dossier that we are producing to report on distortions to the competition process in India. The first two have been fairly successful as we read that the Competition Commission of India would do advocacy with the Ministry of Finance on the issue of mandatory travel by government staff on Air India and with the Department of Commerce on some anti-dumping cases. There has been no report of their advocacy, as yet.

In this volume, we also report about the Reserve Bank of India likely to seek exemption for the banking sector from the Competition Act, 2002, because it regulates the sector under banking laws and regulations. This is a specious argument and, if agreed, will open the gates for all regulated sectors to seek an exemption from the law, which is a specialised on testing competition issues in all sectors of the economy.

LIST OF CONTENTS

A. TRADE ISSUES

1. Domestic Cargo Carriers Want Protection Against Dumping By Foreign Ships

The largest state-run Shipping Corporation of India Ltd. (SCI) has suggested the Indian government to put in place protectionist measures to protect the indigenous shipping industry from dumping of services from foreign firms. It has been found that the share of Indian shippers in the transportation of India's international trade is negligible and a large chunk is controlled by foreign shipping companies.

However, the issue raised here is domestic coastal shipping from one port to another within India. Most of the countries have got restrictions on domestic cargo movement. For instance, China has made it mandatory that only Chinese companies can move coastal cargo. In Indonesia the government reserves all LPG shipments on domestic routes for ships under the Indonesian flag, and majority owned by its citizens; and in Malaysia, one has to have a local partner as well as hold a majority stake.
http://www.livemint.com/2009/08/17225545/Domestic-cargo-carriers-want-p.html

In another development, it was reported that the Malaysian state-run shipping firm: AET Tanker Holdings Bhd will register at least five more tankers in India to carry petroleum goods along the Indian coast. It is the first global shipping company to register a ship in India, nine years after the country opened its doors to 100 percent FDI in 2001.
http://www.livemint.com/2009/08/24001339/Malaysian-tanker-operator-AET.html

Alas, AET is finding it difficult to break the stranglehold of four domestic companies carrying oil, that has a potential of at least Rs. 1000 crores annually. These four Indian firms are Great Eastern Shipping Co Ltd; Mercator Lines Ltd, Pratibha Shipping Co Ltd and the state-run Shipping Corporation of India Ltd. The shipping ministry is reluctant to allow global players to threaten their dominance. Oil firms, looking for more choices, are critical of efforts to scuttle competition. Rued an official of the state run Bharat Petroleum Corporation Ltd: "How long will this tactic work? Competition is good for end-use customers because it reduces transportation costs".
http://livemint.com/2009/09/23211225/Tanker-operator-AET-struggles.html?d=2

Food for Thought

There are valid reasons for keeping internal shipping and air transport under national ownership but a protected regime also thwarts price discovery.

According to rules, foreign ships can be hired for coastal shipping only when Indian ships are not available. This opportunity, available only to domestic subsidiaries of foreign companies, has been utilised by only one firm, the mentioned Malaysian company, AET. Being the only foreign competitor to powerful domestic firms, it is finding it difficult to break their stranglehold on the market.

Promotion of competition in this sector is important for enhancing the value derived by entrepreneurs using these shipping services as well as end use customers. It would also reduce transportation costs, thus providing a much needed boost to Indian trade in the wake of the economic crisis. Improvement/expansion in/of the coastal shipping industry constitutes another positive consequence in the long run.

However, the global recession has weakened demand for shipping, prompting ship owners to lobby for protection. There is a need for the government to rise above these protectionist pulls to usher in welfare improving competition. .Thought needs to be given to the manner in which such competition can be promoted.

2. Amul Wants Duties Tweaked To Control Milk Prices

Gujarat Cooperative Milk Marketing Federation (GCMMF), the owners of the famous Amul brand of dairy products, has recommended to the government to impose 25 percent export duty on oil meals. The recommendation follows the petition of the country's largest food brand Amul in order to protect farmers' interests as well as to control the cost of milk production.

Further, as a protectionist measure GCMMF has recommended restoration of the import duty on milk powder from five percent to 15 percent and that on butter-oil from current 30 percent to 40 percent.

