Competition Distortions in India – A Dossier

(CDI-31: January–March, 2016)

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

Periodic dossiers look at the interface of policy issues which has an impact on competition in India, which can be both negative and positive. News as published is used without verifying their 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. This would require greater analysis particularly in terms of cost and benefits.

We are pleased to present to you the Competition Distortion Dossier Edition No: 31 for the quarter January-March, 2016. As always, we have attempted to capture interesting stories ranging from trade, anticompetitive practices, reforms and developments in various economic sectors and industries. The stories reflect a mixed bag of both good and bad policies affecting the economy. After the investigation report by Directorate General of Safeguards (DGS), 20 percent safeguards duty was imposed on steel imports as an initial measure to protect the local industry.

Debt burdened steel companies along with their lenders, however, still seek higher minimum import price (MIP) on 14 steel products. There was, however, a lot of pressure from downstream users against further protection for steel producers, on the ground that excessive protectionism may prompt Indian companies to start selling products close to MIP price, harming the overall economy. On the other hand, demand statistics showed that 85 per cent of domestic demands are being met by domestic production, while imports are serving only 15 percent of the market. The government, therefore, is in no rush to put fresh curbs on steel imports. Being a core sector, local steel players need steady protection measures to develop and sustain themselves, but at reasonable costs to the economy.

In another matter, the new Defence Procurement Policy (DPP) prioritises indigenously made defence products, towards boosting Make in India. The Ministry of Defence has allowed for 25 percent privatisation in defence manufacturing. Private sector participation had been lower than 10 percent in defence sector because of public sector dominancy and security concerns. Public sector always had a reserved seat with defence sector until 2001, when this sector was opened for private sector participation with foreign direct investment (FDI) permissible till 26 percent, which however failed to attract foreign investments. The defence offset policy is expected to boost technological transfer and skill development, thus promoting innovation and dynamic competition in the long run.

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A. Sectoral Reforms

1. CIL soon to face competition from private players

For the first time in four decades, the Government of India is planning to open commercial coal mining to private players. The government has identified mines it plans to auction, and is now working on other terms, such as eligibility criteria for mining companies to take part, and whether and how to set up revenue sharing.

http://epaper.dnaindia.com/story.aspx?id=86105&boxid=34068&ed_date=2016-01-09&ed_code=820009&ed_page=14

Food for Thought

The Indian government has drawn up an ambitious plan to double its coal production to 1.5 billion tonnes a year by 2020, turning the country from being one of the largest coal importers in the world towards energy self-sufficiency. This plan is expected to increase the rate of electrification throughout the country, give a boost to manufacturing, and also to take advantages of rich natural resources in the underdeveloped eastern states. Until now, the mining and selling of coal in India has mostly been covered by Coal India Limited (CIL) and a small other government-owned company. The output target for the debt-ridden state-owned group that currently controls about 80 percent of the country's coal production by 2020 is 1 billion tonnes a year while the private sector mining should contribute another 500mn tonnes by that time, reducing India's reliance on imports.

Allowing private players to participate in the sector is an important pro-competitive move, which would undoubtedly have an appreciable impact on the decades-old monopoly of CIL in the long term. The inclusion of private players should also help reap benefits from the introduction of new technologies, thus enhancing efficiency.

However, there remains a lack of keenness by multinational miners, namely Rio Tinto, BHP Billiton and Peabody Energy to participate in the auction. There are concerns raised by private players regarding the quality of the mines allocated to CIL, as compared to those that might be available for auction, which means that there would be no level playing field in this sector. Other drawbacks which might undermine the success of the plan include low coal prices in the international market due to oversupply, as well as obstacles to foreign investment in India, such as problems in getting land and environmental approvals.

Overall, one can say that it is a welcome move by the government to allow private players to participate in coal mining. Infusion of competition in this sector would be in the interest of private players as well as CIL, as it will bring in modern technologies and enhance efficiency. A more competitive coal mining industry would also benefit those downstream industries that use coal as an input.

2. Commerce Ministry pitches for lower duty on oilseeds

The Ministry of Finance has been recommended by the Commerce Ministry to revise the import duty on oilseeds as compared to the levels of duty imposed on refined and crude oil. The latter agency suggested lowering import duty on oilseeds in the forthcoming budget (2016-2017) to 10 percent or less, so as to encourage domestic manufacturing. Decrease in import duty is expected to support the development of the domestic edible oil industry which is facing an acute shortage of raw material.

http://www.thehindubusinessline.com/economy/agri-business/commerce-ministry-pitches-for-lower-duty-on-oilseeds/article8152229.ece

Food for Thought

The Commerce Ministry sought to lower import duty on oilseeds in the 2016-17 Union Budget, which had been higher than the levels of import duty imposed on crude and refined edible oil, thus resulting in an inverted duty structure.

