Competition Distortions in India – A Dossier

(CDI-1: March-April, 2009)

In order to assist the public sector national airline, Air India, the Government of India has recently passed an order that all government travellers will only use Air India for all their travels.

Such an order had existed in the past, but was withdrawn when the civil aviation sector was opened to private participation. This has been resurrected to provide support to the losing Air India. More so the Prime Minister of India has promised financial aid to the national airline as well. The airline has been losing money for several reasons over the past many years, which is not necessarily due to the global financial meltdown. This issue will be covered in the next edition of the Dossier but was narrated as it is a current issue in India.

Both these measures are anachronistic in the current era of promoting healthy competition, and also goes against the principles of competitive neutrality.

Besides such policy-induced anti-competitive measures there are various other issues, including the use of trade remedial measures, such as anti-dumping and safeguards, which are not necessarily used to provide protection against unfair trade practices of foreign suppliers.

CUTS has now launched a periodical dossier capturing such news so that there is an informed debate. We send herewith the inaugural dossier with the usual caveats spelt out in the introduction. The same can also be accessed at www.cuts-ccier.org.

We would welcome your views and any comments on similar actions which go against the spirit of healthy competition.

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A. Trade issues

1. Imposition of anti-dumping duty: A trade protection measure

(i) Domestic counterparts oppose proposed anti-dumping duty on stainless steel
In an attempt to protect the domestic stainless steel companies, the government imposed a provisional (till October 21, 2009) anti dumping duty on certain high-end stainless steel products imported from China, the European Union (EU), the US, Japan, South Korea, Taiwan, South Africa and Thailand.

As a result of this duty, the companies from these countries selling the product very cheap in India will be discouraged. The level of such duty on the product varies from country-to-country and the imports from China would be subjected to a maximum level. India is not an exception; many countries have imposed anti-dumping duties on cheap imported products in the wake of the ongoing financial crisis.

The end-user industry of high grade stainless steel in the country has strongly opposed the proposed levy of anti-dumping duty saying that proposed duty will have serious implications on it as the domestic producers are not offering special grades and wider sizes needed for the industry. They are also asking to protect the right of industry to choose their vendors. Their argument is that imposition of duty on behest of single manufacturer (Jindal Stainless Ltd, accounting for 80 percent of cold rolled steel products produced in the country) is not fair and ethical as it takes away the right to choose vendors from the end-user industry.

The data indicate that imports of stainless steel have surged by almost 60 percent in November 2008 against the previous year. The Indian stainless steel prices are almost half of what they were in 2007 because of steep fall in nickel prices. But, slowdown in global demand has increased low-cost imports from the countries, such as China, South Korea and Taiwan.

Source:http://economictimes.indiatimes.com/Steel/Companies-protest-against-proposed-anti-dumping-duty-on-steel/articleshow/4366039.cms

(ii) Anti-dumping duty on colour picture tubes from Indonesia
The government has imposed anti-dumping duty on the imports of colour picture tubes from Indonesia. The decision may give some relief to domestic manufacturers but make coloured television sets costlier for consumers.

Colour television manufacturers in India import picture tubes as the capacity of domestic colour picture tube industry is less than the production of TV sets and unable to satisfy the demand of TV manufacturers. Imposition of this duty would lead to increase in price of TV sets as colour picture tube is a major input cost (about 40-45 percent to the total cost of a TV set) in TV manufacturing.

The government's point of view for imposing duty is that these imports have been causing material injury to the domestic industry.

Source:http://economictimes.indiatimes.com/Electronics/Govt-imposes-anti-dumping-duty-on-colour-picture-tubes-from-Indonesia/articleshow/4335921.cms

(iii) Anti-dumping duty on variants of PFY

The Government of India has imposed an anti-dumping duty on All Fully Drawn or Fully Oriented Yarn/Spin Draw Yarn/Flat Yarn of Polyester imported from China, Thailand and Vietnam up to September 25, 2009. The government has taken this initiative to protect the interest of the Indian manufacturers who has complained of dumping of these products in India at prices lower than those prevailing in the home markets of these countries.

When the proposal for imposing anti-dumping duty was initiated by the government, the Surat textile industry, which has the largest consumption of this product in the country, had protested against the decision saying that there is already an anti-dumping duty on existing Polyester imports.

Their argument is that looking at the high demand season for this fabric, if anti-dumping duty is imposed, indigenous yarn manufacturers will raise prices. This move would result in high cost of yarn which will lead to rise in imports of the finer denier fabric, which will be detrimental of the Surat weaving industry.