GCMMF also does not recommend banning export of milk products due to the fear of shortages for domestic demand, since it has a negative impact on the international market. It is also felt that there is a dire need to rationalise import duty on dairy products to prevent certain countries from dumping dairy products in India. Moreover, it is felt that the prices of milk products would hike significantly due to lean season and increased cost of production for the farmers.
http://www.businesswireindia.com/PressRelease.asp?b2mid=19917

Food for Thought

- Is the Indian market demand sufficient to absorb the total production of oil meal exporting firms, without affecting their viability? Given that exports of oil meals have declined by 50 percent in August compared to last year owing to weak overseas demand and fall in domestic oil meal production, is an export levy at all necessary?

- The proposed import duty hike will serve to insulate producers of milk products such as Amul from international competition. Consequently, incentives for enhancing efficiency in production and distribution will be reduced and consumer welfare adversely affected due to higher price and diminished production.

- Of course, favourable market access for domestic players like Amul should lead to enhanced derived demand for milk producing small farmers. However, the impact of this change on prices obtained and quantities sold by small farmers would depend on the strength of the price transmission mechanism linking the farmers to the sector producing processed milk products?

- The impact of the proposed competition reducing measure on components of producer welfare (that of companies such as Amul and individual farmers) as well as consumer welfare needs to be worked out. Any decision to increase import duties should be based on a comparison of the mentioned welfare impacts.

3. CIL Set to Remove Imported Coal Clause for Consumers

Coal India Ltd. (CIL) has decided to exclude the imported coal clause pursuant to which previously the coal consumers were forced to buy a mix of imported as well as domestic coal at prices so decided by CIL. The coal consumers are now ready to sign a fuel supply agreement (FSA) without the imported coal clause.

The FSA states that the coal producer and consumers had to agree on a trigger level of coal which is the minimum assured level of coal supply and off take. As per the

New Coal Distribution Policy (NCDP) the consumers with a coal requirement of 4,200 tonnes/annum can ink the FSA with CIL.
http://www.business-standard.com/india/storypage.php?autono=369527

Food for Thought

- Does contention persist between CIL and the coal consumers over compulsions to buys a mixture of imported and domestic coal?

- What will be the nature and magnitude of impact of this move on the domestic coal industry, coal consumers and allied industries? What are the costs and benefits? Do the benefits outweigh the costs? Are net benefits significant in magnitude?

- How will the removal of this clause affect coal prices, given that there is a growing shortage of coal, and coal mining is a state monopoly?

4. Anti-dumping Duty on Chinese, Israeli Equipment

Israeli and Chinese telecom equipments used for data and voice transmission are set to receive an anti-dumping duty of anywhere around 29% to 236% of cost-insurance-freight (CIF) value of imports, after they were found to enter the Indian market at a "price less than their normal values in the domestic markets of the exporting countries". Chinese vendors supply the equipment at almost one-third the price of other network equipment manufacturers and hence have been growing at a fast pace in the Indian market.

Chinese and Israeli dealers shall face actions of Directorate General of Anti-Dumping (DGAD) in regards to the damage caused to domestic markets. In order to safe-guard the Indian telecom equipment market worth US$ 10-billion the government had recently requested the domestic mobile firms to cease deploying Chinese telecom equipment in the networks of 20 fragile circles to safeguard local security.
http://www.financialexpress.com/news/236-antidumping-duty-on-chinese-israeli-equipment/516135/

Food for Thought

Indian annual imports of telecom equipment from China and Israel approximate about Rs. 1,000 crores. The mentioned imposition of anti-dumping duty by the Directorate General of Anti-Dumping (DGAD) is motivated by the felt need to safeguard the domestic economy and its security. But at the same time this move raises the following questions:

- Are the domestic telecom equipment manufacturers efficient enough to meet the needs of local service providers at a reasonable cost without a significant adverse impact on the economic viability of these providers?

- What would be the impact of this move on the costs incurred by the service providers and how would it in turn impact the consumers, given that producers often tend to pass on increases in cost burdens to the consumers?

5. Safeguard Duty on Caustic Soda likely as Imports Spurt

After witnessing harm to domestic industry by an 80 percent rise in the volume of imported caustic soda from China, Qatar, Thailand and Saudi Arabia, the Directorate General of Safeguards (DGS) has considered the appeal of Punjab Alkali & Chemicals Co. to levy a 20 percent safeguard duty on imported caustic soda.