An import duty of 30 percent is currently being imposed on oilseeds; comprising of soybean, rapeseed and sunflower; whereas the import duties on refined and crude oil were 25 and 12.5 percent respectively. Apart from basic import duty of 30 percent, oilseeds also attract a 4 percent special additional duty, leading to an effective duty of 35.2 percent. This resulted in a situation where traders resorted to heavy imports of finished products. Thus, the Ministry of Commerce suggested dropping the import duty for primary products to at least 10 percent or lower (five percent) so that the prices of imported variety could match with local rates.

The current high import duty level on oilseeds, combined with low domestic production as farmers are no longer interested in growing un-remunerative crops, has resulted in an acute shortage of raw materials, bringing down the plant load factor (PLF) in the domestic edible oil market with factories operating 20 to 30 percent of their rated capacity. As observed by the Solvent Extractor's Association (SEA), there had been a steep decline in capacity utilisation of domestic refiners, many of them having to shut their shops, since importing edible oil turned out to be cheaper than importing oilseeds.

Lowering import duty for primary inputs should help industry to gain production and productivity, hopefully becoming more competitive in the global market. In the meantime, the government could continue to safeguard farmers' interest by enacting a minimum import price plan, to prevent them from suffering losses.

3. Govt holds consultations for radically different defence offsets policy

The Defence Ministry has been carrying out several rounds of consultations with private defence firms, for finalising a radically different offsets policy, which is expected to bring in investments worth billions of dollars into the defence and aerospace industry from foreign vendors that win Indian military contracts. The new Defence Procurement Policy (DPP) would open up 25 percent of defence production to prioritise indigenously-made defence products and boost the Make-in-India programme.

http://indianexpress.com/article/business/business-others/govt-holds-consultations-for-radically-different-defence-offsets-policy/

Food For Thought

In the past, foreign companies winning major Indian military contracts were mandated to spend at least 30 percent of the contract value in India as offsets. This would give foreign players flexibility to choose any area to invest in, leaving little control on the kind of technology or capability transferred. It also means India has been spending 14-18 percent extra on defence contracts so far. With the new rules, set to be part of the DPP 2016, the Defence Ministry and the armed forces buying equipment would specify what they want as offsets for a particular deal. Three options would be available to the government under the new policy.

One would be a direct offset plan in which the foreign vendor would be mandated to spend its 30 percent investment share in a particular Make-in-India plan – to set up a defined manufacturing facility in India. The second option would be transfer of technology – with a committee of the Defence Ministry and the armed forces deciding which technology is to be *transferred to the Indian partner. The third option is for skill development – creation of R&D facilities, innovation centres, training institutions and labs – to raise a new generation of skilled workers for the defence sector.*

India's defence spending has grown almost 17 percent in the past few years, making India one of the largest importers in the world. However, despite this huge market potential, current policies have been imposing a lot of constraints on domestic defence production, with only 30 percent of demand being met internally. Meanwhile, private sector participation had been lower than 10 percent because of public sector dominance. In 2001, the defence industry was partially opened up with permissible foreign stake at 26 percent, which however failed to attract foreign investment. In a radical policy shift, the Ministry of Defence has delicenced 60 to 70 percent of the production, opening a window of 25 percent for privatisation.

The new offset policy with its focus on technology transfer and skill development is a welcome move. Better skills would foster innovation, thus giving rise to dynamic competition. In the longer run, appropriate institutional setup should be put in place, to promote private sector participation and foreign investment, in order to increase efficiency.

4. Govt in no rush for fresh curbs on steel imports

The government is not planning to bring fresh curbs on steel imports from China, since it is still weighing the potential impacts of such move on downstream industries. The Commerce Ministry claims that only 15 percent of demands were met by imports, whereas 85 percent were still being covered by domestic output. The government does not want to keep accelerating the Minimum Import Price (MIP) that could eventually adversely affect the local manufacturers and users.

http://timesofindia.indiatimes.com/business/india-business/Govt-in-no-rush-for-fresh-curbs-on-steel-imports/articleshow/50690460.cms

Food for Thought

In our last edition, we mentioned that the imposition of MIP could limit imports from China, Japan and South Korea. An MIP of US$341 to US$752 per tonne had been prescribed for most steel products. However, few debt-laden steel producers still sought MIP on another 14 products, on the grounds that previous measures by the government, including 32 percent customs and safeguard duty, had been countered by China, by further lowering product prices.