Source:http://www.fibre2fashion.com/news/textiles-import-export-news/newsdetails.aspx?news_id=70683

Food for thought:

The above cases illustrate trade distortions caused by the unfair trade practice (UTPs) of dumping (by foreign companies). Remedies in the form of levy of anti-dumping duty to make the playing field more level and protect domestic industries are also illustrated. Anti-dumping duties on import of stainless steel, colour picture tubes and fully drawn or fully oriented yarn/spin drawn yarn of polyester are being opposed by the concerned end user industries on the grounds that such levy increases the price of end use products and thus reduces consumer welfare. However, in reality such price increase will occur only if the end product sector is characterised by intense competition and the accrual of normal profits only. In other cases, cost increase will not be passed on entirely to the consumer. The appropriateness of anti-dumping duties, therefore, rests crucially on the extent of competition in the end use sector -- an issue which requires detailed statistical analysis that has not been conducted yet.

Knowing that Indian industry is highly dependent on imports of raw material; can this initiative have a serious implication on the end-user industry, which also employs a large number of workers? Will such incremental costs due to the levy be passed on to consumers or will it only cut the profit margins of the firms, which were too high in the first place?

2. Safeguard duty to check Chinese imports

(i) Small drug companies oppose safeguard duty on Chinese antibiotics

The small pharmaceutical industry is opposed to imposition of safeguard duty on import of antibiotic bulk drugs 6APA and erythromycin from China. According to the Small Pharmaceutical Industry Confederation (SPIC), it would favour only one manufacturer, Alembic that produces these bulk drugs in India and does not have the capacity to meet the demand for bulk drugs. SPIC view is that imposition of a safeguard duty could lead to rise in domestic prices of these drugs.

Safeguard duty as a general rule is imposed where there are three or more manufacturers having the capacity and quality to meet the demand. SPIC argument is that in this case, since only one manufacturer is there, it will lead to monopoly and exploitation by increasing the price of end formulations in the Indian market.

The recommendation of imposing the safeguard duty came in the wake of some drug makers asking the government to intervene and protect the local firms against imports from China. The imported erythromycin from China costs around US$58 per kg but manufacturing cost in India is about US$80-US$90 per kg. Import of 6APA and erythromycin from China increased by more than 100 percent during April-November 2008.

Source:http://economictimes.indiatimes.com/News/News-By-Industry/Healthcare--Biotech/Pharmaceuticals/Pharma-industry-against-safeguard-duty-on-Chinese-antibiotics/articleshow/4382645.cms

(ii) Safeguards duty imposed on aluminium products from China

The government has imposed provisional safeguards duty on imports of aluminium flat-rolled products and aluminium foils from China to provide some relief to the domestic producers. The Aluminium Association of India had filed the petition seeking imposition of safeguards duty.

The share of domestic industry in flat-rolled products declined from 85 percent in 2005-06 to 77.3 percent in during April- December 2008. In the same span, market share of Chinese imports in India expanded about three times to nearly 15 percent. As a result, capacity utilisation in Indian factories producing the product dropped sharply

Source:http://www.thehindubusinessline.com/2009/03/26/stories/2009032652020500.htm

Food for thought

Rapid increase in imports as a result of trade liberalisation can build up pressure on domestic industries. Safeguard duty in the above cases has been used as a safety valve to protect domestic producers temporarily so that these can make appropriate adjustments to compete effectively with foreign players. Unlike anti-dumping, safeguards may be more dangerous as they provide more or less blanket protection to domestic industry in comparison to anti-dumping duties for a specific period. In both cases, end-user industries using these products as raw material from outside are dissatisfied by the move saying that they will have to pay higher prices which would end up in higher cost of finished goods.

Can the duration of safeguard duties in the illustrated cases, result in the negative effects on competition in the short run being overwhelmed by the positive effect in the long run? Is it likely to benefit the manufacturers alone or it would serve the public interest in the long run?

B. Other issues

3. Public-private companies' tussle over oil prices intensifies

The battle between private oil companies and government oil marketing companies (OMCs) – Indian Oil Corporation (IOC), Bharat Petroleum Corporation Limited (BPCL) and Hindustan Petroleum Corporation Limited (HPCL) – over petroleum product pricing is set to intensify.

Private companies, including Reliance Industries, Essar Oil and Shell India had filed a petition before Petroleum and Natural Gas Regulatory Board (PNGRB) against the OMCs , alleging that the latter indulged in "predatory pricing" in sale of transport fuels. Private companies had appealed to the Board to levy a penalty on the government-owned companies for the losses incurred in selling the fuel.

However, the Delhi High Court in a judgment on the petition of IOC challenging the PNGRB's jurisdiction in the matter held that Appellate Tribunal for Electricity (APTEL) is the designated authority under the Electricity Act to take up the matter.

The OMC's argument is that the price of oil is regulated by the government and they have no control over it. The OMC's have to sell the fuel at regulated price even if the companies have to incur losses. However, these losses are made up by government bonds.

