CUTS International

COMPETITION DISTORTIONS IN INDIA – A CUTS DOSSIER

(CDI 58: October to December 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 judgemental about them. This would require greater analysis, particularly in terms of cost and associated benefits of the same.

Dear Reader,

Greetings!

We are pleased to present the Competition Distortion Dossier #58 for the last quarter of the year, i.e., October to December 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 of the dossier discusses recent trade policy developments, such as the Government of India initiating an anti-dumping investigation against China Glass and the DGTR's recommendation of imposing anti-dumping duties on Chinese Stainless Steel tubes.

The second section of the Dossier examines the impact of the government's recent policy shift towards divestment and privatisation in many major PSUs except those from strategic sectors. The citizenry has applauded this move of the government to disinvest in the majority. The capitalist business model forbids the government’s involvement in the ownership and operation of the business. The only responsibility the government has is to promote and facilitate businesses. Hence, some of the issues under this section include opening the space sector to private companies and divesting IDBI Bank.

In its third section, this dossier discusses the impact of Tata Group's decision to consolidate all of its airlines under a single brand, Air India, and potential roadblocks in Jet Airways' full-fledged operations. It also examines India's Disinvestment Strategy and discusses various challenges that impede it.

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

Cheers!

Contents

A. Trade Policies 3

India to Impose Import Duties against China Glass 3

Anti-dumping Duty on Stainless Steel Tubes from China 4

B. Policies Promoting Competition 5

Private Sector as the Catalyst of Indian Space Industry's Growth 5

Google as another Big Tech in the Anti-Trust Lawsuit Fracas Globally 6

CCI's to Tighten Threshold for Assessing Mergers under the Competition Regime 8

Government Seeks ₹640bn for IDBI Bank in Stake Sale 10

Captive Mines May Sell 50% Output in Open Market 11

RIL to Acquire German Co Metro's India Unit for Rs 4.5k Crores 12

C. Policies Inhibiting Competition 14

Tata to Merge all its Airlines under AI Brand 14

Some Hits, Many Misses: Do India's disinvestment Plans Need a Reset? 16

Amazon to Shut Down its Food-Delivery Business in India 17

Why Jet Airways Stays Grounded Despite its Rescue 19

A. Trade Policies

India to Impose Import Duties Against China Glass

Following a complaint from the domestic industry, India has launched an anti-dumping investigation into the import of Chinese glass used in home appliances products. The applicant claims that dumping the concerned product harms domestic industries. The DGTR will assess the claims of dumping and material harm to domestic players.[1]

Food for Thought

Anti-dumping duty is a tariff on imports manufactured in other countries priced lower than the fair market value of comparable goods in the domestic market. The government imposes anti-dumping duties on foreign imports when it believes the goods are being "dumped" at lower pricing in the local market and that the surge in cheap imports is harming their domestic industry. In other words, anti-dumping duties are imposed to protect domestic businesses and markets from unfair competition from foreign imports.

The anti-dumping investigation against China Glass was launched based on an application, with the prima facie evidence submitted by the domestic industry concerning the alleged dumping of the product. The Product under Consideration here is 'toughened glass for home appliances with thicknesses ranging from 1.8 MM to 8 MM and an area of 0.4 SqM or less' manufactured in or exported from China.

The Domestic Industry is the Federation of Safety Glass, an association of safety/speciality glass processors, on whose complaint the anti-dumping investigation was launched. Suppose the Director General of Trade Remedies, a quasi-judicial body and an investigative arm of the Ministry of Commerce and Industry, determines that the dumping has caused material harm to domestic players. In that case, he will recommend that anti-dumping duties be imposed. The Finance Ministry in India is the final authority to impose duties.[2]

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[1] https://economictimes.indiatimes.com/news/economy/foreign-trade/india-initiates-anti-dumping-probe-into-import-of-chinese-glass/articleshow/94840936.cms?from=mdr

[2] https://www.ndtv.com/india-news/india-initiates-anti-dumping-probe-over-chinese-glass-import-3428857#:~:text=The%20commerce%20ministry's%20investigation%20arm,in%20or%20exported%20from%20China.

Anti-dumping Duty on Stainless Steel Tubes from China

According to a government notification, the Indian government has announced a five-year anti-dumping duty on stainless steel seamless tubes and pipes imported from China to remove "injury" to the domestic industry. According to a notification released in September by the Directorate General of Trade Remedies (DGTR), the recommended duty ranges from US$114 per tonne to US$3,801 per tonne.[3]

Food for Thought

Anti-dumping duties are permissible under the World Trade Organisation (WTO) regime. It is a tariff levied on imported goods manufactured in other countries priced below the fair market value of comparable goods in the domestic market. The government has the authority to impose both provisional and permanent anti-dumping duties. While the provisional duty is usually valid for six months, the definitive anti-dumping duty is usually valid for five years unless revoked earlier.

