Competition Distortions in India – A Dossier

(CDI-8: June-July 2010)

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 8th volume of the bimonthly dossier that we are producing to report and comment on policy induced competition distortions and benefits in India, highlighted in the printed media.

Interestingly, this volume reports on the conundrum of high import duty on natural rubber resulting in increased cost of truck tyres, antidumping duty on imported truck tyres and the rise in truck freight charges.

While it is argued that the appropriateness of safeguard and anti-dumping duties can be ascertained on the basis of an appeal to data, inverted duties are seen as leaving a distortion either in terms of market shares or in terms of price. It is emphasised, as has been done in previous volumes, that competition distortions can be tolerated only if there are significant offsetting welfare gains in terms of employment etc.

On this issue I have also written an article for The Economic Times: "Competition Policy: Costly Neglect" on August 23, 2010. (http://www.cuts-ccier.org/ArticlesAug10-Competition_policy-Costly_neglect.htm). This argues for a holistic competition policy which has been strongly recommended by the Planning Commission.

We have been lobbying the government on this for a long time but it appears that vested interests will not allow any progress in this crucial policy reform. It is perhaps symptomatic of the general drift in the government on economic reforms.

Other issues discussed in this dossier in regard to their implications for competition are those associated with uniform pricing by oil PSUs, caps on the fees charged for banking services; and the TDSAT judgement which has adversely impacted the competitiveness of BSNL. Reduction in import and anti-dumping duties on natural rubber and tyres and associated impact on producers has also been discussed at length.

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A. Trade issues

1. Tyre companies seek import duty cut on Chinese lines

…Quoting the Chinese government, the tyre makers said China has lowered the import duty drastically and currently stands at just 6.8 percent, because of which Chinese tyres makers are able to access natural rubber at much low prices which also helps them reducing their production cost.

"This (lowering the import-tariff) would positively affect the industry's competitiveness", said Rajiv Budhiraja, Director General, Automotive Tyre Manufacturer's Association.

…Growers, meanwhile, are quick to cite the vulnerability of the small farmer, who constitute 90 percent of rubber farmers, against any move to lower import duties.

Meanwhile, in its monthly Rubber Statistical Bulletin, the Board has attributed the current rise in rubber prices to growth of tyre industry and also to low rubber output and increase in global prices.
http://www.financialexpress.com/news/tyre-cos-seek-import-duty-cut-on-chinese-lines/647080/
http://lite.epaper.timesofindia.com/getpage.aspx?articles=yes&pageid=17&max=true&articleid=Ar01702&sectid=14edid=&edlabel=ETBG&mydateHid=11-06-2010&pubname=Economic+Times+-+Bangalore+-+Commodities&title=Import+may+hurt+growers+but+users+all+for+it&edname=&publabel=ET

Food for Thought

The import duty on natural rubber stands at around 20 percent in India. A simple comparison with China, where it is 6.8 percent, establishes that Indian manufacturers do not have a level playing field vis-à-vis their Chinese counterparts with a resulting adverse impact on sales.

A reduction in import duty in response to the demand by tyre manufacturers would benefit them, by enabling them to sell their goods at competitive prices, as well as consumers. Moreover, domestic consumption of natural rubber has far outpaced its production. In 2010-11, natural rubber consumption is likely to outstrip production by 1,75,000 tonnes. Easier import of natural rubber, which the reduction in import duty would facilitate, is therefore critical for meeting the shortfall.

On the other hand, reduction in import duty would jeopardise the interests of local rubber growers. The local natural rubber industry, which is labour intensive and comprises of almost 90 percent small growers, would suffer significantly if import duty is slashed at one go because of the adverse impact on sales as well as employment.

As a solution, import duty can be reduced in a phased manner, so that Indian manufacturers can become more competitive in the domestic market and local growers can simultaneously enhance their efficiency in a gradual and realistic manner without losing significant ground to foreign competitors.

The details of the phased approach should be based on a careful appraisal of costs and benefits over time, which balances the interests of both tyre manufacturers and rubber growers.

2. Truck makers appeal against dumping duty on Chinese radial tyres

Truck makers, including Tata Motors, have appealed to the Centre against the anti-dumping duty on bus and truck radial tyres imported from China. Chinese radial tyre makers too have made a similar appeal.

