COMPETITION DISTORTIONS IN INDIA – A CUTS DOSSIER

(CDI 55: January to March 2022)

For earlier Dossiers please see: https://cuts-ccier.org/competition-distortion-in-india/

This periodic dossier produced by CUTS International looks at the interface of policy issues that impact competition in India, which can be both negative and positive. News, as published, is used without verifying its accuracy. The purpose is to flag issues to the layman and the specialised policymakers and regulators, rather than be judgmental about them. This would require greater analysis, particularly in terms of cost and benefits in addition to that.

Dear Reader,

Greetings!

We are pleased to present the Competition Distortion Dossier #55 for the first quarter of the year, i.e., January to March 2022. To ensure that you do not miss any updates from this quarter, we have extensively covered the most significant news stories from these three months that impact the competitive landscape in India. Taking forward from previous editions, we have divided the dossier into three parts: Trade Policies; Policies Promoting Competition; and Policies Inhibiting Competition.

The first section discusses the growing concern among India's PVC producers on the possible reduction of import duty on the material. There are discussions about India's high tariffs on electronic components and how these high tariffs are negatively impacting government's PLI scheme. The dossier discusses high tariffs on electronic components in India and how these high tariffs negatively affect the government's PLI scheme. The Indian government's recent policy of privatising the space sector and the country's latest proposal to increase clean energy production, namely Green Hydrogen, under the National Hydrogen Policy are also discussed. Further discussion on the National High Authority of India's asset monetisation plan and the government's adoption of the Make in India policy to promote the solar sector has also been included.

The dossier also contains comments on the policies inhibiting competition, including discussing the upcoming PayU and Billdesk acquisition and its impact on the market. We have also shed light on and analyse the effect of the year's most anticipated IPO, the Life Insurance Corporation of India's Initial Public Offering. In addition, we also discuss the issue of inverted duty structures in the footwear industry and provide information on the Competition Commission of India's recent order probing Google News business strategies.

We hope you enjoy reading these stories as much as we did, reporting them.

Cheers!

Contents

A. Trade Policies

The Growing Concerns of India's PVC Manufacturers

The domestic producers of Polyvinyl Chloride (PVC), ahead of the budget presentation, raised their concerns about the possibility of a reduction in the import duty of PVC. The domestic PVC manufacturing industry has asked the government to keep the import duty on the material unchanged for the current fiscal year. They fear that the reduction in duties will jeopardise planned domestic capacity expansion.

PVC is a type of plastic used in various industries, including agriculture, building, construction, and healthcare. In recent years, the duty on PVC imports has been doubled to 10 percent, encouraging new investment by domestic players. India produces approximately 1.5 million tonnes of PVC per year, which accounts for less than half of the country's total consumption of roughly 3.2 million tonnes.

Reliance Industries Limited accounts for approximately 45 percent of the country's total PVC production. RIL intends to add 1.5 million tonnes of new capacity per year, while Adani Group wants to increase its production capacity to 2 million tonnes per year. This combined capacity of 3.5 million tonnes will triple India's capacity.[1]

Food for Thought

PVC manufacturing in India is a capital-intensive industry due to many challenges, such as the high cost of finance and the lack of adequate infrastructure facilities. This capital-intensive industry has grown by about 13-14 percent a year over the last decade due to strict import duty on the material. Japan is currently the largest PVC exporter to India, supplying 500,000 tonnes per year.[2]

India and Japan have signed a free trade agreement (FTA) to reduce import duties on various goods traded between the two countries. A sharp increase in Japanese exports of PVC material to India results from this FTA, and the said FTA has worked to reduce customs duties to zero.

Several applications have previously been made to the Directorate General of Trade Remedies (DGTR) requesting the immediate imposition of bilateral safeguard measures

1 https://economictimes.indiatimes.com/news/economy/foreign-trade/budget-2022-pvc-producers-want-no-change-in-import-duty/articleshow/89192118.cms

2 https://manthanexperts.com/import-duty-reduction-may-cost-burden-on-pvc-manufacturers/

in light of the significant increase in imports. In addition to product quality, pricing is an essential factor in establishing a strong market position. The safeguard duty is imposed as part of trade remedy measures permitted under the World Trade Organisation's global trade rules. Safeguard duties are actions taken by a member country to protect a specific domestic industry against excessive imports of any product that is causing or threatens to cause serious injury to the industry. These are temporary restrictions on product imports to regulate their price in its domestic market. This contributes to the domestic industry having a level playing field in the national market.

High Tariff Negatively Affects India's PLI Scheme

A recent report of ICEA and IKDHVAJ Advisers LLP highlights the issue of India's import tariffs on components for the electronics sector being higher in comparison to other countries like China and Vietnam etc. This has led to negating the benefits of PLI schemes and adversely impacting national competitiveness. The report did a detailed comparative study of 120 tariff lines of electronics, priority products, etc., *vis-a-vis* four countries; China, Vietnam, Thailand and Mexico.