There are, however, huge oppositions to such curbs on steel imports from downstream users. It was even suggested that steel producers want to raise MIP to the highest level possible so that Chinese products cannot enter India, thus allowing Indian companies to start selling their products at levels closest to MIP, which might not be in the interest of the overall economy. India's engineering and auto components industries rely on cheaper steel imports and hold the view that protection granted to large domestic steel firms by the government has made them uncompetitive in global markets.

The demand by Indian steel companies are being backed by their bankers, who said that in the absence of more effective protection, Indian producers are offloading the stock of steel at low prices, as they need to maintain their cash flow to service debts. The Commerce Ministry, however, maintains that imports are only providing for 15 percent of domestic steel demand, which is not huge, and Indian steel companies were operating at nearly 80 percent of designed capacity, which means there is no need for more protection, which would only erode the domestic steel producers' ability to compete domestically and globally.

The government is also said to be closely monitoring price fluctuations in the steel industry to check the existence of any cartel therein.

B. Anticompetitive Practices

5. Bigwigs say govt giving credence top Tata airlines

The four private airline carriers in India- Indigo, Jet Airways, SpiceJet and GoAir – are feeling left out as the Civil Aviation Ministry has gone ahead with its consultation meeting on the draft New Civil Aviation Policy (NCAP), 2015 with smaller players Vistara and AirAsia India, who are Tata-promoted startup airlines, in their absence.

http://epaper.dnaindia.com/story.aspx?id=76806&boxid=319873&ed_date=2016-01-09&ed_code=1310016&ed_page=10

Food For Thought

The four domestic private airline carriers, Indigo, Jet Airways, SpiceJet and GoAir could not make it to the consultation meeting on drafting the New Civil Aviation Policy (NCAP), which was scheduled on December 30, 2015, along with Vistara and AirAsia India. Therefore, the former mentioned bigwigs feel left out as the credence have been given to Tata-promoted airlines.

Vistara and AirAsia India are Tata-promoted startup airlines, whose Air Operator Permit (AOP) are still under question in Delhi High Court. By taking the views of only these two airlines for deciding the NCAP, the government is thought to have demonstrated favourable treatment to Tata-promoted airlines. The bigwigs claimed that they gave this meeting amiss in spite of their earnest intent because of their prior commitments and a short notice (less than a week) provided by the Ministry for them to attend the meeting. They urged the Ministry to give equal opportunities to all airlines and hear them out before contouring aviation policy. In their opinion, it is one thing to promote small players' participation in the competition; it is quite another thing to bend policies by only considering views of a particular segment of airlines (Tata promoted). The consultation envisaged discussion on scrapping the 5/20 rule, which does not allow airlines with less than five years of experience and 20 aircrafts to fly on international routes, and the route dispersal guidelines (RDG).

It could be said that there is a lack of clarity and transparency on the side of the government towards finalising NCAP without hearing the other airlines too. Considering only the views of Vistara and AirAsia would mean there is no just and fair treatment among players in the aviation industry. Hence, it is suggested that the concerns raised by the bigwigs be considered and the Ministry discuss the NCAP again on another proposed date before finalisation.

6. RVUNL plans to sell sick power plants

The *Rajasthan Vidyut Utpadan Nigam Ltd* (RVUNL) has decided to sell all units of loss-making Kalisindh and Chhabra power plants to private hands. Since it has been very costly for these plants to produce power, the government focusses on buying electricity. Two units of Kalisindh will be allocated by open bidding. Chhabra units have been allocated to NTPC on the company's desire. The proposal to allocate these plants has been sent to the Chief Minister, Vasundhara Raje, for her consideration.

http://dnasyndication.com/showarticlerss.aspx?nid=F9Dx6nQiKERLWUUsGE4RBhB8PWsgCYHVmdoPu4yRFlM=