…The domestic tyre industry finds it hard to meet the growing demand for radial tyres from vehicle makers and replacement market.

…The anti-dumping duty on tyres from China is in the range of US$24-US$90 a tyre. Despite the anti-dumping duty, countervailing duty of 10 percent and import duty of 14 percent, truck radials from China are making in-roads into the Indian tyre market.
http://www.thehindubusinessline.com/2010/07/14/stories/2010071450850300.htm

Food for Thought

The case for levy of anti-dumping duty should be reviewed carefully because the sole justifiable motive behind anti-dumping duty is prevention of predatory pricing. If predatory pricing by Chinese tyre exporters can be established on the basis of data on prices being charged for these tyres in other markets, then the levy of anti-dumping duty would indeed be justified. However, if appeal to data on prices rules out predatory pricing then the levy of anti-dumping duty is uncalled for.

In regard to the levy of import duties, it has been mentioned above that their levy at current rates has not been able to prevent Chinese tyre producers from making inroads into Indian markets. While raising the import duty subject to multilaterally agreed bounds is a possibility, this has to be done after weighing consumer losses through price increase against gains to domestic tyre manufacturers and rubber growers as well as their employees in terms of sales and protection of jobs.

3. Soda ash safeguard duty to improve domestic offtake

The government's move to impose 16 percent safeguard duty on soda ash imports from China is going to benefit Indian soda ash producers, as it will help increase domestic offtake. However, market players do not see rise in prices due to increase in safeguard duty.

... According to traders, the domestic price of soda ash is nearly `15,000 a tonne, while the price of soda ash imported from China was around `13,500 a tonne prior to the imposition of the levy.

"There is no proposal for soda ash price hike currently. We do not see any impact of this move on soda ash prices. Till April, the safeguard duty was already in place and the government has extended the levy by a year after the gap of two months from April", said Sanjay Dalmia, Chairman, Gujarat Heavy Chemicals Limited, one of the top soda ash manufacturers in the country.
http://www.business-standard.com/india/news/soda-ash-safeguard-duty-to-improve-domestic-offtake/400039/

Food for Thought

A safeguard duty is levied to protect domestic industry from serious injury caused by overexposure to competition from abroad through an import surge. Levy of safeguard duty can be justified if absence of such duty is seen as associated with a significantly reduced market share of domestic producers, thus threatening their businesses. Further, it must be established that the need to protect domestic industry overrides possible adverse impact on consumers.

Moreover, the time span for levy of safeguard duty should also be carefully assessed; a long time span would promote inefficiency among protected domestic producers to the detriment of consumers.

B. Other Issues

1. Finmin supports plan panel on road bid norms

The Union Finance Ministry has endorsed the views of Gajendra Haldea, Adviser to the Deputy Chairman of Planning Commission, who had objected to recent changes in the bidding norms by the National Highways Authority of India (NHAI).

NHAI had made many changes in the bid documents, which included not allowing the companies, which had already won bids for three road projects but not achieved financial closure in any of these, to bid for new ones.

Haldea had written to Brahm Dutt, Secretary, Ministry of Road Transport & Highways with copies to Ashok Chawla, Secretary, Ministry of Finance and Sushma Nath, Secretary, Department of Expenditure expressing his objections. The letter said these changes 'will create more restrictive environment, reduce competition and enable cartelisation'.

…The Finance Ministry also endorsed Haldea's view by objecting to the NHAI amendment, which entails increasing the financial eligibility criteria for bidding for large projects. The Ministry said this amendment will benefit the wealthier and foreign companies.
http://www.business-standard.com/india/news/finmin-supports-plan-panelroad-bid-norms/401665/

Food for Thought

The stance taken by the Ministry on bidding norms by the NHAI can be justified on the basis of adverse impact of these bidding norms on competition. Prohibition of bidding by companies which have won three projects but not achieved financial closure in any of these is an extreme measure lacking justification, keeping in view the average time taken in achieving financial closure. In the same breath increasing the financial eligibility criteria for bidding for large projects can be criticised as this eliminates competition from small and new players.

On the other hand, NHAI may have taken such steps in the public interest to check aggressive bidding by companies lacking the required potential for new projects. Increase in the financial eligibility criteria for large projects might also be a means to restrict bidding to that by serious players.

Therefore, analysis is needed to compare benefits and losses resulting from the changes in bidding norms proposed by the NHAI.