The study highlighted that India has zero tariffs on 32 of the 120 tariff lines, while other countries have more zero tariffs, ranging from 53 (China) to 74 lines (Mexico). India has the largest tariff lines for products in the electronics sector.[3]

Food for Thought

India has imposed high tariffs on imported electronic components to protect domestic companies from global competition. However, it has been counterproductive to the government's plans to increase domestic electronic production capacity. Many countries have attempted to boost their domestic production of electronic goods. This has been done by employing similar strategies, such as attracting Foreign Direct Investment (FDI), improving domestic capabilities and competitiveness, increasing exports, and connecting their markets to global value chains.

China, since 1980, has improved its ranking in terms of office and telecom equipment export from 35 to 1. Vietnam, which did not export any electronic products until the 1990s, in the last 20 years, has climbed the ladder to become the eighth largest exporter. Mexico, which was ranked 37th in electronics product export in the 1980s, has steadily

[3] https://economictimes.indiatimes.com/industry/cons-products/electronics/indias-high-import-tariffs-in-electronics-sector-negating-pli-impacting-competitiveness-report/articleshow/88734024.cms?from=mdr

climbed to 11th, a position it has held for the past two decades. According to the report, ranked 45 in 1980, Thailand has consolidated its position among the top 15 electronic product exporters. On the other hand, India stood in 40th place in the 1980s, and it has gained and lost positions to reach 28th place in 2019.[4]

Due to such high tariffs, investors and electronic component makers avoid India as a market. The situation is such that the country's participation in global value chains remains low. In the case of mobile phones, where one of the largest PLI schemes is currently in operation, the domestic market is expected to grow to US$55bn by 2025-26, while the global market is expected to reach US$625bn by the same time. The domestic market in India accounts for only 6.5 percent of the global market, with growth potential.[5]

High tariffs on the import of electronic components may undo the benefits of Production Linked Incentive (PLI) programmes. The PLI scheme entices foreign investors to relocate or diversify their manufacturing operations to India, boosting domestic manufacturing. The Indian market is not attractive enough for foreign investors to choose it as a location because Indian trade policies are cost-inefficient, making access to a larger global market difficult. When component tariffs are high in a particular country, multinational corporations with extensive global value chains will be hesitant to enter such a market. So is the case with India, as high tariff lines on components for inputs add up the product's final cost, making it less competitive globally. High tariffs negatively impact industries that rely heavily on imported inputs, such as automobile and mobile manufacturing and medical device manufacturing.

To understand the economics, a product costs Rs 100 and the tariff is 15 percent; the local supplier will typically fix a price around Rs 113 to Rs. 114. The buyer of the said product in a product global supply chain then has various options for obtaining the product with a low cost at zero duty from another market. This causes the domestic market to contract because the local supplier will only get a 10 to 20 percent market share, and competitive price imports dominate the rest. This leads to a loss of competitiveness of national products in the global value chain.

4 https://www.business-standard.com/article/economy-policy/india-s-high-import-tariffs-negating-pli-impacting-competition-icea-122010600607_1.html

5 https://indianexpress.com/article/explained/india-import-tariff-electronic-components-7731125/

B. Policies Promoting Competition

Privatisation of the Indian Space Sector

While presenting the Economic Survey 2021-2022, Finance Minister Nirmala Sitharaman emphasised the potential of India's space sector. The Minister also highlighted some of the proposed policy initiatives needed to build its space capacity. According to the survey, the Indian space sector is expected to grow and take a larger share of the global space economy in the coming years. Increased private sector participation in the Indian space sector has necessitated the implementation of required policy initiatives in the country's space jurisprudence.

In light of these policy initiatives, the government has decided to open up the space sector to private firms in June 2020, allowing them to participate in the full range of space activities. More than 100 start-ups are currently active in the space sector, with 47 registered with the government.

As part of the national space reforms, the government has established New Space India Limited (NSIL), the country's first public sector undertaking, and the Indian National Space Promotion and Authorization Centre (IN-SPACe), as the promoter and regulator of space activities for non-government and private entities. The trend of space activities is in a state of transition worldwide. Instead of being primarily a government-driven activity, the sector has seen increased participation from the private sector. This transition has been in the traditional vendor role and taking on end-to-end space activities.

According to the Economic Survey, ISRO has received as many as 40 proposals from private entities for indulging in activities ranging from manufacturing launch vehicles and satellites to earth observation applications. With this in mind, the government is continuously creating and implementing a predictable, progressive, and well-defined enabling regulatory framework for the country's space activities.[6]

Food for Thought

Indian Space Research Organisation is one of the world's "Big Six" space agencies and is crucial for India's space research, data collection, and national security. While the government has had a monopoly in the space sector for years, there has been a

[6] India space sector: Nearly 40 proposals from private players received by India's space regulator: Economic Survey - The Economic Times (indiatimes.com)

significant increase in private sector participation in space and space-related developments lately. It is the need of the hour for the Indian government to explore the private sector's potential in the space industry. The global space industry, which was estimated to be worth US$360bn in 2018, is expected to grow to US$558bn by 2026. Despite ISRO's impressive achievements, India's share of the global space economy is only US$7bn, accounting for only two percent of the total.[7]

