COMPETITION DISTORTIONS IN INDIA – A CUTS DOSSIER

(CDI-50: October to December 2020)

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 have an impact on competition in India, which can be both negative and positive. News, as published, is used without verifying their accuracy. The purpose is to flag issues to the layman as well as to the specialised policymakers and regulators, rather than be judgmental about them. This would require greater analysis particularly in terms of cost and benefits therewith.

Dear Reader,

Greetings!

We are pleased to present to you the Competition Distortion Dossier for the last quarter of the year i.e. October to December 2020. 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 have an impact on the competition 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.

In the first part, we cover developments regarding recent trade policies where we discuss RCEP and PLI schemes. For the former, we analyse India's decision to opt out of the RCEP and how RCEP could have been a challenge or an opportunity to enable the Indian market to compete internationally. With respect to the PLI schemes, which are extended for ten more sectors, we discuss how these schemes are going to be a major breakthrough for the Indian manufacturing sector and is a great step towards fulfilling Atma Nirbhar Bharat and Make in India campaigns.

In the dossier the recent amendment regarding scrapping off certain disclosure requirements have been discussed and it has been analysed how will it increase the overall competition and fairness in the market by lessening the burden on companies which in turn will help them to grow. Further, the Petroleum and Natural Gas Regulatory Board (PNGRB) has released norms for opening up of competition in the natural gas market, but restricted Oil Marketing Companies (OMCs) from directly supplying CNG from retail outlets. This step is being seen as a major promoter of competition in the gas market as it has made it open access for the new entrants, thus increasing competition in the market. Further, it has also taken care of the incumbents by providing open access in a phased way and restricting their control on market by introducing the plan at a time when, for most of them, the period of exclusivity has or will end soon. It has also been analysed how effective open access of electricity is in achieving greater overall competition and Atma Nirbhar vision.

The dossier also contains the policies inhibiting competition. WhatsApp's introduction of its payment feature is seen as a leverage of its dominant position. Further the issue of central government extending loans to MSMEs has been discussed and it has been analysed how effective such policy is. Mukesh Ambani has also entered the digital retail market, thus the e-commerce market is going to see more competition. However, the presence of one more established player in the market, having a fair share in offline retail, will make entry for new entities more difficult, especially for those who lack access to adequate resources.

Further, the CCI has ordered an investigation against Google as Playstore has become a gatekeeper in the app store market and is claimed to be imposing unfair and discriminatory conditions, thus denying market access to competing apps and leveraging its position in other related markets.

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

Cheers!

Contents

A. Trade Policies

China-led mega trade bloc RCEP takes off[1]

The Regional Comprehensive Economic Partnership (RCEP), a mega trade bloc comprising 15 countries led by China that came into existence, said India would have to write expressing "intention" to join the organisation to restart negotiation for membership.

In a statement made public after the initialising ceremony among the member-countries on the sidelines of the 37th ASEAN Summit held virtually, the newly formed organisation has laid down the path for restarting discussion that had failed to admit India earlier and said "new" developments would be taken into consideration when India re-applied.

Food for Thought

The RCEP is the world's largest free trade agreement comprising 15 Asia-Pacific nations, viz, Indonesia, Malaysia, the Philippines, Singapore, Thailand, Brunei, Vietnam, Laos, Myanmar, Cambodia, Japan, South Korea, China, Australia and New Zealand. The new tariff regime will kick in from 2022 and will see duties go back to 2014 levels.

There are various shortcomings of the agreement due to which India did not sign the agreement. It seems that the same has been done to protect the domestic manufacturers from foreign competition and is a step in the direction of Atmanirbhar Bharat; but in reality it has taken away the chance from the Indian economy to challenge itself and grow with the international economies.

In order to become able to influence policies of regional trade through which it can change the future of regional trade, short term loss could have been suffered. Where a flood of import was feared at the same time an opportunity to a greater exposure to decreased tariff export was also missed.

Due to the presence of robust production and supply chains in Northeast and Southeast Asian countries, the regional value chains among the RCEP members is expected to be very close-knit. If India would have been a part of the same economic integration would have been strengthen among the countries and thus all would have

[1] https://www.thehindu.com/news/national/rcep-signatories-ready-for-negotiations-once-india-gives-written-request-to-join-pact/article33102130.ece#:~:text=The%20Regional%20Comprehensive%20Economic%20Partnership,to%20restart%20negotiation%20for%20membership

benefitted. The geopolitical and diplomatic aspects were also there to not sign the agreement due to presence of China but, this would have been seen as an step toward strengthening regional integration and trade liberalisation in the time of Though India *has proposed an initial offer of 40 percent tariff liberalisation, which other members of the grouping consider too small.*[2]

The issue at the core is that the Indian Industries are not in a competitive stage and cannot withstand the competition from advanced firms. If it had been competitive then an agreement like this would have provided barrier free market for the produces and would have encouraged the 'Make in India' campaign.

