COMPETITION DISTORTIONS IN INDIA – A CUTS DOSSIER

(CDI 61: July-September 2023)

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 #61 for the third quarter of the year, i.e., July to September 2023. We have extensively covered the most significant news stories from the last quarter that have impacted the competitive landscape in India both positively and negatively. Taking forward from previous editions, we have divided the dossier into three parts: Trade Policies; Policies Promoting Competition, and Policies Inhibiting Competition. The central emphasis of this dossier revolves around India's commitment to liberalising its economy by reducing protectionist measures and implementing strong initiatives aimed at eliminating monopolistic practices within the aviation and IT sectors.

The initial part of the report delves into India's global trade policy discussions, including the implementation of an Anti-dumping duty on Chinese steel to address the surge in Chinese steel imports. In a move to reduce protectionism, India has also reduced import duties on various food items imported from the US. In the subsequent section, we explore recent developments in the financial sector.

Extensive discussion in this dossier's second section highlights government actions against monopolistic practices in the aviation industry. Despite facing fierce competition from other emerging markets, India's robust growth narrative and anticipated policy improvements are poised to drive its growth in the upcoming decade, thereby influencing global power dynamics. The Indian government contemplating the introduction of a specialised digital competition law aimed at regulating large technology firms is also highlighted in this section.

In our view, it is quite premature for such a law which might stifle innovation. Continuing to the third and final segment, we delve into the issues of restrictive and monopolistic practices observed within the aviation and IT sectors. We also analyse the influence of politics within the power sector and emphasise the necessity of clarifying credit lines to facilitate the growth of the MSME sector in the nation.

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

Cheers!

Contents

A. Trade Policies

Anti-Dumping Duty on Chinese Steel

India has introduced a five-year anti-dumping tariff aimed at certain categories of Chinese steel. Reuters reports that this action has been taken in response to a significant increase of 62 percent in steel imports from China to India during the period between April and July 2023, in contrast to the corresponding period in the previous year. As a result, China has now surpassed South Korea as the largest steel supplier to India, with sales totalling 0.6 million metric tonnes.[1]

Food for Thought

The tension between China and India is always present, encompassing several debates like the clashing of soldiers along the disputed borders or trade tensions between the two Asian giants. India backed out of signing the Regional Comprehensive Economic Partnership (RCEP) agreement being afraid of huge exports from China.

Recently, considerable attention has been directed towards the decision by the Indian government to reintroduce the countervailing duties (CVD) on specific categories of stainless steel imported from China over the past years. This move follows the imposition of anti-dumping duties on Chinese steel in 2018 when Chinese producers engaged in unfair trade practices by exporting steel at lower prices to third-world nations.

On this note, it is crucial to emphasise two aspects. Firstly, anti-dumping duties are imposed when a foreign company exports goods to another country at a lower price than in its domestic market, and it causes injury to the domestic producers. Secondly, the World Trade Organisation (WTO) rules permit member nations to impose such duties.

In 2021, the Indian government decided to remove CVD from its budget, which had impacted the Indian market negatively by bringing down employment and suspension of expansion plans for small and medium-scale steel-consuming industries of India. Many small-scale producers were forced to halt production, with some transitioning into trading as a means of survival.

1 India clamps down on Chinese steel, enacts 5-year anti-dumping duty as import rises 62% | Mint (livemint.com)

Consequently, China emerged as the second-largest exporter of steel in the Indian market, following South Korea. The quantity of Chinese steel imports increased from 21 to 33 percent in April 2022, raising concerns about the distortionary effects of cheap imports on market conditions. As a result, 170 Indian steel-producing companies including SAIL and Jindal Steel Private Limited filed a petition seeking the re-imposition of CVDs on Chinese steel producers.

Additionally, the Director General of Trade Remedies (DGTR) had also recommended anti-dumping duty on flat base steel wheels imported from China to curb the growing impact of Chinese products in the Indian market. Earlier, in February 2023, the Ministry of Finance declined this proposal made by the Ministry of Commerce & Industry giving more priority to the steel-based industries of India. Amid this ongoing controversy and India's determination to decrease reliance on Chinese imports, the Prime Minister's Office (PMO) intervened and decided to extend the duration of the anti-dumping duty on Chinese steel imports for an additional five years. This decision aims to promote healthy competition and safeguard the interests of the Indian steel industry.