There is a significant difference between NASA's annual budget, US$25bn, and ISRO, at US$1.45bn.[8] *Demands for a higher percentage share of the annual budget for ISRO have been made repeatedly in parliamentary standing committee reports. This severe lack of resources limits ISRO's capacity to reach its full potential. Further, there has been an increased demand for ISRO's services, whether for national or other commercial purposes requiring capacity expansion. This is why the Indian space agency is taking numerous steps to increase its capacity to launch more satellites per year.*

Further, even the Telecom Regulatory Authority of India (TRAI) has recently presented to ISRO suggesting that space agencies should consider enlisting the private sector for low and medium orbits for satellite launches. This will contribute to the country's increased internet connectivity and penetration, advancing the government's Digital India vision.[9]

It's also worth noting that ISRO's unique selling point (USP) is its low satellite launch costs. India's PSLV launch costs US$15mn, which is the lowest in comparison to other leading satellite launching entities such as SpaceX, which costs US$60mn, NASA, which costs more than US$100mn, the European Space Agency's (ESA) Ariane-5, Japan's H-IIA, and the Chinese Long March, which costs similar, and Russia, which costs around US$68mn. ISRO must keep up with global technological innovation while expanding its capacity to meet the demand to maintain this USP and remain significant.

Companies globally are touching new milestones in space technologies and advancing their existing know-how. Companies like SpaceX and Jeff Bezos' Blue Origin have perfected their reusable rocket technology based on soft landing techniques. On the other hand, India needs to invest heavily in its R&D and for the past two decades or more, it has been unable to develop a more powerful engine than the Vikas Engine. India has

7 https://delhipostnews.com/opening-up-space-for-private-companies-promise-and-perils/
8 *Ibid*
9 https://www.geospatialworld.net/blogs/why-isro-is-engaging-more-and-more-with-private-players/

continued to pay for the French rocket Ariane V to launch its satellites weighing more than four tonnes.

To realise its full potential in space, India will need to investigate the possibility of enhancing its capabilities to meet increased national needs and potential commercial demand for launch services. Spacecom Policy 2020, a draft space policy recently released by the union government, attempts to tap on national private sector resources and capabilities to strengthen its space sector. The draft policy aims to provide a level playing field for private companies engaged in space-based development by creating a predictable and enabling regulatory environment. The policy also includes a provision allowing the private sector to use ISRO facilities and other relevant assets to improve their capabilities.

Furthermore, the government has stated its intention to open up more opportunities for private companies in the space sector. Activities such as launching facilities, satellite design and fabrication, satellite operation, satellite communication service, and other services such as space tourism, cleaning space junk, and so on are examples of such avenues.

NHAI's Asset Monetisation

The government has announced that approximately Rs. 2000 crore to Rs. 2500 crore in operational highways under the National Highways Authority of India (NHAI) will be exclusively put up for bid by InvITs. India's major infrastructure trusts will participate in the process, including the NHAI's subsidiary NHAI-InvIT, which will place their valuations for the NHAI's assets. This bidding will aid in determining how various infrastructure companies-InvITs value NHAI's road assets. The government also stated that it intends to put all future operational road projects up for bid using only infrastructure investment trusts (InvITs).[10]

Food for Thought

The Central Government recently announced its intention to raise Rs. 6.00 lakh crores by monetising government-owned assets through its National Monetisation Pipeline Scheme for 2022 to 2025.[11] The government intends to use this scheme to unlock

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10 https://www.livemint.com/politics/policy/nhai-to-monetize-roads-by-letting-invits-bid-for-them-11644867081009.html

11 https://asiapost.live/fm-sitharaman-launches-national-monetisation-pipeline-scheme-to-monetise-assets-worth-rs-6-lakh-crore-by-2025/?msclkid=43961e27c2c611eca96e4b76245aa68b

investment value and reinvest the proceeds in new public projects. Asset monetisation by the NHAI is also part of the government's broader strategy. Road, transportation, and highways are the most important sectors in estimated value capture under the National Monetisation Pipeline (NMP) Scheme, accounting for 27 percent of total pipeline value.

According to Niti Aayog, the total indicative monetisation value of the listed road assets is Rs 1.6 lakh crore.[12] *Under the asset monetisation strategy, the Ministry of Road Transport and Highways aims to transfer the right to toll, including toll operation, toll fee collection, and maintenance of other assets, to a third party. The third-party will be required to pay rent or make a cash commitment to the government in exchange for these rights, which will be granted for a limited time. This will give the government much-needed financial relief while also releasing them from all road-maintenance obligations.*

There are two approaches to asset monetisation in India: the public-private partnership (PPP) model and structured financing models such as REITs and InvITs. InvITs are collective investment vehicles similar to mutual funds. This model allows individual and institutional investors to make direct monetary investments in infrastructure projects for a small percentage of the profits. It will enable infrastructure asset developing agencies to monetize assets by pooling multiple assets under a single entity. Some of the leading InvITs registered in India under SEBI include Brookfield sponsored India Infrastructure Trust, MEP infrastructure Investment trust, IRB InvIT Fund, Tower Infrastructure Trust and IndInfravit, sponsored by L&T Infrastructure Development Projects, etc.[13]