On one hand where more than ninety percent of goods which are traded by India would have zero tariffs in the upcoming 15 years[3] *by signing the agreement. On the other hand, the deal would have brought down import duties on 80 per cent to 90 percent of the goods, along with easier service and investment rules.*[4]

The Part-protectionism needs to be combined with smart-globalisation and that is the approach which is missing. In terms of trade and investment, India cannot remain isolated; it must integrate with the rest of the world through bilateral and regional cooperation. RCEP The provides a unique opportunity to enter a mechanism that accounts for a third of global trade. There is no doubt that Indian market is currently not conducive for RCEP but running away from inevitable is not a good solution to go with.

The argument that, the industries can become stronger when they are protected from foreign competition is disputed for India. The firms do not face competition from the advanced technologies and thus become reluctant to their old models of trade and production. The lesser competition results in stifling of innovation in the market and thus, firms "sell practically anything that they produced in the domestic market and thus had little incentive to improve their international competitiveness."[5]

Productivity is needed to get improved in every manufacturing sector. Otherwise the vision of making India a global manufacturing hub will be a distant dream. The self-

2 https://www.livemint.com/Politics/na8OoxdlWdiDBxriOAyp7N/RCEP-faces-opposition-from-local-industry.html

3 https://foreignpolicy.com/2020/11/23/why-india-refused-to-join-rcep-worlds-biggest-trading-bloc/

4 https://www.theweek.in/news/biz-tech/2020/11/16/what-is-rcep-why-didnt-india-join-the-pact.html#:~:text=Had%20the%20Indian%20industry%20been,Make%2Din%2DIndia%E2%80%9D.&text=Hence%2C%20a%20pact%20like%20the,deficit%20with%20the%20participating%20countries.

5 https://economics.rabobank.com/publications/2020/december/why-india-is-wise-not-to-join-rcep/

reliance does not mean that we have to boycott international trade and thus it is required that we focus on producing quality goods only after which we can gain from such agreements. If the firms will not compete with the advanced firms then the incentive to innovate will be lesser and thus, we will not be able to sustain ourselves in the upcoming decades.

Cabinet okays PLI scheme for 10 sectors including auto, telecom[6]

To give an impetus to manufacturing sector, the Centre announced production linked incentive scheme for 10 sectors. The scheme would entail an expenditure of about Rs 2 lakh crore, said Finance Minister Nirmala Sitharaman while announcing the scheme, post the cabinet meeting. Accordingly, the scheme is expected to attract foreign players, boost production and generate employment in the country. Earlier, the Centre had rolled out a similar scheme for electronics manufacturing sector, particularly for mobile phone manufacturing, to curb increasing imports.

The concerned sectors will include Advance Chemistry Cell Battery, electronic products, automobiles and auto components, pharma, telecom and networking products, textile, food products, white goods and speciality steel.

Food for Thought

To reduce the dependence on import from China and other manufacturing economies, the government announced a scheme in March through which the manufacturing companies will get incentives on incremental sales from products manufactured in domestic units.[7] With a higher production threshold to receive incentives, incidentally it thrusts the companies under PLI to export the excess production (beyond the domestic demand).[8]

The PLI scheme aims to attain import substitution, export promotion, cost-competitiveness and efficient manufacturing, economies of scale, increased contribution in global value chains and higher market share in the given sectors.

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6 https://auto.economictimes.indiatimes.com/news/industry/cabinet-okays-pli-scheme-for-10-sectors-including-auto-telecom/79171109

7 https://www.moneycontrol.com/news/business/economy/explained-all-you-need-to-know-about-pli-scheme-6111041.html

8 https://government.economictimes.indiatimes.com/news/economy/opinion-is-pli-scheme-a-game-changer/80384104

Moreover, it will incentivise global firms to set up capacities in India, boosting FDIs and provide gainful employment to the youth.[9]

The scheme focuses on mobile and related equipment and pharmaceutical products. The government has recently added ten new products to the list and it is expected that more products will be covered in the upcoming year. Since these sectors involve a greater labor force the employment demand will also be catered by the same.

