Competition Distortions in India – A Dossier

(CDI-33: July–September, 2016)

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

Periodic dossiers look at the interface of policy issues which have an impact on competition in India. Such impact could be negative, positive or mixed, depending on sectors and markets. In these dossiers, news as published is used without verifying its accuracy. The purpose is to flag issues to the layman as well as to the policymakers and specialised regulators, rather than pass any opinion. That would require greater analysis, particularly in terms of cost and benefits.

We are pleased to present to you the Competition Distortion Dossier Edition No: 33 for the quarter of July-September 2016. As always, we have attempted to capture interesting stories having impact on competition in areas, such as trade, taxation and key economic sectors. The stories reflect a mixed bag of both good and bad policies affecting the economy.

The theme for the present issue is market access. Access to markets could be impacted by various policies. These include import related policies, eligibility conditions, taxation policies, etc. We have selected such stories which directly or indirectly impact market access in a positive or negative manner. We also attempt to highlight the rationale for such policies, and their impact on different stakeholder groups, which often operate with competing interests.

We also highlight latent competition barriers like high compliance costs, and the need to improve transparency, and certainty, and to bridge information asymmetry among players to increase competition. The interest of the end consumer has not been ignored, who is the ultimate beneficiary of increase in competition.

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A. Trade Policy

1. Government imposes anti-dumping duty on steel products

The Government of India through the Ministry of Finance imposed anti-dumping duty on hot-rolled and cold-rolled 'products of alloy or non-alloy steel' through two consecutive notifications in less than a fortnight. Surprisingly, this restrictive measure was imposed despite government's clarification in the last quarter that it would not impose further import restrictions after the enforcement of minimum import price (MIP) on steel products.

http://economictimes.indiatimes.com/news/economy/foreign-trade/india-slaps-anti-dumping-duty-on-steel-products-from-6-nations/articleshow/53613041.cms

Food For Thought

The anti-dumping duty was imposed in order to protect the domestic steel industry from cheaper imports which were being dumped by foreign firms. Such measures aim at creating a level playing field between domestic players and foreign suppliers, when the latter engage in anti-competitive practices by pricing goods below cost, with the intention of driving out competition in the market.

However, the imposition of anti-dumping duty for a long period of six months after the previous enforcement of minimum import price effectively extends the protection to almost a year. The government has to be cautious of overprotection as it might breed inefficiency among domestic incumbents and lead to adverse effects on competition. Also, the changing stand of government on imposition of import restrictions does not help potential competition as potential competitors might wait for greater clarity on government policies before entering the market.

The move might also act as a detriment for the end users of steel in the form of increased costs of their primary input. These increased costs might even be passed on to end consumers who will have to bear the burden of such regulations.

2. India cuts import taxes on wheat, palm oil, refined oils

The Finance Ministry recently reduced import taxes on wheat, crude palm oil and refined vegetable oils. Import tax on wheat was reduced to 10 percent from 25 percent and the import duty on crude palm oil and refined edible oils was reduced by 5 percent each to 7.5 and 15 percent respectively.

http://in.reuters.com/article/india-food-duty-idINKCN11T1HR

Food For Thought

The reduction in import duties imposed on food products are expected to increase their supply from overseas markets, and provide greater access to the Indian market for foreign suppliers. This should have a downward effect on the prices offered by domestic producers and would act as a check on the currently surging prices of basic food items such as flour and oil. Competitive prices from imports also tend to curb food inflation which is caused by deficiency in production and shortage of stocks.

However, sub-optimal regulation and lack of competition in the domestic food value chain is to be equally blamed for high domestic prices. Increase in competition from foreign suppliers without concurrent regulatory and competition reforms could have an adverse impact on the interests of vulnerable small-sized market players in the food production sector.

B. Policies inhibiting competition

3. Railways unable to save on energy cost as states delay issuing NOCs

According to the mandate of the Government of India, Indian Railways (IR) is a 'deemed licensee' for the purpose of power distribution. This effectively means that IR is exempted from paying the hefty cross subsidy surcharge (CSS) if it wishes to procure power from any source other than the state-owned discoms. Despite this provision, IR is not being able to buy power from independent power producers because states, such as Uttar Pradesh, Chhattisgarh, Bihar, West Bengal and Odisha continue to delay the issuance of no-objection certificates (NOCs). If these states issue the NOCs, the IR can reduce its energy costs by up to 40 percent.

http://indianexpress.com/article/business/economy/railways-unable-to-save-on-energy-cost-as-states-delay-issuing-nocs-3001046/

Food For Thought

The IR is one of the principal buyers of energy from the state-owned discoms. If the IR starts to directly deal with independent power producers, discoms would lose out on a bulk customer.

The absence of NOCs from certain state governments is keeping the costs of the IR high, while preventing the private sector from competing for supplying power to the IR. The costs of such sub-optimal competition scenario would eventually be passed on to consumers.
However, there is some saving grace in the matter as the Railways Energy Management Corporation (REMCL; which is a joint venture between IR and RITES Ltd.) has begun its shift to a competitive bidding model for power procurement to help the IR meet its power saving targets.