NHAI launched its subsidiary InvIT in October 2021 to monetise its completed and operational National Highway projects. The goal is to raise Rs. 5100 crores by monetising road assets, and the NHAI has so far monetised 5 toll roads totalling 390 kilometres that run across Rajasthan, Gujarat, Telangana, and Karnataka. These have a total enterprise value of Rs. 8000 crores.[14]

The InvITs route is the best for the government because it allows asset monetisation while also assisting with other institutional goals. Under the InvIT structure, a professional project manager is usually assigned to the operations and maintenance. This would mean that people would be held responsible for the road's maintenance standards, incentivising them to adopt technology and raise national standards of operation and

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12 https://www.niti.gov.in/sites/default/files/2021-08/Vol_2_NATIONAL_MONETISATION_PIPELINE_23_Aug_2021.pdf

13 https://news.bharattimes.co.in/nhai-to-monetize-roads-by-allowing-invits-to-bid/

14 *Ibid*

maintenance. This will also help broaden the possibility of involving Indian institutional investors and other foreign institutional investors in such projects.

The government's decision to sell NHAI assets is controversial, as allegations that the NHAI is in debt have recently surfaced. In one of its reports, the Parliamentary Standing Committee on Transport, Tourism, and Culture raised the issue of major delays in NHAI projects. It indicated that the agency is liable for a large debt servicing obligation.[15]

This means that the roads sector will absorb a large portion of the total cess through capital expenditure, and there may be a cash crunch unless tolls are significantly increased. The NHAI's fund-raising constraints may impact the future dynamics of road construction. There will certainly be a funding gap that asset monetisation may help fill.

India's Green Hydrogen Policy

The National Hydrogen Policy is one of the most important of the government's various policies to facilitate the transition from fossil fuel to renewable or green energy. On February 17, 2022, the government took the first step in its green hydrogen policy initiative, allowing free inter-state wheeling of renewable energy to produce green hydrogen and ammonia. This is being done to boost the production and use of carbon-free fuel, which will assist the country in its efforts to become an export hub. The government of India has also proposed a second phase in which it will mandate the use of green hydrogen and green ammonia in different refineries, fertiliser plants in a phased manner. It also plans to expand the PLI scheme to the relevant sector, which will require cabinet approval and is currently being reviewed by the expenditure finance committee.[16]

Food for Thought

Hydrogen and energy have a long history together, from powering the first internal combustion engines over 200 years ago to becoming an essential component of today's refining industry. Hydrogen is lightweight, storable, and energy-dense, with no direct pollutants or greenhouse gas emissions.

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15 https://theprint.in/india/governance/888-projects-delayed-panel-of-mps-wants-nhai-to-focus-on-incomplete-roads-not-new-ones/619010/

16 https://www.hindustantimes.com/india-news/govt-releases-national-hydrogen-policy-101645133660288.html

The announcement of India's National Hydrogen Policy to promote a green hydrogen manufacturing ecosystem is another significant step forward in the country's efforts to address energy security and climate change. The policy aims to provide clean fuel to the general public, reduce reliance on fossil fuels, and reduce crude oil imports. It thus promotes the linkages between competition policy and sustainable development.

India imports 85 percent of its oil and 53 percent of its natural gas. According to the Council for Energy, Environment, and Water, India consumes approximately 5.6 million tonnes of hydrogen per year, produced using carbon-emitting-steam-methane-reforming. Another 1.9 million tonnes of hydrogen is imported from outside the country, where it is mixed with methanol, ammonia, and fertiliser, bringing the total consumption to 7.5 million tonnes. The government intends to meet this demand with locally produced green hydrogen energy. This green hydrogen policy can be a game-changer in India's energy security strategy.

The National Hydrogen Policy offers a full waiver of inter-state transmission charges to those who produce green hydrogen in India for 25 years. Producers of green hydrogen and green ammonia producers who started up their plants before June 30, 2025, will only be eligible for the above benefits. Manufacturers of green hydrogen, ammonia, and other renewable energy plants will be given "priority access" to the grid to avoid any procedural delays.

Another benefit of the policy is that the production of green hydrogen or ammonia will be deducted from the manufacturer's Renewable Purchase Obligation (RPO), which will apply to both discoms and manufacturers. RPOs allow entities to purchase a certain percentage of power from renewable energy sources from state electricity regulatory commissions.

The government has also proposed creating manufacturing zones for green hydrogen and ammonia production. Green energy bunkers will be allowed to be built near ports for export or use by the shipping industry, and the respective Port Authorities will provide land for this purpose's storage at a cost. According to the policy document, the Ministry of New and Renewable Energy (MNRE) will also issue Aggregator demand-based tenders for procuring green fuels. Furthermore, open access to renewable energy sources from anywhere in the country will be granted within 15 days of application receipt.[17]

[17] https://timesofindia.indiatimes.com/business/india-business/free-wheeling-of-power-open-access-in-national-hydrogen-policy/articleshow/89646966.cms

The policy also includes the provision of banking of unconsumed renewable with the distribution company for up to 30 days and reclaiming it as needed. The government also intends to implement the Green Hydrogen Consumption Obligation (GHCO) to reduce the country's reliance on fossil fuels. India's strategy is to build scale for its ambitious green hydrogen plan by leveraging its renewable energy programme, which will result in the world's largest clean energy programme.[18]