These sectors give returns after longer times and thus government cannot put continuous investments in the same. Thus, such kind of policy will reduce the burden on the government and at the same time will increase the incentives to the firms as a result of which, production and export will increase. Global players will also be interested to setup units in India. This scheme unlike the previous Merchandise Exports from India Scheme MEIS and other schemes, is World Trade Organisation (WTO) compliant as it does not link the eligibility or quantum its subsidy to exports and local value addition and exports promoting at the same time as it will strive to increase manufacturing and thereby help to promote export and balance the trade deficit. This can also be seen as an enabling step to make India competitive in the global market by making India a global manufacturing hub.

The scheme will also result in greater competition among the local manufacturers, leading to increased innovation and better quality of goods. The current focus of the government on developing the MSME sector is also furthered by this scheme, as it induces benefits on the basis of levels of export oriented production.

Overall, the Indian government's PLI scheme is a boon to Indian manufacturing and exports, and it will enhance the overall business climate. It would also increase jobs by attracting foreign investment into India's manufacturing sector.

B. Policies Promoting Competition

Competition Commission of India scraps certain disclosure requirements for merger reviews

The Competition Commission of India (CCI) has done away with certain disclosure requirements related to non-compete restrictions at the time of entities seeking approval for merger deals. The watchdog said it has decided to dispense with certain

[9] https://auto.economictimes.indiatimes.com/news/industry/opinion-can-pli-scheme-reboot-the-manufacturing-sector-in-india/80261403

disclosure requirements in the combination notices. In this regard, regulations have been amended by the regulator.

The decision has been taken pursuant to stakeholders' consultation and detailed examination of the efficacy of the present framework for the examination of non-compete restrictions, entered into as a part of combinations, the CCI said in a release In competition law parlance, mergers and acquisitions are generally referred to as combinations. "Parties to the combination are no more required to give separate details regarding their non-compete restrictions, in the combination notice," the release said.[10]

Food for Thought

The CCI (Procedure in regard to the transaction of business relating to combinations) Amendment Regulations, 2020 said that In the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011, in Schedule II, in Form I paragraph number 5.7 shall be omitted.[11] *This move made it non-mandatory for the parties to provide a detailed explanation and justification (its scope, duration and territorial extent) of non-compete clauses* ***(NCCs)*** *while filing for a combination with the CCI.*

This move aims to lessen the information burden on CCI by shifting the responsibility to parties and providing parties with flexibility in defining non-compete restrictions. The general set of standards for the Non-competitive restriction assessment may become inappropriate in the present-day dynamic business environment. This move aligns with the Competition Amendment Bill 2020, which proposes to shorten the current merger timeline from 210 days to 150 days. Moreover, the Phase I timeline is proposed to be reduced to 20 days from its current 30 days period.

Even though the amendment has removed the requirement for disclosure of NCC, the parties who are implementing NCC will still be liable to check that their NCCs do not go against competition. The parties can still be evaluated under sections 3 and 4 of the Act for their behavior. Thus, the parties' responsibility is to have a thorough analysis and self-assessment of the NCCs that they are not anti-competitive.[12]

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10 https://economictimes.indiatimes.com/news/economy/policy/competition-commission-of-india-scraps-certain-disclosure-requirements-for-merger-reviews/articleshow/79519001.cms

11 https://www.cci.gov.in/sites/default/files/regulation_pdf/CCINonCompRegl261120.pdf

12 https://indiacorplaw.in/2021/01/self-assessment-of-non-compete-clauses-the-new-normal.html

Before this amendment, the parties were already self-assessing the NCCs to comply with the competition law. In many cases, CCI has held the NCCs to be anti-competitive and non-ancillary without giving proper explanation to the parties. With this amendment coming into force, the process will become more efficient. The assessment of the NCCs and M&A deals will also be done. Thus, that requirement will not be compromised. The lessening of non-compete period will ensure that the dynamic markets like e-commerce do not stop innovating and enhance competition.[13] *When the country is trying to get a boom in the economy and have opened various paths for Foreign Investment, making the market more effective and competitive can be said to be taken in the right direction.*

PNGRB opens up competition for city gas Cos, but OMCs[14]

The Petroleum and Natural Gas Regulatory Board (PNGRB) has released norms for opening up competition in the natural gas market in Delhi, Mumbai and Gujarat. But restricted Oil Marketing Companies (OMCs) from directly supplying CNG from retail outlets are currently supplying CNG jointly with City Gas Distribution (CGD) companies.