2. Shippers seek relaxation of Cabotage Law

As Kochi port prepares to commission its prestigious Vallarpadam Terminal shortly, the shipping community has sought the relaxation of the Cabotage Law, allowing foreign carriers to carry cargo between Indian ports.

…Doing away with Cabotage Law would help reduce the cost of logistics and make Indian products more competitive in the international market, highly placed sources in the shipping fraternity said.

The existing Cabotage rules, mandated by the Merchant Shipping Act, 1958, stipulate that the movement of containerised cargo between Indian ports should only be undertaken on Indian flag vessels.

…There would be an overall reduction in transit times for containerised cargo to/from India; an increase in revenues to the national exchequer arising from the higher earnings by Port Trust by way of higher revenue share, the sources said.

http://www.thehindubusinessline.com/2010/06/17/stories/2010061751091800.htm
http://www.thehindubusinessline.com/2010/06/24/stories/2010062451971800.htm

Food for Thought

The Cabotage Law as existing in India is the norm in other countries as well. However, relaxation in the Cabotage rules will result in more competition in the shipping sector and make Indian exports more competitive and imports cheaper.

This might be a good opportunity for domestic industry to improve its performance in the wake of competition by foreign shipping lines. On the other hand, resulting in competition might lead to contraction or elimination of the businesses of domestic shippers, thus jeopardising the future prospects of the Indian shipping industry. This, in turn, may dampen prospects for employment in the domestic shipping industry. Therefore, research is needed to ascertain the likelihood of these two scenarios.

3. Bankers panel finalises views on service charges

A Committee of the Indian Banks Association has finalised the recommendations on the fees that should be charged for basic services such as issuing a draft, remittance or for 'stop payment' instructions.

These will now be sent to the Reserve Bank of India (RBI). "The committee members have agreed on caps on charges for different services and once these are approved by RBI, banks will not charge customers above the caps", said a banker who was on the committee.

…Presently, there is wide disparity between what different banks charge customers.
http://www.business-standard.com/india/news/bankers%5C-panel-finalises-viewsservice-charges/399831/

Food for Thought

Such a coordinated approach by different entities to arise at reasonable maximum charges may make sense but if the same becomes the benchmark then there is a possibility of violation of the Competition Act. However, such type of coordination has been seen to lead to collusion among the players even in matters where they were competing earlier. A recent case of colluding on interbank cheque collection fees has been actioned by the French competition authority[1]*.*

4. Truck rentals may go up

Though the Union Government has refrained from revising fuel prices upwards, truck rentals may increase due to a fresh rise in tyre prices in June 2010.

…Tyre constitutes 30 percent of the operating cost of trucks. Truck rentals have moved up by 21-23 percent since November 2009.

[1] http://www.autoritedelaconcurrence.fr/user/standard.php?id_rub=368&id_article=1472

… "From the raw material cost point of view, the increase in tyre prices is far in excess of the increase in production cost", said S P Singh, Convenor, All India Tyre Dealers Federation.

Singh was equally critical of the truck operators for "over-pricing the rentals by 8-12 percent". According to him, operators increased rentals in May 2010 taking advantage of an effective drop in availability of trucks due to non-renewal of large number of inter-state permits by state governments and non-registration of new trucks in various states because of confusion over emission norms since April 2010.
http://www.thehindubusinessline.com/2010/06/09/stories/2010060952280300.htm

Food for Thought

Since, expenditure on tyres reportedly constitutes 30 percent of the operating cost of trucks, truck rentals are bound to go up, given that prices of tyres have been raised thrice in 2010.

However, it has been alleged that the real reason for increased rentals has reduced availability of trucks due to non-renewal of a large number of inter-state permits and non-registration of new trucks.

Hence, careful research is needed to correctly apportion the blame for the mentioned rise in rentals between two mentioned sets of factors.

5. Government wants stronger trade relations with Asia-Pacific nations

…Trade and Economic Relations Council would also discuss the recommendations of the Anwarul Hoda Committee on the so-called inverted duty structure. The Prime Minister's Office had set up a committee under the former Planning Commission member to advise ways to shield domestic manufacturers against inverted duty structure arising out of free trade agreements (FTAs).

Inverted duty structure is a phenomenon where duty on inputs becomes higher than duty on finished products, thus creating an economic disadvantage for local manufacturers.