The imports of caustic soda, which fell to 6000 tonnes/month in Q4 2008, increased by an average of 11000 tonnes/month in Q1 2009, which means a surge of 25000 tonnes/month in Q1 2009. Notably, India has already submitted a notification to the WTO, highlighting the lowest levels of market-share of domestic caustic soda industry during 2008 & 2009 and in Q1 2009-10, which is alarmingly the lowest level since 2005-06.
http://economictimes.indiatimes.com/News/Economy/Foreign-Trade/Safeguard-duty-on-caustic-soda-likely-as-imports-spurt/articleshow/5028983.cms

Food for Thought
The above case indicates a substantial increase in caustic soda imports affecting the domestic caustic soda industry. However, it should be noted that there are 13 big players in this industry that account for more than 65 percent of production, depicting an oligopolistic market structure with possible cartelization.

Moreover, caustic soda production being relatively power intensive, domestic production is significantly less competitive than that in the countries of South East Asia, China and the Middle East characterised by proximity to the salt and access to cheaper power.

In other words, competitiveness of the domestic caustic soda industry might be lower than that in the mentioned countries on three counts: dominance and its abuse; cartelisation, and less favourable access to input markets.

In addition to the ultimate effect of these factors on the cost of domestic production, the relative efficiencies of the actual production processes, which depend on technologies used and organisational factors, also have to be considered. Only then will it be possible to accurately ascertain the relative competitiveness of the Indian caustic soda industry relative to that in the countries providing a bulk of its imports of caustic soda. This requires careful investigation.

Once this is done the effect of the possible safeguard measure on intermediate and final consumers needs further careful research, given that caustic soda is an important input for a range of industries such as soap and detergent, aluminum, paper and newsprint, glass, tyre, chemicals and petrochemicals, pharmaceuticals, textiles and many others. Such research should incorporate the views of the mentioned consumers.

B. OTHER ISSUES

1. DLF – The Sole Bidder

India's largest real estate developer, DLF clinched a deal for a 350 acre land parcel in Gurgaon put up for auction by Haryana State Industrial & Infrastructure Development Corporation (HSIIDC). With a reserve price of Rs 1,700 crore, the land deal would be the biggest since March 2008. Unitech, India's second-largest developer and newcomer Bharti Realty too were vying for that piece of land, but were technically disqualified.

HSIIDC had first invited bids in January for this project, which will have a golf course, sports, commercial and residential development. DLF, the sole bidder then, had sought changes in bid conditions seeking easier payment plan. HSIIDC re-

invited bids in July giving bidders the facility of a staggered payment plan over seven years and an additional 20percent FAR (Floor area ratio).
http://economictimes.indiatimes.com/Markets/Real-Estate/News-/DLF-sole-bidder-for-big-realty-deal-in-Haryana/articleshow/4908267.cms

Food for Thought
The above case indicates that out of three bidders two: Unitech and Bharti were disqualified on technical grounds. It has been documented that these did not have the required the 10 year experience in managing a golf course, although their quotes were much higher than DLF's offer. Being the sole bidder, DLF appears to have had considerable influence, wherein they sought changes in the bid condition to allow an easier payment plan. The re-invited bids did seem to reflect a considerably flexible payment plan.

The above discussion raises the following important question: is there not a need to amend technical requirements, such as the mandatory 10 year experience in golf course management, to draw in more bidders and enhance competition? Moreover, since payment conditions were changed to enhance competition, the same consideration should have led to more liberal requirements in regard to technical qualifications. This in turn raises questions about the fairness and transparency of the bidding process.

2. Bar Rival Private Ports from Bidding for Major Terminals

A Shipping Ministry Committee set up to suggest ways to improve functioning of major ports has recommended that there is a need to have a policy that prevents competing private ports from bidding for operating terminals in major ports under the public-private partnership (PPP) policy. Such a policy will promote inter-port competition and prevent private ports from diverting high-value cargo from major ports by operating a terminal within the major port under the Center's jurisdiction.