This move has been widely praised, and Indian companies such as Reliance Industries Ltd, Adani Group, Greenko, and Acme Solar Holdings Ltd, among others, have already announced their green hydrogen plans. According to a recent TERI report, green hydrogen will become more competitive by 2030.[19]

Several countries, including Japan and Germany, have expressed an interest in obtaining green hydrogen from India. India collaborates with other countries, forming bilateral partnerships to advance clean energy technologies. India recently signed agreements with Australia and Denmark to jointly work on developing green energy capacity.[20]

The 'Make in India' agenda for India's Solar Sector

The MNRE has decided to ensure that solar panels imported from abroad will now be banned in India in response to the domestic solar manufacturing industry's concerns. The government has proposed a policy in which solar panel manufacturers in India will only be listed on a list of approved module manufacturers (ALMM). The ALMM list will include companies that adhere to strict quality assurance procedures and international standards, such as BIS or IEC. Companies listed on ALMM will only be considered for providing solar panels for government projects, and this will ensure that the general public receives panels of international calibre.

The North India Module Manufacturers Association (NIMMA), Indian Solar Manufacturers Association (ISMA) and All India Solar Industries Association (AISIA) have applauded the move, as this will promote domestic industry and reduce solar panel imports. More than 40 companies with a total manufacturing capacity of 11000 MW have already registered their names in the recently released ALMM list.

[18] https://www.livemint.com/industry/energy/india-to-launch-national-hydrogen-policy-on-thursday-11645024082093.html

[19] https://www.thehindubusinessline.com/opinion/a-policy-thrust-will-work-well-with-indias-solar-push-an-rpo-like-package-will-boost-demand/article65068558.ece

[20] https://www.livemint.com/industry/energy/india-to-launch-national-hydrogen-policy-on-thursday-11645024082093.html

Food for Thought

India currently has a total domestic capacity of 16 to 20 GW, which is expected to increase to 50 GW in the coming year, accounting for 140 percent of the country's total requirement for the year. The Indian Solar Industry has great capacity, and the government is working hard to realise its full potential. The MNRE has notified a list of approved solar photovoltaic (PV) models and module manufacturers for government-supported scheme projects to encourage Chinese imports further and promote India's growing green economy.

This approved list is a kind of non-tariff barrier as a part of India's strategy of erecting other barriers, like subsidising finance for promoting local manufacturing and the need for requiring prior permission for imports from countries with which it has a conflict, etc. It is another step on India's road to Atmanirbhar Bharat to boost domestic manufacturing and protect domestic customers from low-cost, sub-standard imports.

The regulation mentioned above is also aimed to help check the practice of some manufacturers claiming production of cells and modules that have been produced elsewhere. The reliability of producers is essential for India to protect consumer interests and ensure the larger energy security for the country. There have been reports of poor quality Chinese solar modules, rejected by developers, sold in the domestic market at a discount.

Further, as part of its scheme against cheap imports, the government has decided to levy a 40 percent basic customs duty (BCD) on solar modules and a 25 percent BCD on solar cells beginning April 01, 2022. This will increase the cost of imports and encourage local manufacturing, thereby advancing India's vision of becoming a leading global supplier of these items while also meeting India's needs locally.

The government has also announced a production-linked incentive (PLI) scheme that will provide a total benefit of 1.97 trillion to manufacturers in ten industries, including those producing high-efficiency solar modules. This is being done in accordance with the agenda, which aims to ensure green growth and create more green jobs. The solar panel manufacturing sector currently employs 2 lakh people directly and another 10 lakh indirectly. This will grow at a 50 percent annual rate in the coming years, and the sector will be able to employ thousands of people. It also facilitates and assists India in realising its climate change goals, such as reducing carbon emissions. The Indian Solar Industry has great capacity.

Many concerned experts believe that limiting the supply of solar panels will fall short of meeting demand because few domestic companies can meet such high-efficiency standards. Such actions aimed at foreign suppliers will have a negative impact on renewable energy investments. However, Indian manufacturers believe the move will help them build integrated modules and raw materials capacities, as the industry has benefited from the production-linked incentive (PLI) scheme.

Google News under the scanner of CCI

In India, Google has found itself in yet another legal quagmire. It is squarely in the Competition Commission of India (CCI). The CCI has launched an investigation into Google News platform practices, the fifth such investigation into the country's tech behemoth practices. The company's policies, products, and services are being scrutinised, including how it allows purchases on its Play Store, its efforts to promote Google Pay, its licencing deals for Android TV, and Android's perceived dominance, which is limiting competition and choice for users. The CCI fined Google Rs 135.86 crore in 2018 for bias in search results, a field in which the tech giant is the global leader.[21]

Food For Thought

The CCI recently opened a new front in its investigation into Big Tech's business practices in the world's second-largest digital economy. All of Google's major services, including Google Pay, Android OS, and Google Search, are already under investigation by the antitrust watchdog. The regulator recently ordered an investigation into Google's "abuse of dominance" in the digital news aggregation segment to complaints from news publishers. This comes at the same time as the ongoing investigation into the company's Play Store billing practices before the Karnataka High Court.[22]