This restriction is set to protect the market share of CGD companies, which had concerns that OMCs will quickly shift to selling CNG directly from retail points currently in use. CGD companies share retail outlets with OMCs, including Indian Oil Corporation Ltd, Bharat Petroleum Corporation Ltd and Hindustan Petroleum Corporation Ltd, to supply CNG in major cities.

The marketing exclusivity period for Indraprastha Gas Ltd, which operates in Delhi, and Maharashtra Gas Ltd, which operates in Mumbai and Thane, has ended. The marketing exclusivity period for Gujarat Gas Ltd has also finished in eight places in Gujarat.

Food for Thought

The PNGRB published the Petroleum and Natural Gas Regulatory Board (Access Code for City or Local Natural Gas Distribution Networks) Regulations, 2020,[15] *on November 23, 2020. The code is made to institute transparent and uneven principles that will*

[13] https://cuts-ccier.org/pdf/CDIDossier-apr-jun2020.pdf

[14] https://indianexpress.com/article/business/commodities/pngrb-opens-up-competition-for-city-gas-cos-but-omcs-7071148/

[15] https://www.pngrb.gov.in/public-notice.html

apply to the whole industry to gain or can access the CGD network sand pipeline systems. To promote and establish a competitive market in the Gas sector is the objective of this code. The code wants to fulfill its aim by instituting unbiased and uneven principles for the users and the gas pipeline owners so that they can have unbiased and transparent access to CGD networks and pipelines.[16]

The current gas distribution market is very concentrated, with only a few big players. The code aims to increase that competition by open access in CGD. The move will attract more investment for building Gas infrastructure. The present CNG stations owned by OMCs will not be considered "third-party shippers," and thus, the existing OMCs will not use the open-access path.[17] *The restriction is made to restrict the OMCs from directly selling CNG from their current retail points to protect the CGD company's market share.*

The move can harm the CGD companies as they have invested a lot in the gas infrastructure and the new entrants will use the infrastructure without making substantial investments. This will provide the new entrants with huge support to grow rapidly. The code's timing will affect the CGDs as most of the GAs have got their exclusivity period ended. Further, in the 9th and 10th rounds of bidding, more than 500 GAs have been opened up for investment.[18]

The move is not taking away the incumbents' business and increasing competition at the same time as the open-access of gas pipelines will be done in a phased manner. The notification came when market exclusivity expired for Indraprastha Gas Ltd. and Mahanagar Gas Ltd in Delhi and Mumbai. Thus it will be easy for the new entrant to make a presence in the market. Further, PNGRB can permit competition in these areas in a phased manner.

Thus, to increase the competition in the gas market, PNGRB has taken all the measures. First, it has made the open access path available for the new entrants to increase competition. Secondly, it has restricted the OMCs from retail distribution from their existing retail points. Further, it has also taken care of the incumbents by providing open access in a phased way and restricting their control on the market by

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[16] https://www.avantis.co.in/legalupdates/article/11817/pngrb-access-code-for-city-or-local-natural-gas-distribution-networks-regulations-2020/

[17] https://www.financialexpress.com/industry/open-access-norms-regulator-gives-short-term-respite-to-cgd-players/2140314/

[18] https://timesofindia.indiatimes.com/city/ahmedabad/pngrbs-tariff-determination-proposal-for-open-access-in-gas-networks-opposed/articleshow/78940741.cms

introducing the plan when most of them have got their exclusivity period ended in many GAs.

Powering change: Open access must for atmanirbharta vision's fruition[19]

The introduction of competition has been one of the main aims of reforms in India's electricity sector. One of the most important steps towards achieving this was the introduction of 'open access' in the Electricity Act, 2003. It was introduced to promote competition in the retail sale of power by allowing large consumers (power consumption above 1,000 kW) to source power from a supplier of their choice. Open access will enable consumers non-discriminatory access to any transmission and distribution network for obtaining electricity from the source of their choice and not necessarily from the local power distribution licensee.

The idea behind open access was to infuse competition in the power sector dominated by state-controlled distribution utilities and allow large industrial consumers to choose their service provider and the price. After 16 years of introduction, a negligible one percent of overall electricity consumed in the country is procured through open access. Power exchanges are servicing about 4,500 industrial and commercial consumers who are availing of partial open access. The potential, predictably, remains much higher.

Struck by COVID-19, with a severe impact on the industry and economic growth, India envisions promoting manufacturing and turning into a self-reliant and sustainable economy. The Make in India initiative, which was announced five years ago in September 2014 and covered 25 sectors of the economy, has achieved practically nothing in these five years.