Similar steps are also being taken by the US and the EU to address excess steel output from countries, such as China through the formulation of new trade tariffs. The main aim of such regulations is to promote fair competition and protect the indigenous industries of the respective nations. The implementation of the trade regulatory policy by the Indian central government will benefit around 500 Small and Medium-sized Enterprises (SMEs) and 60 steel-producing companies, which collectively have a capacity of approximately 1.5 million tonnes. This will have a significant positive impact on the employment sector, creating job opportunities for nearly 400,000 individuals, both directly and indirectly.[2]

US Food Import Duties Reduced

The Finance Ministry has reduced the basic customs duty on specific items like apples, almonds, lentils, and chickpeas imported from the US. The new order stipulates that the customs duty on lentils imported from the US is now completely waived, having previously stood at 20 percent.

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2 India Imposes Anti-Dumping Duty on Chinese Steel Imports For Another Five Years

Similarly, the import duty on almonds has been reduced from its previous rate of 41 to 35 percent. As for apples, the duty has been decreased from 35 to 15 percent, as explained by tax experts. Regarding chickpeas, an import duty of 10 percent will now be applied, aligning it with import duties from other countries.[3]

Food for Thought

India, an emerging economic powerhouse with a significant role in international trade, recently implemented a noteworthy policy change by lowering import duties on specific food items from the US. This decision carries extensive implications for both countries and their bilateral trade relations, contributing to ongoing trade-related controversies.

However, it turned contentious and resulted in a tariff war in 2018, with then-President Donald Trump labelling India as the 'tariff king.' In 2019, the US terminated India's participation in a preferential trade programme (Generalised System of Preferences) by exempting Indian goods worth more than US$6bn, claiming that India had failed to provide them with fair and reasonable market access in India. India then decided to increase customs duty on 28 US consumable commodities by 20 percent countering the US's increased import duties on certain Indian steel and aluminium products.

Given this backdrop, the Ministry of Finance, in September came forward with the decision to waive the 20 percent hike on products like apples, almonds, lentils, walnuts, several chemical products and a few more products from the US. This decision aims to help resolve existing trade disputes between the two nations, which were awaiting resolution at the WTO, just before the G-20 Summit.

India has been the largest buyer of almonds and the second-largest buyer of apples from the US. The rise in customs duty on these products earlier had a negative impact on the US producers and also in the domestic market as consumers had to pay more for buying US products but it also had a positive impact on the Indian producers who enjoyed an upper hand in the market.

But now, with the flip of the coin, US producers will revive their dominance over the Indian market and our Indian producers will suffer from this sudden change. Earlier this

3 Centre lowers import duty on select food items from US | Mint

year, the apple farmers had already suffered from heavy rains and landslides and will again suffer with the reduction in import tariffs on American apples.

Though the government is claiming absolutely no negative impact on the Indian market, the apple farmers had already requested the need to revisit the government's sudden change of decision. On the contrary, the government claims the emergence of a premium market segment with better quality products at a competitive price, thus benefiting Indian consumers.

But if we keep aside these negative implications, the Indian government's decision to reduce import tariffs will strengthen the bilateral relationship between the US and India which will, in turn, help India foster more robust growth and maintain a healthy economic relationship with the US. The policy also helps Indian consumers widen their choices for consumer products, especially by making US mung daal available in the Indian market at a lower rate.[4]

B. Policies Promoting Competition

Card Network Portability Delay Possible Amid RBI Norms

The implementation of card network portability may face delays as issuers await final Reserve Bank of India (RBI) guidelines. Despite this, they claim readiness to meet the October 01 deadline for offering customers their preferred network, albeit with restrictions. Issuers already provide cards across multiple networks, and customers can choose their preferred one. However, the challenge lies in offering two networks per card, leading to card duplication, higher costs, and affecting partnerships.

RBI's July 2023 draft norms require issuers not to restrict network choices and allow customers to select a network when obtaining a card or later, effective October 01, aiming for increased flexibility and competition in the market.[5]

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4 Government: Duty cut on US apples, walnuts won't hurt farmers | India News

5 Card network portability may be delayed beyond Oct 1 as issuers await final RBI norms
Customers can now choose from multiple card networks from October 1

Food for Thought

The revised draft framework on network portability in India requires card issuers to make all their cards available on at least two networks starting in October 2023. This regulation aims to prevent monopolistic practices and promote competition among the country's five major card networks: Visa, Mastercard, RuPay (backed by NPCI), American Express, and Diner's Club.