The Digital News Publishers Association (DNPA), which represents the digital arms of India's largest media companies, has expressed concern about the opacity of the algorithms used to determine which news websites receive the most visitors from search results. They have also questioned unilateral revenue-sharing decisions with publishers, whose snippets are frequently used to enrich results in News and Search. In its probe order, the CCI clarifies that Google is potentially violating provisions of Section 4 of the

21 https://www.hindustantimes.com/india-news/play-pay-news-why-google-s-services-are-on-cci-radar-101642182191872.html

22 https://www.moneycontrol.com/news/business/googles-antitrust-cases-in-india-other-markets-a-quick-look-7914881.html?msclkid=8f78f29ec3f511ec882a49deb56c6033

Competition Act of 2002. The commission explains that when the Informant allegations are viewed in the context of Google's vertically integrated ecosystem, it appears that news publishers have no choice but to accept the terms and conditions imposed by Google.

Other global rival aggregators' news platforms include Microsoft Start (Microsoft News) and Apple News. None, however, has the advantage of being as large an integrated platform as Google. Previously, in 2018, the CCI fined Google Rs 135.85 crore for bias in search results. According to the findings, Google's search results were crafted to favour the company's services and partners while also deploying advertising services to disadvantage some advertisers over others.[23]

Google has been increasingly scrutinised globally for its unethical business practices in several other countries. In July 2021, the company was fined US$592mn in France for failing to negotiate payment terms with publishers for reusing content. The Australian government proposed the News Media Bargaining Code in 2020 to ensure that platforms such as Google and Facebook have content deals with news publishers.

C. Policies Inhibiting Competition

Indigenisation of India's Defence Sector

A top defence Ministry official recently stated that India is considering imposing a ban on defense imports in an address. India is one of the largest importers of major arms and defence equipment globally. According to the Stockholm-based defence think tank SIPRI, India has been the world's largest importer of major arms from 2017 to 2021, accounting for 11 percent of total global arms imports.

According to the official, India's past position has been that it never discriminated between foreign and domestic companies in defence procurements. However, the Central Government has recently taken a turn from its historical positioning, particularly in the last few months and thoroughly revisited all "Buying Global" cases in the contracting phase.

In a speech at an event, Sanjay Jaju, Additional Secretary (Defence Production), Ministry of Defence, highlighted that the Government of India had cancelled nearly Rs 60,000 crore in "Buy-Global" cases. Meanwhile, the Defence Ministry has signed two

[23] *Ibid*

defense contracts locally to note the further development. The defence deal is worth Rs 3,102 crore signed with Bharat Electronics Limited's Bengaluru and Hyderabad units (BEL). This contract's total cost is estimated to be Rs. 1,993 crore.[24]

Food for Thought

India recently made a strategic decision to strengthen its military capabilities. The changing geopolitical situation and the security landscape of the Indian subcontinent have prompted the government to accelerate military modernisation through local capacity. The ongoing border dispute with China, constant engagement with Pakistan, and increasing military mishaps are India's sudden desire to focus on indigenising and modernising its military capabilities. There have been several reports highlighting issues of shortages and equipment becoming obsolete. Particularly in 2020, a report from the Comptroller and Auditor General of India (CAG) on Siachen had highlighted the shortage of critical military equipment.[25]

India is undergoing a strategic shift and has become very calculative in its military procurement, and it is now putting more emphasis on producing and procuring military equipment domestically. This political will is bolstered and reflected by an increase in the Union Budget's allocation for defence for the financial year 2022 -2023. There has been a 4.43 percent increase over last year's revised estimates and a 9.8 percent increase over the budget estimates for 2021. There appeared to be a strong push for Make in India in the defence sector, which could be good news for India Inc.

Finance Minister Nirmala Sitharaman spoke about adopting the Special Purpose Vehicle model, encouraging private industry to design and develop military platforms and equipment in collaboration with DRDO and other organisations. The finance minister further went on to say that an independent nodal body would be established to meet a wide range of defence testing and certification requirements.[26]

When it comes to indigenisation, it is all about self-reliance, a country's ability to meet its own security needs. It is also worth remembering that the concepts of self-sufficiency and self-reliance are the most muddled. This is especially true in India, where self-reliance is frequently equated with self-sufficiency or the belief that India can meet all of

[24] https://www.livemint.com/news/india/india-will-possibly-not-import-any-defence-items-going-forward-11648629372449.html

[25] https://www.dw.com/en/how-india-is-ramping-up-efforts-to-bolster-military-capability/a-60336292

[26] https://www.business-standard.com/budget/podcast/budget-2022-will-68-earmarking-boost-indigenous-defence-manufacturing-122020300079_1.html

its needs without external assistance or partnerships. This, however, is a short-sighted approach, as no country has ever successfully indigenised its defence industrial base without external assistance.[27]

Furthermore, the defence sector has its own set of challenges. The cost per unit in the defence industry is extremely high, especially when research and development is factored in. Because there is only one buyer, the Indian government, the sector is monopsony. There is also a monopoly issue because it is common for a product to have a single supplier. We have had similar experience in Railways also. New entrants are discouraged by high capital costs, closely guarded intellectual property, and the uncertainty of the procurement process, all of which contribute to market distortion. Even though India's defence budget has received a positive commitment, it is still relatively low and subject to cuts.[28]

To strengthen India's defense establishment, the government should increase technological access and effective technology absorption. To entice investment in India's defence sector, the government must offer attractive incentives to private players. The government should consider reforming the regulatory framework to ensure consistency and transparency in the acquisitions process and take steps to ensure an effective intellectual property rights regime.