The private ports enjoy greater flexibility as they are not regulated by the Tariff Authority of Major Ports (TAMP). The committee recommends that private ports located within a 100-km radius of a major port should not be allowed to bid for operating a terminal of that major port. The Committee feels that by operating within a major port and outside it, the private entity may divert high value cargo to the outside port (where the operator has a higher stake and lesser regulatory commitments). The fear is this situation may also ultimately lead to monopolistic tendencies.
http://www.thehindubusinessline.com/2009/08/15/stories/2009081550100500.htm

Food for Thought
The suggestion by the Ministry, if implemented, would generate two tendencies – one competition reducing and the other competition enhancing. The competition enhancing tendency arises from the prevention of monopolies as explained above. However, the mentioned restrictions on bidding by themselves constitute a competition reducing action. Would it therefore not be a wise move to prevent only private ports within a given radius of the major port from bidding for operating terminals?

3. Government Stiffens Terms for Large Road Projects

With the government stiffening the minimum qualifications for contractors to bid for various infrastructure projects, there is a fear that the new conditions may end up favouring the big boys, such as GVK and GMR. Very few bidders will qualify for the

the National Highways Authority of India (NHAI) offer of 126 road projects worth around Rs 1 lakh crore, as per the stiff clause introduced in the new Request for Qualification (RFQ) norms. Moreover, the RFQ also says no company can bid for more than three projects; the number of bidders for large road projects will fall further.

Revised guidelines that came into effect in July, stipulate that a bidder must have experience of executing projects worth twice the estimated total project cost mentioned in the RFQ document in the last five years. The earlier stipulation required a bidder to have executed projects equivalent to the estimated value of the project for which bids are being placed.
http://www.business-standard.com/india/news/govt-stiffens-terms-for-large-road-projects/366102/

Food for Thought
The requirement for experience in executing projects worth at least twice the estimated total project cost favours the large players and restricts competition. This is especially true in the Indian case characterised by a skewed size distribution of players. .This is illustrated by the CIDC report which reveals that as many as 25,000 Indian contractors can be characterised as small, each employing less than 200 persons.

Therefore, the pre-qualification norms by presenting a significant barrier to entry by new as well as small existing players, restricts possible contractual award to the few existing big players. Such restriction would make it difficult for the local industry to absorb the 100,000 crore worth of road projects already slated to be bid out in the current fiscal. In the long term it might throw cold water on the government's ambitious plans for enhancing road length in the next five years by an amount exceeding such addition in 1999-2004.

Moreover, such restrictions will have considerable impact on the employment opportunities offered by small contractors and, therefore, the livelihoods of their workers who might be faced with unemployment or stagnant wages.

4. STAR Signs Pact to Advertise only HUL Products

Network roadblocks by business giants are becoming more common these days. Network roadblocks are exclusive advertising campaigns that reserve the network for one particular brand for better outreach and larger impact on the consumers. It is an idea that reaches out to 100 million people pan India at the same time.

India's largest consumer products company, Hindustan Unilever Ltd (HUL), recently launched an advertising campaign worth up to Rs10 crore, and spanning 1,800 minutes across 10 channels on the Star Network and subsequently with Zee Network in the month of September. A single advertiser was offered the network the first time in 2007, when Hutch changed to Vodafone.
http://www.financialexpress.com/news/star-signs-pact-to-advertise-only-hul-products/517917/

Food for Thought
Network roadblocks may be deemed as an innovative marketing tool to promote company products but such mechanisms clearly distort competition by favoring the big players who can afford such exclusive deals. The negative impact of these network roadblock campaigns on competition needs investigation and quantification.

Subsequently, a decision needs to be made as to whether such exclusive deals should be prosecuted under the Competition Act, 2002?

5. Exempt Bank M&As from Competition Act

The Reserve Bank of India (RBI) has, in its note to the Finance Ministry appealed that the complex banking Mergers & Acquisitions (M&A's) should solely be handled by RBI, as the Competition Commission of India (CCI) lacks necessary sectoral expertise in regards to technical aspects of banking functions. According to RBI, the CCI can however present its views on issues relating to market dominance and cartels, although the Competition Act stipulates that any bank merger should finally be decided by the CCI after considering views from the RBI. But the sector regulators are of the opinion that they should be the ultimate decision makers in concern to M&As in their respective sectors as they know their sectors best.