Food For Thought

The RVUNL is gearing towards privatising loss-making power plants; comprise Chhabra, Kalisindh and Kota Terminal. Power produced by these plants are high in cost, thus government has planned to privatise two units of 1220 MW capacity of Kalisindh plant and four units of 1000 MW capacity Chhabra plant. It is considered an imperative measure to boost competition in the power sector at state level. In order to privatise the power plants, the Government of Rajasthan has decided to call for an open bidding in the case of Kalisindh plant, which is a pro-competitive more. However, the State Government has allocated the charge of 250 MW capacity four units of Chhabra plants and another two units to NTPC, without any competitive bidding. Whilst on the one hand, the government has taken a pro-competitive move, by going through the bidding route, on the other hand, it has limited competition by avoiding the bidding route and allocating the same to a government-owned company without giving a chance to the private sector.

To conclude, both the plants should be allocated on the basis of competition principles, i.e. through auction, thereby providing a chance to both the private and public sector, while ensure the maximisation of State revenue.

C. Miscellaneous Reforms

7. Chinese battery imports face BIS hurdle

Dry battery makers have been successful in making a case against cheap and low quality imports of dry cells from China. Industry seeks to secure the available options of maintaining domestic quality standards. Companies have noted decline in demand which is also hampering sales by local battery manufacturers. The plea before the government is based on cheap low quality imports, posing health hazards and potential to damage any equipment.

http://epaper.dnaindia.com/story.aspx?id=86756&boxid=35643&ed_date=2016-02-01&ed_code=820009&ed_page=11

Food for Thought

Dry battery makers comprise of Everyday, Panasonic and Indo National have sought for making domestic quality standards compulsory for imports. Industry players seek adherence to local standards for imported dry cells and prevent import of poor quality products. Along with Bureau of Indian Standards (BIS), industry representatives have also approached the government for setting mandatory standards. The concern envisaged with BIS is that, not all the standards are mandatory. For instance, the standards of dry cell batteries have always been kept non mandatory.

Flooding of the Indian market by cheap low quality products has had a huge negative impact on the growth and potential of domestic manufacturing; as consumers prefer low priced products. With the help of mandatory standards, low quality products would not get clearance by customs, unless they are accompanied by certification of standards. Big players such as Everyday have suffered decline in sale by a margin of Rs 340 crores. The Association of Indian Dry Cell Manufacturing envisages a possible dumping by China. Investigation was initiated in October 2015 by the Director General of Anti-Dumping for the products which fit under AA size dry cells, whereas rechargeable and other AAA size dry cells were beyond the scope of investigation.

Therefore, given the intensity of impacts on domestic dry cell manufacturers, it is essential for the government to impose appropriate protectionist measures by maintaining standards and imposition of anti-dumping duty. On the one hand, it might be crucial for the Ministry to take protectionist measure; on the other hand; excessive protectionism should be decided at all cost, so that it does not restrict healthy competition.

8. Move to scrap Duty sops won't make drugs costlier

The government is looking to withdraw customs duty exemption on imports of 76 lifesaving drugs. This would only have minimal impacts on patients and would not spike essential drug prices. Pharmaceutical industries lobbied to do away with concessions in order to encourage local producers and cut dependency on Chinese medicine supplies. Scrapping of duty concessions is expected to provide a level playing field to Indian bulk drug manufacturers.

http://epaperbeta.timesofindia.com/Article.aspx?eid=31816&articlexml=Drug-Prices-to-Rise-Slightly-on-Removal-of-09022016016009

Food for Thought

With the intention of boosting the level playing field among local producers and discouraging dependency on imported supplies (allegedly from China), the government has planned to withdraw customs duty exemption on imports. Scrapping of customs duty exemption would be on the imports of 76 lifesaving drugs. The rationale behind this move is the fact that, those exempted drugs are also being produced in the Indian domestic market.

Stakeholders alleged that this move would result in increased price of anti-cancer and HIV drugs. The Department of Pharmaceuticals (DoP), however, mentioned that these concerns would not be unanswered, as majority of life saving drugs have their generic copies in the domestic market. Therefore, from a competition perspective, it could be envisaged that the new policy would encourage local producers and reduce their dependency on imported drugs. The government also made it clear that withdrawal of customs duty exemption would not spike the prices of essential drugs, as the increase in duty would be marginal and could be absorbed by domestic manufacturers.

Therefore, it could be assumed that withdrawing exemptions would encourage local producers without resulting in any hike in essential drug prices. In the long run, this measure would be potentially important to prevent any possible dumping of foreign drugs in the Indian market.