A few days ago, the Department for the Promotion of Industry and Internal Trade (DPIIT) again identified a list of 24 key sectors that are critical to boosting manufacturing and self-reliance. The government has been endeavoring to develop India as a global manufacturing hub and raise the share of manufacturing in GDP to 25 percent by 2025, from its current level of 17 percent. Still, success has been elusive as key critical pieces remain in jeopardy and unaddressed.

19 https://www.financialexpress.com/opinion/powering-change-open-access-must-for-atmanirbharta-visions-fruition/2111144/

Food for Thought

The electricity sector was a monopoly of the state until 1991.[20] The new electricity regime EA03 introduced open access in the transmission and distribution segment. Intending to create a structure where the generators could sell the supplies to the highest bidder and the consumer becomes able to buy electricity from the most affordable source. The State Transmission Utilities (STUs) were obliged to consider such generators and consumers' open-access requests to allow this framework to evolve.[21]

Since the number of private players working in the Generation and T&D markets is limited, low competition can be seen in the sector. The barriers to entry in the power sector are many. The economies of scale and the regulation of tariff rates are the most prominent barriers in the segment. The building up of the T&D network incurs a considerable cost for setting up infrastructure, making the barriers to entry stronger.

The management of wire and retail services is done by the same entities, which distorts the competition as the downstream and upstream markets are controlled by the same entities rather than various firms. The wire and retail are different services altogether and the distribution companies fear losing their retail business to the competition.

Talking about the open-access of power, only 1 percent of the total consumption comes from open access sources. The open-access is not that open as it should be and the competition is distorted because of unreasonably high charges, tariffs, and non-tariff barriers. There are cross-subsidy surcharge and additional surcharge as tariff barriers. There are non-tariff barriers, like eligibility conditions that are restrictive, delay in standing clearance, approval, etc. Open access becomes less beneficial economically and thus, competition in electricity supply is hampered as a result.[22]

The political influence in the power sector cannot be denied and the regulatory commission works according to the interests of state governments. Thus the inefficiency in distribution and unreasonable charges are obvious. The un-biasedness of the regulators is necessary to achieve fair competition goals.

In many states, the average cost is taken rather than the cost of service according to the voltage level, but the cost incurred to supply power at high voltage is cheaper than

[20] https://www.scconline.com/blog/post/2019/07/15/retail-competition-in-power-distribution/

[21] In Re: HPCL-Mittal Pipelines Limited ('HMPL') vs. Gujarat Energy Transmission Corporation Limited and ors, Case No. 39 of 2017

[22] https://www.financialexpress.com/opinion/powering-change-open-access-must-for-atmanirbharta-visions-fruition/2111144/

to low voltage consumers. Then even the governments strive toward providing subsidies to households and agricultural consumers. According to Tariff Policy in 2016, the Ministry of Power's cross-subsidy charges should be limited to 20 percent of the retail electricity tariff. Then even many states levy more than 20 percent cross-subsidy surcharges.

The government is regularly trying to develop policies and programmes through which the country can be made a self-reliant and manufacturing hub. Since electricity plays a vital role in manufacturing, the programmes cannot succeed without the proper implementation of open access to power and promote competition in the power sector. Further, rough estimates suggest that only removing the non-tariff barriers and limiting the cross-subsidy surcharge to 20 percent, doing away with additional tax and voltage-wise wheeling charges, can help save Rs 40,000 crores. If the cross-subsidy surcharge is removed altogether, then Rs. 80,000 can be saved, which if reinvested in manufacturing, then the manufacturing sector can witness growth.

If the retail competition gets enhanced, then the consumers and businesses both will prosper. Consumers will have more choices and decision-making power, which in turn, will lead to cost-effectiveness and quality in supply. After giving the benefits of factors like competitive tariffs, the supplying entities will also work on the non-price factors like user interface. Price can be reduced and efficiency gained by separating the carriage and content with defined responsibilities. Thus, the competition in the retail of power can be increased, which will help the government achieve the aim of various programmes.

C. Policies Inhibiting Competition

Centre extends emergency credit scheme to MSMEs till Nov 30[23]

The Union government has extended the Emergency Credit Line Guarantee Scheme (ECLGS) by one month till November 30, a Finance Ministry statement said. The Ministry added the scheme will be applicable "till such time that an amount of Rs 3 lakh crore is sanctioned under the scheme, whichever is earlier".