RBI has clarified that the fate of common public who have deposited their money in the banks may be at stake if there is a delay by CCI in taking an optimal decision when it comes to banking M&A's. The note of RBI also stated that the Competition Act, 2002 is contradictory to the statutory provisions of Section 44 A of Banking Regulation Act, which grants the RBI the powers to address banking M&A issues. Notably, the bank mergers were set-free from the previous Monopoly & Restrictive Trade Practices Act (MRTPC).
http://au.quote.com/news/story.action?id=RTT909210139000051

Food for Thought

- Is the approach suggested by RBI for consideration of the views of CCI only in the case of cartels and market dominance and not M&A's correct, given that at present the CCI is empowered by the legislation to act on such issues?

- If indeed the recommended powers are granted to RBI would it not set a bad precedent for other sector regulators? Would it not encourage them to try and capture the turf of the competition authority in regard to these sectors?

6. Highway Developers Face Profit Caps

As per the new proposal under submission of the Ministry of Road Transport and Highways, companies implementing highway development projects on annuity basis may not be allowed more than 18 percent profit on their investments. This step is being taken to prevent cartels from making abnormal profits from government-funded projects.

Currently return on investment (RoI) for an annuity-based road project is a biddable item where government pays project cost plus agreed RoI to the developer for construction of a highway stretch. Payments are made to the developer in several installments. Government should not act as a tough regulator that may dissuade investors. If the government fears open tendering will result in cartelisation, it should fix a minimum number of bidders for a project.
http://economictimes.indiatimes.com/News/Economy/Infrastructure/Highway-developers-face-profit-caps/articleshow/5063602.cms

Food for Thought
Road construction and highway development is a major priority for a country like India with aspirations for rapid economic growth. Will the introduction of initiatives

such as those mentioned above not deter the much needed private investments into the road construction sector?

Moreover, it is also possible that some companies may look towards making other adjustments such as reporting high cost of production to meet the proposed profit cap. This creates an adverse selection problem -- companies willing to cut corners in reporting will be more likely to make investments. In general, these will also be companies willing to compromise on quality, safety etc.

Will such profit caps actually serve the intended objective of preventing cartelisation? Can this objective not be served better through policies that increase the number of bidders which are competition enhancing at the same time?

7. ONGC Against Parking Funds with PSBs

Oil & Natural Gas Corp. (ONGC) has expressed its disagreement with the Finance Ministry's compulsion to channel its Rs. 18,000 crore surplus funds with Public Sector Banks (PSBs). ONGC reasons that a cartel is formed within the PSBs, which not only results in a Rs. 200-300 crore loss annually in interest revenue but also in a difference of about 225 basis points (bps) of offered interest rates, which runs counter to the guidelines of the Ministry of Finance.

ONGC is looking for a call of competitive interest rate bids from PSBs and private banks in order to get the best possible deal and thus maintaining the interest of its private and minority shareholders by delivering standardised corporate governance.
http://www.business-standard.com/india/news/ongc-against-parking-fundspsbs/371467/

Food for Thought
The Finance Ministry, by compelling ONGC to park surplus funds with only PSU banks, is not only causing a loss to ONGC in terms of potential interest revenues but is providng a captive source of funds to PSBs and perpetuating cartelisation among these closely linked banks..

The important question is: should the Competition Commission of India not intervene in this matter, given that the ministry is trying to set up a vertical agreement among ONGC and PSBs and is encouraging cartelisation and a related offer of interest that is lower than that elsewhere in the market.

C. NEWS & VIEWS

1. A Natural Gas Oligopoly

If there is one fuel that has the potential to prime India's economic growth in the future, it is natural gas. An estimated 37 trillion cu. ft. of reserves available can power the country for considerably longer than its oil resources. This, however, is dependent on the presence of a right policy framework. If indications are anything to go by, the government has botched our fuel future.