The Most Awaited IPO: LIC

Indian Finance Minister Nirmala Sitharaman indicated in her budget address for 2020-2021 that the government aims to sell a portion of its ownership in the Life Insurance Corporation of India through an Initial Public Offering (IPO). On February 13, 2022, the Life Insurance Corporation of India (LIC) submitted its Draft Red Herring Prospectus to the Securities Exchange Board of India (SEBI). The first IPO is for Rs 31.6 crores, or 5 percent of the LIC's equity.

According to the prospectus, the corporation's estimated value is Rs. 5.39 lakh crore. While the offer price is yet to be announced, given the size of LIC Business, the said IPO is expected to outperform the recent Paytm offering, which broke the previous

27 https://www.brookings.edu/wp-content/uploads/2019/08/The-Indigenisation-of-India-Defence-Industy-without-cutmar-for-web.pdf

28 *Ibid*

record to become the largest offering at Rs 18,300 crore (i.e., Rs. 15,200 crore-Coal India).[29]

Food for Thought

The Indian government has aggressively disinvested in state-owned and public-sector enterprises (PSUs). This is done for the government to have more funds at its disposal, which can then be used to stimulate the slowing Indian economy. This fiscal year's disinvestment target has been reduced to Rs. 78000 crores, with only around Rs. 12000 crores collected so far. This is what guides the government for the LIC IPO, and it is through this, that the government hopes to meet its target.[30]Furthermore, this leads to better competition in the marketplace.

The LIC is a statutory body established by the Life Insurance Act of 1956. Under the 1956 Act, LIC was tasked with becoming the country's national insurance provider and combined existing public and private entities involved in the life insurance business into this single government-owned entity. It had a monopoly for 20 years before the insurance sector being liberalised in 2000, allowing private players to participate.

LIC is India's largest institution, with 286 million policies enrolled, 115,000 employees, 13,43,587 individual agents associated, and over 2000 branches.[31] Because of the LIC's enormous size, valuing the company's business empire is a difficult task. With assets spread across the country, the corporation is the country's second-largest real estate owner after the Railways. LIC also has a large number of subsidiaries both in India and abroad. Furthermore, LIC owns stakes in some publicly traded large corporations, including Bharat Heavy Electricals LTD, Larsen and Toubro Ltd, and a 16 percent stake in ITC, India's largest fast moving consumer goods (FMCG) company.

Putting such a large public offering into action is also a challenge, as the market's ability to absorb such an extensive offering has been questioned. India had 8.4 crore active Demat accounts at the end of January 2022.[32] Concerns have been raised about whether the LIC IPO will have such an impact on investors, given that it comes at a time when

29 https://indianexpress.com/article/opinion/editorials/insuring-india-life-insurance-corporatio-of-india-sebi-ipo-7774000/
30 LIC IPO: India’s Largest Life Insurer Files For Nation’s Biggest IPO (bloombergquint.com)
31 https://www.business-standard.com/podcast/finance/what-does-the-country-s-largest-ipo-of-lic-mean-for-investors-and-govt-122021500074_1.html
32 https://www.cnbctv18.com/finance/bottomline-lic-ipo-a-big-test-for-india-12564262.htm

global financial conditions are tightening. Many countries tighten liquidity and increase cash reserves, foreign investors have already pulled billions out this year.

The LIC IPO can have severe ramifications for the entire national economy. It has repeatedly shown its enormous potential of satisfying the government's urgent need for funds, making it an easy option. LIC, for years, has been used as a last-resort investor who buys stock in state-owned enterprises to support the markets. It had previously bought shares in state-owned enterprises during disinvestment with low investor participation, such as the ONGC IPO.

In 2018, it was also called in to assist IDBI Bank with bad debts. The government has used LIC to achieve its own economic or policy objectives. In the past, India's government frequently used LIC as a piggy bank or as a lender to the Food Corporation of India, which helps run subsidised grain programmes.

The LIC is far too important to be privatised. From 1956 to the present, the company has paid the government Rs 28,000 crore in dividends. Many publicly traded companies have failed as a result of poor management practices. Following the 2008-09 economic downturn, many insurance behemoths worldwide were in difficult situations. For example, the US government effectively bailed out AIG by injecting billions of dollars. In India, however, LIC and other PSUs stood firm and aided in stabilising the country's economy. Another important factor to consider is that making LIC public means it will be subjected to increased public scrutiny and transparency, which should not be overlooked.[33]

PayU's Acquisition of BillDesk

PayU is owned by Prosus a global consumer-internet group and one of the largest technology investors in the world. Prosus is the global investment arm of South African multinational company, Naspers. PayU has motioned a deal to acquire Indian payment gateway firm BillDesk for a sum of US$4.7bn. This transaction is under CCI's regulatory scanner, as this deal has a lot at stake and can create a huge impact on the national economy.