The decision to extend the scheme has been taken in view of the opening up of various sectors in the economy and the expected increase in demand during the

[23] https://www.businesstoday.in/current/economy-politics/centre-extends-emergency-credit-scheme-to-msmes-till-nov-30/story/420725.html

ongoing festive season. "This extension will provide a further opportunity to such borrowers who have not availed of the scheme so far to obtain credit under the scheme," the Ministry said.

The ECLGS was announced as part of the Aatma Nirbhar Bharat Package (ANBP) to provide fully guaranteed and collateral free additional credit to MSMEs, business enterprises, individual loans for business purposes and MUDRA borrowers, to the extent of 20 percent of their credit outstanding as on February 29, 2021.

Borrowers with credit outstanding up to Rs 50 crore as of February 29, and with an annual turnover of up to Rs 250 crore are eligible under the scheme. Interest rates under the scheme are capped at 9.25 percent for banks and FIs, and 14 percent for NBFCs.

The tenure of loans provided under the scheme is four years, including a moratorium of one year on principal repayment. As per data uploaded by Member Lending Institutions on the ECLGS portal, an amount of Rs 2.03 lakh crore has been sanctioned under the scheme to 60.67 lakh borrowers so far, while an amount of Rs 1.48 lakh crore has been disbursed.

Food for Thought

The Central Government's move to revive the MSMEs has provided more than 2.05 lakh crore as loan as of December 04, 2020. When the scheme started, it provided the last date as October 2020 or when 3 lakh crore is sanctioned. The scheme was aimed at assisting the MSMEs as they were hit hard by the pandemic. Further, the scheme was being seen as one of the biggest contributors to the PMs' "vocal for local" initiative. As it would have provided the much-needed assistance to the MSMEs to become competitive globally to big players inside the country.

The step could have provided the needed aid to many small enterprises to exist in the market and thus can prevent the market from being less competitive. Certain factors like the long documentation process for the grant and less demand for products due to the pandemic, the enterprises are hesitant in taking the loans. Further, the loan is not provided to first-time borrowers and non-performing entities get automatically ruled out. Since the credit was given to outstanding borrowers, it may be the case that the credit is being used to repay the prior loan as the interest for this credit is lesser.

The two conclusions that this situation can make are that the credit is not providing that aid to the competition as it was intended. Further, there is a need to provide other *assistance to MSMEs and the financial stimulus so that the Indian MSMEs can become globally competitive. We had restrictive asset-based definitions which restricted the micro-enterprises to grow to medium industries. It has been relaxed by the government, which is a welcome step. Compliance requirements also restrict the entities as the laws are not different based on the scale if we leave the very small enterprises. Trade Union laws apply even to the entities having six employees and the factories act applies to entities having 10 employees. Due to these regulatory frameworks, the micro-enterprises do not want to enter the formal economy and prefer to remain small. The skill deficit in the manufacturing sector also needs to be addressed.*

Whatsapp payment is live for 20 million users in India: here is how to transfer money[24]

WhatsApp Payment, a payment feature by Facebook-owned WhatsApp, is now available for up to 20 million users in India. The facility has been launched with support from banking partners, including the State Bank of India (SBI), HDFC, ICICI, and Axis Bank. The WhatsApp Payment feature could serve as a competitor to other digital payment apps, including Paytm, Google Pay, PhonePe. WhatsApp Payment has been designed on the National Payments Corporation of India's (NPCI) Unified Payment Interface (UPI) system. It received the approval to go live on a peer-to-peer basis in November 2020.

Food for Thought

Large Peer-to-Peer (P2P) wallet providers such as Paytm, Freecharge, and Mobikwik were added UPI to their existing infrastructure owing to ease of use. Others such as Phonepe and Google Pay continued to develop their payment services exclusively on the UPI platform. Seeing this as a great opportunity, WhatsApp, owned by Facebook Inc., also joined the bandwagon and showed its aim to venture into the market for digital payments, ultimately making the concentrated market of digital payments all the more concentrated. The digital payments sector in India is expected to increase "five-fold" by 2023 and touch the US$1tn mark. Still, it is also noteworthy that where digital payments are already dominated by giants like g-pay, phonepe, etc, the introduction of Whatsapp pay is just another hindrance for new entrants in this market.

[24] https://www.firstpost.com/tech/how-to/whatsapp-payment-is-live-for-20-million-users-in-india-here-is-how-to-transfer-money-9134171.html

So the introduction of an additional digital payment mechanism will serve the interests of many. Still, it brings along with it a potential Abuse of Dominance Conundrum when it comes to Whatsapp pay. A study shows that 95 percent of Android devices have WhatsApp installed and 75 percent of users use the app in India regularly. The above figures clearly show WhatsApp as the market leader and in a position to dominate. In the instant case, it should be noted that by allowing the payment feature on its current application, WhatsApp, which is primarily an instant messaging application, will enter the digital payments market thereby leveraging its current user base to promote its role in digital payments.