The private OMCs are not provided such compensation. In fact, they were forced to shut their retail operations early in 2008 when crude oil prices rallied to touch three digits, reaching a high of US$147 a barrel in July 2008.

Source:[*http://www.business-standard.com/india/news/govt-private-firms-tussle-over-petro-prices-intensifies/354922/*](http://www.business-standard.com/india/news/govt-private-firms-tussle-over-petro-prices-intensifies/354922/)

Food for thought
The OMCs in India are dominant players in the market and almost monopolies in the marketing of fuel as evident from the following table:

Market Dominance

Segments	Public Sector (in percent)	Private Sector (in percent)
Crude oil exploration & production	86	14
Natural Gas production	77	23
Oil refining	66	34
Marketing	98	2

All OMCs are incurring heavy losses due to regulated fuel pricing. The government spends a huge amount of money to compensate public sector companies for their losses but does not do the same for private sector companies. A few private players such as Reliance, Essar and Shell did enter petrol retailing but could not survive in the market due to such discriminatory subsidisation,

The private companies are justifiably asking for competition neutrality and a level playing field. If petrol is to be retailed at subsidised rates, the provision of compensating loss through government bonds should be available to all companies irrespective of public or private ownership.

Should the government remove the subsidies and allow fair competition with the private players? Should the government extend equal advantages to both the sectors?

4. Reality check for aviation sector

When all the major airlines are looking to cut its fleet size due to reduced demand, Air India is set to slash fares by as much as 70 percent on many sectors. Over the three years, the airline industry has seen a rapid growth in passenger traffic largely due to cheap fares.

Despite rapid growth in volumes the airline industry is running into huge losses. This is an indication that cheap fares were not sustainable. Hence, most of the airlines have decided to raise fares despite heavy drop in volumes.

Contrast to this, Air India's decision to cut fares could create problems for the industry. In a free market situation, one cannot argue with the business strategy of a player, but Air India's case is different. It is a state-owned enterprise (SoE) whose losses have to be eventually met from public funds.

Since the action of such a large player has an impact on the market, it is important that Air India does not abuse its public sector strengths.

Source: *http://economictimes.indiatimes.com/Opinion/Editorial/Reality-check-for-aviation/articleshow/4432461.cms*

Food for thought
As Air India has access to Government funds, it can afford to charge low prices even if such activities imply huge losses. However, it deserves mention that private airlines have also been incurring losses on account of inadequate prices. These losses have been nullified by profits from other activities of business conglomerates of which these are a part. Similarly, government has other business interests besides Air India, from where it can draw profits to subdue the losses.

Should government make an attempt to provide equal support and assistance to both public and private sector airlines to ensure a level playing field? Will selective support result in the public sector carrier abusing its public strength?

5. RIL, GAIL won't compete for city gas business

Reliance Industries (RIL) and Gas Authority of India Limited (GAIL) India are close to signing a no-compete agreement for their city gas distribution (CGD) business. The two companies will separately bid for various cities but the winner will take the other partner on board for executing them.

The two have already identified first 10 states to have joint operations that could be extended to the entire nation. RIL, through its subsidiary Reliance Gas Corporation Limited (RGCL), has submitted expression of interest (EoI) for over 50 cities. GAIL has also submitted EoIs for developing CGD network in 7 cities.

RIL is attracted to GAIL for its extensive natural gas transportation infrastructure and its experience in managing CGD projects. GAIL is interested to join hands with RIL for its vast gas resources at the Krishna-Godavari basin. At present, GAIL has a monopoly in gas transmission business. It has over 6700 km of high pressure trunk pipeline with a capacity to carry 148 million standard cubic metres per day of natural gas across the country.

The two companies had signed a memorandum of understanding (MoU) for joint cooperation in areas of pipeline transmission and marketing activities, coal bed methane, city and local gas distribution, operations and maintenance services, exploration and production, technology and knowledge sharing etc.

The MoU emphasised on the need for both companies to examine the complementary nature of their facilities and build cooperation among them for mutual benefit.

Source: Economic Times, 19.03.09

Food for thought

GAIL and RIL have shared the market in applying for EoIs. Out of 60 cities to be served by CGD, RIL has been given EoIs for 54 cities and GAIL for eight cities. Except for two cities, Ghaziabad in UP and Gwalior in MP, there are no overlapping bids by the two companies.

The huge investment required in CGD necessarily restricts competition. Agreements of this type will further reduce competition. To make matters worse, if a gas producer owns a distribution system too, it may not make gas available to competing distributors easily and on fair terms. Such competitive advantage is enjoyed by both GAIL and RIL as the former has extensive natural gas transportation infrastructure and experience in managing CGD projects and the latter has vast gas resources in the Krishna-Godavari basin.

Does the agreement raise competition concerns as it may involve issues relating to market sharing and bid rigging? Can the public interest benefits outweigh the negative effects on competition?