The CCI is studying the deal and has asked for more information to determine any possible adverse effects on the Indian market. The said transaction will mark the

[33] https://www.newindianexpress.com/opinions/2021/sep/02/why-the-lic-ipo-is-not-a-good-idea-2353009.html

second-largest buyout in the country's internet sector only after Walmart acquired Indian e-commerce giant Flipkart in 2018.

The CCI has marked the acquisition application by PayU as "Notice Not Valid", implying a lack of adequate information on the deal covering all aspects. Given that both PayU and BillDesk operate complementary businesses in India's digital payment industry, their merger has the potential to create a massive financial ecosystem under a single entity. Therefore, it is a general understanding that CCI wants to dive deep and understand more about the effect this acquisition can have on the competition in the online payment market.[34]

Food for Thought

The PayU-BillDesk merger is the most significant consolidation in the fintech industry. If India's competition authority approves the deal, it will be the second-largest buyout in India's internet sector after Walmart's US$16bn acquisition of Flipkart in 2018. Before approving the deal, the CCI wants to fully understand its implications on competition in the online payment processing market. PayU is one of the largest payment processors. With the acquisition of BillDesk, it will become one of the world's leading online payment providers, with a total payment volume (TPV) of US$147bn. The agreement will bring Prosus, PayU's parent company's cumulative investment in Indian tech, to more than US$10bn.[35]

This transaction can have significant ramifications on the Indian market due to its size and may lead to market concentration. BillDesk is an Indian success story, founded in 2000. It is one of India's oldest payment gateways, covering more than 60 percent of its online payment transactions for over 20 years. In India, for government's Banking, Financial Services, and Insurance (BFSI) industries, BillDesk has a near-monopoly. It is extremely profitable because there is a constant cash flow in government's dealing, which keeps growing.

PayU is already a popular and well-known payment processor for many online businesses, and acquiring BillDesk will allow PayU to expand rather than compete in the market. As a result, PayU's market share and market access will significantly increase.

[34] https://economictimes.indiatimes.com/tech/newsletters/morning-dispatch/cci-seeks-more-info-on-payu-billdesk-deal-meitys-draft-data-policy/articleshow/89733190.cms

[35] https://www.businesswire.com/news/home/20210830005633/en/Prosus-Agrees-Acquisition-of-BillDesk-by-PayU-for-US4.7bn

PayU will profit greatly from this acquisition under the digital payments' ecosystem in India. The merger will allow them to pool their resources to build a financial ecosystem capable of handling 4.00 billion transactions per year, which is four times the current level of PayU in India. However, this can help PayU India and BillDesk meet the ever-increasing payments needs of India's digital consumers, merchants, and government enterprises, as well as provide cutting-edge technology to even more excluded sections of society, all while adhering to India's regulatory environment and providing robust consumer protection, thereby supporting India's vision of digital inclusion.

The Deferred Tax Rate Change on Footwear

The Central Government has expressed its intention to increase the Goods and Services Tax (GST) for the textile, and footwear industries. To correct the existing inverted duty structure, the GST Council recommended making a constant 12 percent rate change for GST on footwear and textiles at its 45th meeting in September 2021. Clothing and footwear costing up to Rs.1000 will be subject to the new GST rate of 12 percent instead of the previous rate of 5 percent. This has been met with strong opposition, as experts believe that raising the tax rate will harm ordinary citizens.[36]

Food for Thought

The government is taking steps to rectify or correct the anomalies of inverted duty structures in the footwear and textile industries and the situation of inverse accumulation of input tax credit. Manufacturing a product necessitates raw materials, which are subject to taxation. Furthermore, tax is also levied on the final product made with these raw materials, resulting in a cascading of taxes. To mitigate the effect of cascading taxes, the government devised a system that allows excess taxes or double taxes to be refunded through the input tax credits policy.

There is an inverted duty structure in the Indian footwear and clothing industry, where the tax on inputs or raw materials is higher than the tax on output or final product. When manufacturers cannot offset the taxes paid on raw materials against the taxes paid on finished goods, the excess tax paid on input is factored into the product's price. This is problematic, because it makes an Indian-made product more expensive than an imported finished product, reducing Indian manufacturers' competitiveness. By raising the GST on manufactured goods in the footwear and clothing industries to a uniform

[36] https://timesofindia.indiatimes.com/business/india-business/scrapping-inverted-duty-on-footwear-to-lower-prices/articleshow/88677764.cms

rate of 12 percent, the government aims to provide a level playing field to local manufacturers against sellers of imported goods.

The proposed increase will result in an overall price increase for a product, which will have a negative impact on demand in an already stressed economy. There has been widespread public outrage, and where many have raised concerns and urged the government to withdraw its proposed plan to increase GST rates. The GST Council called for the postponement of tax rate changes at its 46th meeting. Instead of raising taxes on finished goods, the government should consider lowering taxes on product inputs.