The two relevant markets to be considered in this case to prove potential leveraging are first, the demand for 'Instant Messaging Services.' Although the emphasis is on the payment function of WhatsApp, it is still believed that in the instant case, the primary market of WhatsApp, i.e. instant messaging, must be analysed as the UPI feature (commonly referred to as WhatsApp Pay) is being introduced as an extension to its current application. The second important market here is that of 'Digital Payment Systems' offering UPI as a feature.

Section 4(2)(c) of the Act categorizes activities that contribute in some way to the denial of market access as an abuse of the dominant position. It is claimed that the introduction of UPI by WhatsApp into its current app forms a competition denial practice as the customer is allowed to use the UPI feature without needing to download additional applications. The mere fact of WhatsApp's mammoth user base would generate a broad network impact that would thus influence existing players in the industry. Although no actual switching costs are involved, factors, such as ease of use and convenience must also be taken into account.

Therefore, to achieve a level playing field, it is recommended that WhatsApp's payment function be isolated from its current messaging application. This will mean that the payment feature of WhatsApp is left open rather than leveraging its dominant role in the field of instant messaging apps for success based on market forces.

Mukesh Ambani takes on Amazon in India's $200 billion market[25]

As India hits the peak of its biggest shopping season, the festival of Diwali, the tycoon's retail websites -- including JioMart -- are elbowing their way into space long dominated by Amazon.com Inc. and Walmart Inc.'s local unit Flipkart Online Services Pvt.

Ratcheting up the competition, Ambani's portals are offering blockbuster discounts of as much as 50 percent on popular sugary confections and other holiday staples like spice mixes for India's rice delicacy biryani. Meanwhile, his Reliance NSE 1.64 percent Digital website sells some flagship Samsung smartphones at prices cheaper than rivals, with as much as 40 percent rebates.

In retail, Ambani's firm has a vast edge: Government policies are increasingly stacked in favor of domestic retailers, of which Reliance is the largest. Since the end of 2018, India's foreign investment rules have also barred Amazon and Walmart's local unit Flipkart from featuring exclusive products and owning inventory in a bid to restrict their ability to influence prices and offer discounts directly. International companies are not allowed to own more than 51 percent of local brick and mortar supermarket chains.

Food for Thought

Reliance group's Jiomart is all set to give competition to the existing players in the e-commerce market. The e-commerce market is very concentrated, having two major players Amazon and Flipkart. Since Jiomart is also focusing on grocery retail, it will attract competition from Bigbasket and Grofers. Reliance has made a huge success in the telecom sector by introducing Jio. But since in the e-commerce sector, the players are much bigger, it will not be that easy for the reliance group to take away the business from them.

Recognising the large competitors' potential threat, Jiomart provided hefty discounts on various items in the festive season. Reliance's discounting strategy is not new, but the e-commerce market in India is already witnessing huge discounts by all the players in the e-commerce market. Despite the various policies of Govt.

25 https://economictimes.indiatimes.com/industry/services/retail/mukesh-ambani-takes-on-amazon-in-one-of-the-worlds-last-big-consumer-markets/articleshow/79162359.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

The American Giant Amazon and Walmart acquired Flipcart face more restrictions related to offers and discounts. The Consolidated Foreign Direct Investment Policy 2017 (FDI Policy) prohibits foreign-funded marketplace players from engaging in inventory-based model of e-commerce. Still, there is no such bar on domestic-funded marketplace players. The objective of this discrimination was to protect the local Brick and Mortar stores from deep-pocketed e-commerce players. But, by doing the same, the government has neglected the possibility that Indian entities can also do the same harm. Jiomart has successfully evaded this debate by adopting a different business model in which instead of harming, it uses the brick and mortar stores of its own and local stores.

Since the rivals are powerful, Reliance has taken a different strategy altogether for Jiomart, from its's competitors. As Grofers and Bigbasket, rivals in the e-grocery market works on the inventory-based model Jiomart have taken the O2O model of business. It will only work as a channel between the consumers and Kirana stores. It will try to tap into the services of stores that already exist in users' respective neighborhoods. The idea behind the same is to have a large consumer base without incurring extra costs for that. The company will help the stores with automation and backend support. Jio Mart is also leaning on Reliance Retail's 10,415 brick-and-mortar stores in over 6,600 cities with access to cold storage and warehousing facilities.