For any scarce resource, proper allocation can only occur through well-regulated markets. This happens when such a resource follows price signals. Distorted prices ensure sub-par economic performance. In the case of natural gas, India is an oligopoly with two big players (ONGC and Reliance Industries) in the exploration and production space and another two big players (GAIL and Reliance Gas Ltd) in the

downstream; transmission and distribution (T&D). Instead of striving for a more reasonable market structure, the government's actions and inactions have actually abetted the creation and sustenance of this oligopoly. In such a situation, price discovery is impossible and price distortion a certainty.
http://www.livemint.com/2009/08/25215025/A-natural-gas-oligopoly.html

Food for Thought
The government has designated priority sectors like fertilizer and power generation for natural gas allocation because their output prices are controlled, making them unable to buy natural gas at the competitive market price. A look at this supply chain indicates that as long as price control exists on products of the fertilizer and power generation sector which intensively use natural gas, political will to bring competition into the natural gas sector may be weak.

Would it not be a better idea to substitute price control in the fertiliser and power generation sector with more competition which can generate low prices while easing the subsidy burden on the government? Such a move will remove the political compulsion for the government to maintain an oligopoly characterised by low exposure to competition which in turn implies a lack of incentives for firms to reduce costs and prices. Moreover, greater competition all along the supply chain will enhance economic growth.

2. Clean up the Energy Mess

It is evident that India needs competition and investments in its fuel economy which has been eroded by the two wealthy and estranged Ambani brothers along with the state owned power company NTPC. It has become clear that the ministry of oil and gas, which is supposed to implement policies for a transparent and efficient market for fuel, has done the opposite. Its reforms remain half-baked; its regulation is opaque and furtive. So India's energy sector that has so much promise remains an investors' nightmare.

The Planning Commission warned that government-administered fuel prices have driven potential investors, and competition, out of the fuel retail business. The Commission was of the view that there is an urgent need to have an independent regulator for both upstream and downstream sectors to ensure that markets function in a competitive manner.
http://economictimes.indiatimes.com/Opinion/Editorial/Clean-up-the-energy-mess/articleshow/4903983.cms

Food for Thought
It is believed that the world over, two industries, power and fertilizer, use up around four-fifths of all gas production India is likely to be no exception to this norm. India's growth will therefore be significantly affected by domestic fuel and power prices. This sector can also be a destination for huge overseas investment and capital. However, in India, no new oil and gas venture has taken place and not a single overseas player has operated a big exploration project over the last ten years.

This unsatisfactory state of affairs owes its genesis to the fragmentation of energy markets and the multiplicity of regulating ministries and pricing regimes. At the same time, lobbying for plum oligopolistic positions by private players threatens to rock the credibility of the government.

The government decision to inflate prices for gas exploration has evoked criticism as it does not seem to be founded on accurate data on volumes of oil and gas discovered, the expected rate and duration of flow etc. This in turn has discouraged overseas investment. Pro-active steps should be taken by independent regulatory authorities to instil more competition into the system and discourage ad-hoc price setting which can be manipulated by large private players to their advantage

3. No Telecom Licences till TRAI Issues Norms

A big question mark hangs over the entry of global telecom major AT&T into India with the Telecom Regulatory Authority of India (TRAI) asking the Department of Telecommunications (DoT) to put in abeyance grant of any telecom license till a comprehensive set of recommendations are not furnished by it on issues of spectrum pricing and consolidation in the sector.

The genesis of the present crisis is due to the 2007 recommendation of TRAI which was also upon DoT's reference when the regulator reiterated the continuance of the no-capping policy, which saw a huge rush of applications later that year. Seeing the rush, communications and IT minister had administratively put an ad-hoc cut off date on September 24, 2007 that no further applications would be admitted after October 1, 2007. Later, the licences were given to only those companies which had submitted applications till September 25, 2007.
http://www.financialexpress.com/news/no-telecom-licences-till-trai-issues-norms-dot-told/498518/

Food for Thought
The above case indicates that the department has issued 122 licences to firms, even real estate and technology firms with no telecom experience. Is the licence granting procedure fair and transparent? Are there no technical qualification requirements for receiving such licences?

The no-capping policy which has facilitated a huge surge in licence applications was abruptly reverted through a notice on September 24, 2007 that "no further applications would be admitted after October 1, 2007". The question arises**:** Why is it that only those companies which submitted applications till September 25, 2007 have been awarded licences when the deadline was October 1?