4. Procedural bottlenecks to competition remain in the coal mine auction system

The Comptroller and Auditor General (CAG) criticised the new bidding mechanism for coal blocks by stating that it restricts competition. According to the CAG, by allowing companies to put in multiple bids for single coal blocks, the contestability of the process was being undermined. Out of 29 coal mines which were e-auctioned, qualified bidders in 11 successful auctions were from the same company. Moreover, the statutory auditor pointed out that under-determination of floor price led to losses of Rs 382 crore. Although the system of e-auction was appreciated as an attempt to incorporate transparency and objectivity, but procedural loopholes still remained.

www.business-standard.com/article/economy-policy/coal-mine-auction-system-restricts-competition-116072601445_1.html

Food For Thought

The shift to e-auctions for coal blocks is a welcome step as it makes the process of bidding more transparent and relatively freer from collusion and corruption. However, proper implementation of the process is important to ensure a free and fair result. If one company is allowed to put in multiple bids, this would undermine the objective of the e-auctions and reduces the opportunities with interested parties to compete. This might eventually lead to operational inefficiencies in the industry. Therefore, the implementation of the bidding process has to be monitored carefully to check anti-competitive market distortions.

C. Policies promoting competition

5. India creates ecosystem to support its new mineral exploration policy

India recently approved the National Mineral Exploration Policy (NMEP) which will make way for the auction of 100 mineral blocks. The important facets of the policy include competitive bidding through e-auction, revenue sharing and cost reimbursement for unsuccessful explorers. In furtherance of this policy, the Indian government has decided to create a National Geoscience Data Repository (NGDR) under the Geological Survey of India (GSI) and the National Centre for Mineral Targeting (MCMT).

www.miningweekly.com/article/india-creates-ecosystem-to-support-its-new-mineral-exploration-policy-2016-08-23

Food For Thought

One of the key objectives of the NMEP is to attract domestic and foreign private companies into mineral exploration. Granting market access to the private sector is expected to increase efficiency and reduce costs. Digitisation of geosciences data through the NGDR is a positive step towards inviting investment from the private sector. The Ministry of Defence has given its nod to the Ministry of Mines which had proposed giving private companies free access to the NGDR. This indicates that government's intention is to encourage competition through increasing transparency and ensuring access to information in the sector.

6. RBI releases guidelines for 'on-tap' bank license

Aiming to increase financial inclusion in the private banking sector, the Reserve Bank of India (RBI) released its "Guidelines for 'on tap' Licencing of Universal Banks in the Private Sector". The Guidelines allow individuals or entities which meet the required criteria to directly apply to the central bank for a banking licence.

As per the requirements, the initial minimum paid-up voting equity capital for a bank shall be Rs 5 billion and notably, large industrial houses are ineligible to apply for a license. They are only permitted to invest up to 10 percent in the banks. Importantly, residents who have 10 years of experience in banking and finance at a senior level are eligible to apply for a licence.

http://economictimes.indiatimes.com/articleshow/53493316.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

Food For Thought

The Guidelines issued by the RBI have initiated one of the biggest overhauls of the Indian banking sector. It enables market access to eligible entities and promotes competition in the sector. This is expected to increase access to formal financial services in the country, reduce costs involved and increase efficiency.

Previously, the RBI used to grant new licences once every 10 years. The guidelines were formulated every time and there was lack of transparency on reasons for refusal. On the other hand, on-tap licencing allows private players to apply for a licence at any point of time and provides them the opportunity to start a full-time banking institution easily. It also increases transparency and certainty in the sector. The 'Potential Competition' itself is expected to nudge incumbents towards better performance.

7. GST likely to boost competition in the manufacturing sector

The Indian Parliament recently cleared the landmark constitutional amendment for adoption of the Goods and Services Tax (GST). The President of India, Pranab Mukherjee gave his assent to the Bill in September 2016 and the government is now looking at April 01, 2017 as the deadline for its implementation. The Bill has already received the nod of 18 states. The GST lays down a single indirect tax which includes within its ambit most of the Central and state taxes which were previously levied separately. It will lead to a single unified tax regime and improve the tax base making tax evasion considerably tougher.
This reform is expected to provide the much-needed impetus to the manufacturing sector, which is currently growing at a dismal rate of two percent per annum.

www.vccircle.com/infracircle/gst-likely-boost-manufacturing-2/

Food For Thought

The Indian manufacturing sector is currently growing at a dreary rate and the burdensome tax regime acts as an impediment to its development. While large corporates were able to navigate through the maze of complex and multiple indirect taxes, the regime levied unfair costs on small and medium-sized enterprises (SMEs).

The SMEs not only had to compete with large enterprises on costs and efficiency, but also had to invest significant resources to manage taxation related issues. The GST is expected to consolidate all indirect taxes and avoid double taxation. This should reduce the cost of compliance and ensure fair opportunities for SMEs to compete in the market.

A single unified taxation regime will also result in more predictability and clarity on taxation-related issues and attract foreign investment and players in the manufacturing sector. Competition amongst players will be enhanced, eventually resulting in improving the quality and reducing prices of goods and services available to end-consumers.