The rationale behind this framework is to allow consumers to choose networks based on factors like pricing, acceptability, and rewards. Many issuers have already started offering cards on multiple networks due to previous regulatory requirements, such as data localisation rules. However, some exemptions have been sought for exclusive tie-ups, like Visa with the JetMiles program and RuPay for FASTag.

The new rules also pose challenges for proprietary card networks like American Express, which serves as both an issuer and a network. While the shift may increase operational costs for issuers, it is expected to result in more features and offers for consumers, ultimately fostering fair competition among card networks in India.[6]

Centre Sets Stage for Mining Reforms

The Indian government is planning significant reforms in the mining sector to streamline the process of obtaining composite exploration licenses, simplify mining clearances, and relax regulations for captive mining. States may be allowed to grant composite exploration licenses for valuable minerals like gold, silver, platinum, and copper without requiring central approval, expediting auctions of such blocks.

Six key amendments to the Mines and Minerals (Development and Regulation) Act, 1957, have been approved by the Union cabinet and are expected to be passed during the monsoon session. These changes aim to attract more private investment, increase mineral production, and promote specialised mineral exploration companies.[7]

6 Issuers seek relaxation on certain product categories for card network portability - The Hindu BusinessLine
7 Centre sets stage for mining reforms | Mint

Food for Thought

The Indian government has introduced a bill in the Lok Sabha to amend the Offshore Areas Mineral (Development and Regulation) Act of 2002. The purpose of this bill is to create a fair and transparent mechanism for allocating operating rights for offshore mineral extraction, aiming to resolve sector-related issues.

The bill allows the Central Government to establish rules for conserving and systematically developing offshore minerals while ensuring environmental protection by controlling potential pollution resulting from exploration and production operations.

The proposed bill introduces auctions as the method for allocating operating rights in offshore areas, ensuring a transparent and non-discretionary process. It also establishes an Offshore Areas Mineral Trust, similar to the District Mineral Fund, to maintain a non-lapsable fund under the public account. This fund will support exploration, mitigate adverse impacts of offshore mining, provide disaster relief, and benefit individuals affected by exploration or production activities.[8]

The bill aims to introduce a composite licence, a two-stage operating right for exploration and subsequent production operations. These composite licenses will also be exclusively awarded to the private sector through competitive auctions. That is the good news.

When it comes to atomic minerals, only public sector entities will be eligible for the grant of exploration licenses or production leases. That is sad news, and also incongruous because the space sector has been opened to the private sector.

Airport Slot Norm Revamp Paused Over Monopoly Concerns

The Indian government has halted the implementation of new guidelines that called for more frequent slot reviews at airports, with concerns of favouring a monopoly situation in the aviation market, particularly IndiGo, which already holds over 60 percent of the domestic market share. The proposed changes would have aligned reviews with the seasonal aviation calendar, potentially improving slot utilisation.

[8] Centre sets eyes on ramping up offshore mineral production with new bill

While IndiGo and Akasa Air supported the move, SpiceJet and major airports, including Delhi and Bengaluru, opposed it, arguing that it would disproportionately benefit IndiGo, given its extensive fleet and routes. Weaker airlines, like SpiceJet, would have faced challenges expanding due to limited financial resources. The aviation calendar follows two schedules: summer and winter. Airports expressed difficulties in assessing slot usage on a seasonal basis, given varying demand, and recommended maintaining the current guidelines, which are more in line with global standards.[9]

Food for Thought

During the recent Paris Air Show, Indian airlines IndiGo and Air India made significant aircraft purchase deals with Airbus and Boeing. IndiGo secured an extraordinary order for 500 Airbus 320neo aircraft valued at US$50bn, further strengthening its dominant position in the Indian aviation market, where it already holds over 60 percent market share. Air India also signed agreements for 470 planes. These developments, though positive for the industry, raise concerns about IndiGo's near-monopoly status.

IndiGo's rapid expansion has led to a market share of over 60 percent, while Air India, its closest competitor, holds a mere 9.4 percent. As India's aviation market penetration remains low, critics argue that IndiGo's expansion enhances connectivity but also increases its market share.

IndiGo's recent surge in market share, particularly after Go First suspended operations, poses challenges for competitors like Air India, Vistara, AirAsia India, and SpiceJet. These airlines may resort to fare reductions to compete, potentially endangering their operations.