Moreover, select companies were granted licences at the 2001 price, amidst allegations of a scam worth more than Rs 60,000 crore. This further raises the following questions relating to transparency and lack of clarity in rules.

- Why were only a few companies favoured in getting the licence?
- Will the decision of TRAI and DOT (of not issuing the further licences) result in a delayed foray into mobile services by domestic biggies, thereby affecting competition in the Indian market?

4. Creating a Level Playing Field for 3G

Who should receive spectrum for 3G and Broadband Wireless Access (BWA) and at what price? For four years, the answers have eluded the DOT, TRAI, Wireless Planning & Coordination Wing (WPC) and now the Ministry of Finance. BWA and 3G are fierce competitors in the wireless broadband space much like PCs and Macs are in computing. It is different government rules for them.

The rapid advance in mobile communications and the profits it promises to commercial players means that demand for spectrum now exceeds supply in most

countries. Government is trying to provide a conducive environment where the best technologies and players with competitive prices can win by devising rules and regulations for allocation and perfect pricing of spectrum to all the players competing in the market. According to them, this can be only possible by using transparent market-based processes like auctions, to determine who should get the limited spectrum and at what price. Strict parity in conditions can prevent market distortions and future controversies. Any rule or provision that treats competitors differently must go.
http://www.financialexpress.com/news/column-just-create-a-level-playing-field-for-3g/507545/

Food for Thought
The difficulty in designing appropriate mechanisms for allocating spectrum for 3G and Broadband Wireless Access (BWA) has caused delay in the provision of these services. This has huge implications both for consumer welfare and economic growth as these services facilitate productivity increases as well as enhance choice and access by consumers. The following important questions/issues need to be raised:

- While a proper auctioning mechanism has to be designed keeping the national context in mind, what are the inferences that can be drawn from international best practices and other country experience to move the process forward?

- Are auctions for 3G and BWA at different reserve prices and at different points of time advisable, given the chances of speculation?

5. Coal India may be Allowed to Raise Prices by March

Coal India Ltd. (CIL) is all set to get government approval on a 10 percent coal price rise by March 2010. After revising coal prices in December 2007, CIL maintained lower coal price in comparison to the international coal prices. But with the implementation of National Coal Wage Agreement (NCWA) for laborers and for the officers, CIL felt need to revise the coal price.

CIL's net profit in 2008-09 was mere Rs. 96 crore as it met the sum unpaid worth Rs. 7,856 crore to its employees pursuant to NCWA-VIII, which resulted in a salary revision of 4.33 lakh employee. It rendered an annual financial burden of Rs. 4,000 crore to CIL, along with 33 scrapped projects which were to add 28.37 million tones to its total production anticipated at 520 million tones by 2011-12.
http://www.business-standard.com/india/news/coal-india-may-be-allowed-to-raise-prices-by-march/371145/

Food for Thought
The above case is reflective of the fact that market signals and prices are highly distorted under state owned monopolies. This implies that price movements in this sector do not follow international trends. The possibility of a coal price rise which is out of sync with developments in the international market for coal might adversely impact the competitiveness of producers that are the intermediate consumers of coal.

6. TRAI Allows Portability within same Circle

Telecom Regulatory Authority of India (TRAI) has finally given nod to avail mobile number portability (MNP) within a same telecom circle. MNP shall facilitate the subscribers to keep their current mobile telephone number while switching from one

mobile operator to another or from CDMA to GSM. TRAI however clarified that the number portability shall be available within the same telecom circle only.
http://www.thehindubusinessline.com/2009/09/24/stories/2009092451560400.htm

Food for Thought

This new move is definitely a positive step towards offering consumers better service and choice in mobile telephony**.** It would stimulate more competition within each circle as consumers can easily move from one mobile operator to another. The following issues/questions still remain:

- An interesting exercise would be to ascertain the number of people looking to make changes in operators but constrained from doing so because of lack of number portability. This number would be in proportion to the positive welfare impact of this measure.

- Why has TRAI not allowed for MNP across circles?

Disclaimer: This information has been collected through secondary research and CUTS C-CIER is not responsible for any errors in the same.