…Hoda said one of the recommendations of his panel was to put quotas on import of finished products from countries such as Nepal and Sri Lanka, which was enforced later.
http://www.livemint.com/2010/06/30205121/Govt-wants-stronger-trade-rela.html?atype=tp

Food for Thought

An inverted duty structure adversely affects the competitiveness of Indian producers in the domestic market. The Department of Commerce which negotiates all FTAs need to take care that tariff concessions do not result in inverted duty structure. United Nations Conference on Trade & Development has now developed a software to check this.

6. Oil companies to review petrol prices every month

The public sector oil companies: Indian Oil Corporation, Hindustan Petroleum Corporation, and Bharat Petroleum Corporation will review petrol prices on a monthly basis. And changes in price, if any, will be through mutual consensus and remain at a uniform rate for the public sector undertaking (PSU) companies.

…S V Narasimhan, Director (Finance), Indian Oil Corporation, after a meeting convened by the Petroleum Secretary, S Sundareshan, of executives of three oil companies, told newspersons that oil marketing companies will once in a month coordinate on petrol pricing based on international crude oil and product price trend.
http://www.thehindubusinessline.com/2010/07/15/stories/2010071553790400.htm

Food for Thought

In this case, the crucial issue is whether PSUs are being provided a subsidy, whether directly or indirectly, by the government. The past surpluses of these PSUs might serve as deferred subsidies, enabling these companies to charge a price lower than marginal cost, thus eliminating competition for the private sector. Uniform pricing by the public sector in this context would imply a total lack of price competition in the market.

Moreover, such price fixing is a violation of The Competition Act, 2002 (as amended in 2007). However, it should be noted that if no subsidy is being availed of, directly or indirectly, the private sector can compete effectively with the public sector. However, joint pricing is still a violation of the Act.

To conclude, research should try to ascertain:

- *Whether there is any subsidy being provided by the government to PSUs at present.*
- *Whether surplus liquidity available with the PSUs – obviously a result of past subsidies – is being used to undertake predatory pricing.*

Such research would help determine the significance of the decision by PSUs to maintain uniformity in charged prices.

7. Licence fee: DoT rejects BSNL plea for level field

The Department of Telecom (DoT) has rejected Bharat Sanchar Nigam Limited's (BSNL) request seeking a level playing field with the private operators on the issue of paying of license fees and spectrum charges.

…Telecom operators are required to pay between 6 and 10 percent of their annual revenues to the government as license fees.

However, private operators pay the revenue share only on income earned from telecom services based on a judgement given by the Telecom Disputes Settlement and Appellate Tribunal (TDSAT). But since BSNL, being a state-owned company, did not want to be seen as challenging the government in a court, the PSU did not get the benefit of the TDSAT judgement. Therefore, it has to pay licence fee on the total revenue, including income from non-telecom activities. Similarly, in the case of spectrum charges, BSNL has been asked to pay as per DoT's revised rates even as the private operators have got a stay order from TDSAT on the same.
http://www.thehindubusinessline.com/2010/07/15/stories/2010071551920700.htm

Food for Thought

The decision of TDSAT has apparently resulted in a discriminatory practice against BSNL, which has adversely impacted its competitiveness. The DoT should have suo moto extended the same concessions to BSNL and maintained competitive neutrality.

C. News & Views

1. The trucking market distortion

…Since 2000 – which is when the share of large corporate contracts started increasing – most of the contracts have been bagged by companies who are largely non-fleet owning in nature. They can be categorised as agents or transport companies that are more likely to own a very low percentage of the actual fleet required. They hire trucks from smaller truck owners/operators.

…As the agents 'own' the customers, or specific information about the demands of customers, they wield a fair amount of power on a truck owner/operator.

But under the current road transportation laws in the country, the agents are not accountable as much as a truck owner/operator. So, we have a case where one key segment of players of the market is not accountable in proportion to the power they hold.
http://www.thehindubusinessline.com/2010/07/19/stories/2010071950990500.htm

Food for Thought

Middlemen interfere in the free play of competitive forces. Their charges are in the nature of a rent, based on their access to information. Such rents can be easily eliminated by introducing an electronic information system providing relevant information to consumers of trucking services. This would bring prices much closer to the cost of trucking services.