The concentration of market power in a single airline, especially in the airline industry, can lead to price manipulation and potential route monopolisation. This could be detrimental to stakeholders if the dominant airline faces a sudden collapse. Regulatory measures may be necessary to address the issues related to a single airline dominating the market. Ensuring a competitive landscape that encourages innovation, fair pricing, and long-term sustainability is vital for the benefit of all stakeholders involved in the Indian aviation industry.[10]

9 Revamp of airport slot usage norms paused amid monopoly worries-The Economic Times
10 IndiGo's growing market share raises concerns of monopoly in Indian aviation

From our perspective, there is a chance that Air India and other airlines could emerge as significant competitors for Indigo in the future, thereby addressing concerns about monopolistic practices in the aviation industry. Should they not stand as sole competitors, future mergers could culminate in the creation of industry behemoths. This could eliminate the necessity for regulatory interventions and allow the aviation industry to flourish based on market dynamics.

Private Port Terminal Operators May Get Pricing Freedom

The government is planning a tariff migration regime to grant pricing flexibility to private terminal operators at major ports. To safeguard government revenue, they are considering a minimum revenue commitment linked to the Wholesale Price Index. This commitment aims to mitigate risks associated with lower tariffs offered by private operators to secure more cargo. Private terminals at major ports operate under varying fiscal regimes and collectively handle around half of the traffic at these ports.

A committee, led by Sanjay Sethi, Chairman of the Jawaharlal Nehru Port Authority, is working on a mechanism to transition from old tariff regimes to new ones for these private terminals. The Major Port Authorities Act, of 2021, granted port authorities autonomy to approve terminal rates, moving away from the Tariff Authority for Major Ports. The new regime introduced in 2021 allows fresh concessions for public-private partnership terminals to set their rates with a fixed outgo to the port authority, aiming to achieve parity between private and government port terminals.[11]

Food for Thought

The Indian government is working on a tariff migration system to grant pricing flexibility to current private terminal operators while ensuring revenue stability. The government aims to safeguard its revenue by allowing existing concessionaires to transition to the new tariff system. This change is essential because private terminals at ports currently operate under various fiscal regimes based on the year they received their concessions. These private terminals handle nearly half of the traffic at major ports across India.

The Sanjay Sethi Committee is responsible for proposing a mechanism to shift private terminals from their old tariff systems to the new, unified regime under the Central

[11] Private port terminal operators may get pricing freedom - The Economic Times

Government's control. The new regime aims to create parity between private-sector ports and government-owned ports.

Previously, tariff rates were regulated by the Tariff Authority for Major Ports (TAMP), but with the implementation of the Major Port Authorities Act in 2021, TAMP was abolished. The new system allows private terminals leased through public-private partnerships (PPPs) to set their rates while making fixed payments to port authorities. The transition to this new regime will ensure flexibility while maintaining government revenue stability.[12]

New Digital Competition Law to Regulate Big Tech

The Indian government is considering the introduction of a dedicated digital competition law to regulate large technology companies, rather than amending the existing Competition Act. This decision is driven by the complexity of the issue and varying stakeholder opinions.

An Official Committee, led by Corporate Affairs Secretary Manoj Govil, is finalising its report, having conducted consultations with both local startups and global tech giants like Apple, Amazon, Google, Meta, and Twitter. The report will likely influence the government's course of action. The proposed law aims to complement the existing Competition Act, focusing on regulating systemically important digital intermediaries based on certain criteria.[13]

Food for Thought

The Central Government is considering the creation of a dedicated law for digital competition, intending to regulate major tech companies. Instead of making adjustments to the recently amended Competition Act, the government is contemplating a distinct legislation tailored to address the complexities of the digital sector. We think it is quite premature to pass such an act. Please see our article: India need not rush toward ex-ante regulation of digital economy - ccier (cuts-ccier.org)

The committee's recommendations encompass the introduction of a 'Digital Competition Act' and the creation of a Digital Market Unit (DMU) within the Competition Commission

12 Private port terminal operators may get pricing freedom
13 New law on digital competition likely to regulate Big Tech - The Economic Times

of India (CCI). This aims to ensure fairness, transparency, and competition in the digital ecosystem. Another key proposal is the identification of major tech firms as 'Systemically Important Digital Intermediaries' (SIDIs) based on criteria such as sales, capitalisation, users, and business count. These SIDIs would be subject to various regulatory measures and would be required to inform the CCI of potential merger concentrations.