Whatsapp can become a game-changer for Jiomart. Here the Facebook –jio deal will play a vital part as Whatsapp is owned by Facebook. Jiomart will be leveraging Whatsapp's large customer base in India. It can be used for (B2C) payments and ensuring the delivery by the logistic network or the store. The new feature of digital payments by Whatsapp without installing any additional app can be integrated with Jiomart which in turn will give a good start to the Whatsapp payments. It can also be linked to Jio payment bank.

Thus, Jiomart has figured out all the possibilities of providing stop shopping solutions at Whatsapp maybe through its Whatsapp business account. Further, since Jiomart is providing more business to the local Kirana stores, it can also prove that it is supporting the PM's recent appeal of "Vocal for Local".

Ajio on the other hand is also expanding and leaving behind its competitors like Koovs, Tataclick, and Snapdeal. The website has a greater footfall than Myntra but has fewer app downloads. Ajio has grown significantly during the lockdown period. Goldman Sachs analysis tells that within e-commerce, RIL's online GMV will reach $35 billion in FY25E with a 31% market share. Reliance retail business has performed better than the competitors in the last quarter and the same is expected in the future also as it is heavily investing in the growth of its retail business.

Reliance will have to integrate the offline stores, future group stores, local Kirana shops, and its warehouses which is not an easy task to do. But since in the e-commerce market the concept of customer loyalty does not work much there will be a chance for Reliance to attract customers. The already existing players and particularly amazon is having prior experience of dealing in e-commerce which Reliance is lacking and thus, it will try to become a good competitor of the preexisting entities in the short term and may try to come at the top in the upcoming years.

The e-commerce market is going to see more competition because the new competitor also has deep pockets and can gain from the government policies as well. Thus, will be able to establish itself in the e-commerce market soon. But the presence of one more player in the market having deep pockets and having a fair share in offline retail, it will become more difficult for any new entity not having many resources to enter the market as the big players will take the competition to a different standard.

Google comes under CCI lens again; regulator orders probe into payments system, Google Pay

The CCI probe will look into two of several allegations made in a complaint filed in February by an unnamed informant related to exclusive use of Google Pay (GPay) for buying apps and in-app purchases (IAPs) via the Play Store and pre-installation and prominence of Google Pay on Android smartphones.

The watchdog has ordered a detailed probe by its Director General (DG), which is the investigation arm, for alleged anti-competitive practices with respect to Google Pay. The Competition Commission of India (CCI) ordered an investigation into allegations of abuse of dominance against Google on Monday.

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The complaint alleges that Google, through its control over the Play Store and the Android operating system (OS), favours Google Pay over competing apps. This amounts to abuse of its dominant position by Google, the complaint said.

The company said numerous distribution channels exist for apps on the Android platform and that Play is not the only option for the OS. “Users choose Google Play because we ensure a safe, secure, and seamless experience,” the company said. “Play’s billing system is a fundamental part of meeting this user expectation and helps ensure our continued investment in the many important things needed to make developers successful."

"In such a stage of evolution, Google using its market position in applications relating to licensable mobile OS, search engine, app store, browser, etc. to enter into contractual arrangements with OEMs for preinstallation of GPay, may disturb the level playing field," the CCI said.

Food for Thought

While the CCI received complaints against Google on six counts, only two for antitrust rules are being investigated. The commission reported that the complainant did not offer adequate evidence to begin an investigation in the other four charges. Even start-up founders, including Vijay Shekhar Sharma of Paytm and Harshil Mathur of Razorpay, have criticised Google for making it mandatory for app manufacturers to use their payment tools for Play Store purchases.

This is not the first time when Google is charged with abuse of dominance. Back in 2018, CCI held Google liable for abusing its dominant position in the case of Matrimonial.com v Google. CCI found Google violating antitrust principles, as it reduced website publishers' choice and, in effect, denied market access to its competitors. Additionally, CCI held that Google used its dominant position in the online search market for leveraging its position into the online syndicate search agreement market.

On similar lines, the market for apps facilitating payment through the Unified Payments Interface (UPI) seems to be a distinct relevant market for assessing the present matter's allegations.

According to the regulator, it is of "the prima facie view that said the conduct of Google amounts to imposition of unfair and discriminatory condition, denial of market access for competing apps of Google Pay and leveraging on the part of Google, in terms of different provisions of Section 4(2) of the Act."