The report also emphasises safeguarding user data, preventing self-favouritism and search biases, ensuring platform neutrality, transparent advertising revenue practices, and non-discriminatory terms. While establishing a DMU seems reasonable for in-depth digital case analysis, the existing competition laws have proven sufficient in many instances. Some issues, like advertising revenue sharing, are pending CCI decisions based on existing law.[14]

The government is stressing the significance of meticulous consideration and extensive debates in shaping this new legislation, highlighting its commitment to constructing a robust framework. They highlighted that the notion of regulating major digital entities has been a subject of prolonged contemplation, not only in the UK and the US but also in other countries.[15]

India's Strong Growth Amid Asia's Supply Chain Diversification

India is strategically positioned to benefit from global economic shifts and supply chain diversification in Asia, marking a pivotal "manufacturing moment." The country boasts a robust economy, ample labour resources, and favourable policy reforms. Supply chain disruptions due to recent global events have led businesses across the world to consider alternatives to China, making India a viable choice.

The Economist Intelligence Unit predicts improvements in infrastructure, taxation, and trade regulations, reducing investment risks. Despite stiff competition from other emerging markets, India's strong growth story and anticipated policy enhancements will likely drive its growth in the coming decade, contributing to a shift in global power dynamics.[16]

14 Digital markets. Why a new law against Big Tech?-The Hindubusinessline
15 Govt Likely To Roll Out New Law On Digital Competition To Regulate Big Techies- English Jagran
16 Indian economy: India's growth story strong; well placed to benefit from Asia's mfg supply chain diversification: The Economist Group - The Economic Times

Food for Thought

India's role in global supply chains is evolving, driven by a combination of geopolitical and economic factors. Recent investments in India, such as Apple's iPhone 14 and Mercedes-Benz's EQS production, signify a shift in supply chain sentiment toward the country. The Indo-Pacific Economic Framework, launched by the US administration, aims to reduce dependency on China and promote sourcing from trusted suppliers like India. Decoupling from China is already evident in capital and technology flows, including the delisting of Chinese firms from US exchanges and venture investments.

India's large and fast-growing economy, abundant low-cost labour, and growing middle class with substantial purchasing power make it an attractive destination for supply chain diversification. While Southeast Asian nations like Vietnam and Thailand have been prominent in supply chain shifts, India is poised to become a complementary manufacturing hub.

To succeed, India can emulate China's experience by promoting export-oriented foreign direct investment, supporting local companies' participation in global supply chains, and crafting prudent industrial and social policies. Additionally, India should foster regional supply chains with neighbouring countries and prioritise free trade pacts to enhance global integration. The evolving dynamics of supply chains offer India an opportunity to play a central role in diversifying and strengthening global supply networks.[17]

C. Policies Inhibiting Competition

Renegotiate with Private Airport Operators to Prevent Monopoly

A Parliamentary Committee has recommended the renegotiation of PPP agreements in airport development to prevent monopolistic practices and reduce costs. The report highlights that under the current PPP model, airports function as monopolies due to restrictions preventing the use of older airports within 150 km.

Such restrictions limit negotiation possibilities and lead to monopolistic behaviour by airport operators. With India's growing population and increasing passenger numbers, the committee suggests that PPP agreements should allow the government to renegotiate to maintain market dynamics, prevent monopolies, and reduce costs. The

17 India can be a bigger winner in the supply chain shift from China - Nikkei Asia

goal is to make air travel affordable and align with the National Civil Aviation Policy's vision.[18]

Food for Thought

The Parliamentary Committee highlights the significance of the civil aviation sector in India's economic growth. As India aims to become a US$5tn economy, the demand for air travel and new airports is expected to increase significantly. Despite growth in the civil aviation sector over the past two decades, India has only 148 operational airports, with only 22 being profitable.

The government has embarked on an ambitious programme to modernise airports, with a key component being PPPs. This PPP model has been successful in developing world-class infrastructure and improving service quality. Private sector involvement is seen as essential to bridge the resource gap for the large-scale development of civil aviation facilities.

The committee emphasises the importance of affordability and sustainability in airport development, with the 'user pays' principle being vital to recover costs. It calls for efficient, cost-effective infrastructure that ensures competitive user charges. The committee also recommends a comparative study by an internationally accredited aviation agency to assess the benefits of the PPP model for airport development.[19]

Politics Hindering Power Sector Reforms, Causing Financial Strain

The private sector participation has been a focal point in Indian electricity sector reforms since the 1990s, to improve regulatory governance and state finances. Despite attempts, full privatisation in the distribution sector has been limited, affecting the sector's political independence. Distribution franchisees (DFs) were explored as an alternative to full privatisation but faced challenges and cancellations in several states.

The lack of private participation has compromised the influence of electricity regulatory commissions (ERCs), as state governments continue to exert control over

[18] Government should renegotiate with private airport operators to avoid monopolistic practices: Parliamentary panel -The Economics Times

[19] PARLIAMENTARY STANDING COMMITTEE ON PETITIONS-PRESS RELEASE

distribution utilities. Private participation is essential to limit political interference, enhance regulatory governance, and bolster state finances in the power sector.[20]

Food for Thought

The Department of Expenditure, Ministry of Finance has initiated a programme to incentivise and support reforms in the power sector undertaken by Indian states. The programme allows states to avail additional borrowing permissions, amounting to up to 0.5 percent of their Gross State Domestic Product (GSDP) annually, over four years from 2021-22 to 2024-25, contingent on the implementation of specific power sector reforms.

The reforms are intended to improve the efficiency and performance of the power sector, thereby promoting operational and economic efficiency while increasing paid electricity consumption. States that undertake these reforms are eligible for financial incentives.

In the past two fiscal years, 12 states have received permission to raise financial resources of ₹66,413 crore through additional borrowing permissions due to their commitment to power sector reforms. The states that have benefitted from this programme include Andhra Pradesh, Assam, Himachal Pradesh, Kerala, Manipur, Meghalaya, Odisha, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh, and West Bengal.

In the fiscal year 2023-24, states can continue to avail themselves of the facility of additional borrowing linked to power sector reforms, with an incentive amount of ₹1,43,332 crore available. States unable to complete the reforms in the previous two fiscal years may also benefit from the additional borrowing provisions if they carry out the reforms in the current financial year.

The specific reforms required for eligibility include state governments assuming responsibility for losses of public sector power distribution companies (discoms), transparent financial reporting, timely accounts and audits, compliance with legal and regulatory requirements, and the reduction of cross-subsidies. Bonus marks are awarded for the privatisation of power distribution companies as this will help minimise losses and boost efficiency in the power sector. The Ministry of Power evaluates states' performance based on these criteria to determine eligibility for incentive amounts ranging from 0.25 to 0.5 percent of gross domestic product (GDP).[21]

20 Politics is holding back power sector reforms. It only brings financial pain
21 Centre Provides Financial Incentives to States to accelerate Power Sector Reforms-PIB

In our view, this is not the first set of reforms that have been attempted by the Union government to salvage the bleeding electricity sector in our states. The so-called regulators in the states are mostly compliant retired civil servants. Furthermore, governments use power sector tariffs to woo voters without reimbursing the deficits to the discoms. For example, the total debt of discoms in Rajasthan exceeds ₹90,000 crores.

Avoid Regulatory Overlaps in Data Compliance

The expanding scope of data protection laws affects businesses across multiple regulatory domains. This leads to traditional regulators, unaccustomed to dealing with data protection, becoming involved in these issues. Competition authorities are increasingly scrutinising the market dominance of tech giants due to their data advantage. In a recent case, the German Federal Cartel Office found that bundling user consent violated the General Data Protection Regulation (GDPR) and constituted an abuse of dominant position. The Court of Justice of the EU upheld this decision, allowing competition authorities to make data protection assessments in competition cases.

European legislation, like the Digital Markets Act, is also addressing data protection in competition matters. To streamline compliance in India, organisations require a clear delineation of regulatory responsibilities to avoid regulatory overlaps and reduce compliance burdens. In cases of overlap, regulators must resolve conflicts and balance concerns.[22]

Food for Thought

The Indian government is facing the challenge of defining the jurisdiction and avoiding regulatory discord among several laws currently being developed to regulate the country's telecom and IT sectors.

Experts have raised concerns about potential overlaps between the draft Indian Telecommunication Bill, 2022, and existing laws like the IT Act, the revamped Information Technology Act (Digital India Act), and the forthcoming Personal Data Protection (PDP) Bill.

[22] Let’s not have regulatory overlaps on data compliance | Mint

One key concern is how to designate which regulator will oversee players that operate in both the telecom and IT sectors. Currently, applications like WhatsApp are regulated under the IT Act, while the draft telecom policy broadens the definition of 'telecommunication services' to include over-the-top (OTT) communication services. This means that these companies will fall under both the proposed telecom law and IT regulations.

Some experts suggest that extending telecom laws to OTTs that use end-to-end encryption for message transmission could open a debate on breaking encryption. This could create unnecessary complexities and challenges that don't provide additional benefits to the country or law enforcement.

The government's intent to analyse and control content and communication on OTT platforms in real-time via different regulations has also raised concerns about regulatory complications.

While there are divided views on whether more than one regulator can oversee a sector, the need for clarity on their respective roles and responsibilities is crucial to avoid inconsistency that would be challenging for businesses. Lawyers have also pointed out that the Digital India Bill may or may not provide comprehensive provisions to govern OTT services.[23]

In conclusion, the government must carefully navigate these regulatory challenges to ensure that the evolving laws do not overlap and create confusion while promoting healthy competition, safeguarding interests, and protecting privacy and security in both the telecom and IT sectors. Legal clarity and coordination are essential to avoid regulatory woes and inconsistencies.[24] *In the ultimate analysis, it is the consumers who should not suffer the consequences of a confusing regulatory framework.*

Empower India's Economy by Supporting MSMEs

India recognises the importance of inclusivity in achieving broad-based growth. The Micro, Small, and Medium Enterprises (MSMEs) sector is crucial for fostering entrepreneurship, contributing to employment, output, and exports. With over 6.3

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23 Experts flag regulatory overlap as government redraws telecom, IT laws - The Economic Times

24 *Ibid*

crore MSMEs, collectively contributing around 33 percent to GDP, they are vital for inclusive growth and India's manufacturing ambitions.

The government has implemented various measures to strengthen MSMEs, such as credit support, formalisation, technology upgradation, and market assistance. Initiatives like PMEGP, CGTMSE, ESDP, and RAMP support their growth. Mandatory registration under TReDS for companies with turnover over ₹250 crore and GST registration on the Udyam portal are steps in this direction. The MSME sector's adaptability, sustainability, and quality are crucial for India's growth, and schemes like the Zero Defect Zero Effect (ZED) aim to nurture their transformation. The Federation of Indian Chambers of Commerce & Industry’s (FICCI) report on SMEs will aid policymakers in designing interventions for sustainable, inclusive, and resilient growth.[25]

Food for Thought

MSMEs are significant contributors to India's economy, accounting for approximately 33 percent of the country's total GDP. These businesses are driving innovation, growth, and employment and have the potential to contribute around US$1tn to India's total exports by 2028. The article discusses the role of MSMEs in shaping India's economic future and highlights the challenges they face.

MSMEs have gained prominence and attracted the attention of investors, policymakers, and entrepreneurs due to their adaptability, agility, and grassroots entrepreneurship support. They enhance India's productivity and competitiveness, driving innovation and creating jobs. India's attractiveness for manufacturing companies looking to shift from China provides an opportunity for the MSME sector to meet the demand for ancillary products and services. The entry of foreign companies into India stimulates the entire supply chain, creating employment opportunities and enabling MSMEs to enhance their capabilities and competitiveness. By the way, the phenomenal success of China’s manufacturing sector in the 1970s-90s was due to SMEs in the country known as Town and Village Enterprises (TVEs).

To leverage these opportunities, MSMEs need to strengthen their ecosystem, build collaborative partnerships, establish a digital presence, and comply with international

[25] Unclog the credit lines: Nurture MSMEs to empower India's economic growth- The Economic Times

standards. The government is taking initiatives to promote the MSME sector, including support for the 'Make in India' campaign, financial schemes, funding, and ease of doing business reforms.

However, MSMEs still face challenges related to access to capital, technology, and information.
With streamlined regulations, improved credit access, and innovation, MSMEs can significantly contribute to India's economic growth and prosperity.[26]

DISCLAIMER:

This information has been collected through secondary research and CUTS C-CIER is not responsible for any errors in the same. The press clippings used here have been suitably adapted/ summarised to convey their essence to the reader without any distortion of content.

[26] Empowering India's Future: The Transformative Influence of MSMEs on the Indian Economy