The DGTR launched the above-mentioned anti-dumping investigation) in response to a complaint filed by Chandan Steel Ltd., Tubacex Prakash India Pvt Ltd, and Welspun Speciality Solutions Ltd as Domestic Industries. The Product under consideration is Stainless Steel seamless tubes and pipes. It is used for structural purposes, transporting liquids and gases, application in petrochemicals and refineries, atomic energy, and power generators, including nuclear and thermal power.

The domestic industry views the imposition of anti-dumping duties on Chinese manufacturers as in the public interest. It is claimed that Indian manufacturers have the potential to meet domestic demand in this segment and that this move will help make the idle facilities operational, bring revenue to the exchequer and generate employment.[4]

[3] https://www.business-standard.com/article/economy-policy/commerce-min-for-imposing-anti-dumping-duty-on-chinese-steel-tubes-pipes-122092701294_1.html

[4] https://www.livemint.com/industry/manufacturing/antidumping-duty-on-stainless-steel-tubes-from-china-11671645785038.html

B. Policies Promoting Competition

Private Sector as the Catalyst of Indian Space Industry's Growth

Skyroot Aerospace, a space technology start-up, made history by launching India's first privately developed rocket, Vikram-S, into space on November 18, 2022. Skyroot's first mission, "Prambh (the Beginning)," will launch from Sriharikota with three customer payloads. One among the three payloads is a 2.5kg satellite built by students from India, the US, and Indonesia for another space start-up, Space Kidz India.

Vikram-S is a single-stage suborbital test rocket powered by India's first solid fuel engine made of carbon fibre. It is being launched to put the technologies in the Vikram series of space vehicles to test. IN-SPACe, the space regulator, has given the Vikram-S rocket technical launch clearance.[5]

Food for Thought

India's private sector boom in the space industry began in 2020, when the Indian government shifted and decided to open the space sector to private firms, allowing them to participate in the full spectrum of space activities. India's space sector has historically been led by the Indian Space Research Organisation (ISRO), India's government space agency. The private sector has been promoted to be a supplier of components and sub-assemblies. This is no longer the case, as official government data shows that the number of start-ups in the country has increased dramatically from one in 2012 to 21 in 2020. Further, as of 2021, more than 100 start-ups were active in the space sector, with 47 registered with the government, according to the latest Economic Survey of India.[6]

According to a report by the Indian Space Association (ISpA) and Ernst & Young (EY), India's space economy will generate close to US$13bn in revenue by 2025, up from around US$9.6bn in 2020.[7] *The government announced the development of an Indian*

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5 http://timesofindia.indiatimes.com/articleshow/95387573.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

6 https://telecom.economictimes.indiatimes.com/news/portal-in-portal/satcom/blogs/startups-spurring-the-new-wave-of-space-revolution-in-india/93359550

7 https://theprint.in/economy/more-satellites-startups-revenue-by-2025-report-sees-big-growth-in-indian-space-industry/1163355/

Space Policy in 2020, which is yet to be finalised to capture the benefit of the same and as part of the national space reforms. The government has also established the New Space India Limited (NSIL), the country's first public sector undertaking, and the Indian National Space Promotion and Authorisation Centre (IN-SPACe), as a promoter and a regulator of non-government and private space activities, respectively.

More than ten start-ups are preparing to launch their launch vehicles/satellites/other products by the end of this year or early next year. Agnikul and Skyroot are testing their rockets for small payload launches, while Dhruva and Pixxel are preparing to launch their satellites. Another start-up, Bellatrix, is nearing completion of an electric thruster, while Digantara would map space debris for the entire world. Astrome, based in Bangalore, is developing millimetre-wave wireless communication technology to create novel products for terrestrial and satellite communication networks. While Elena Geo Systems and Tathya.earth are working on downstream products, Tathya.earth is also working on building tools to monitor Economic Activities on a near real-time basis and Elena Geo Systems is providing Navigation solutions with NavIC.[8]

It is critical to understand that the space sector is fraught with risks, has a long gestation period, delayed Return on Investment, and is highly capital-intensive and complex. For India to realise its full potential and become a global hub for space-related activities, some fundamental challenges must be overcome, including an increase in cash inflows aside from government grants, loans, and bank guarantees, FDI relaxations, the need for tax breaks, import duty exemption, and a boost in the start-up ecosystem, particularly in the downstream segment of the space sector, i.e. application.[9] *This is where the government's role as an enabler of innovation and growth in the space ecosystem becomes paramount.*

Google as Another Big Tech in the Antitrust Law Suit Fracas Globally

The Competition Commission of India (CCI) has ordered another detailed investigation into Google's alleged unfair revenue-sharing terms for news content. The News Broadcasters & Digital Association has filed a complaint alleging that its members are forced to provide their news content to Google for their web links to be prioritised on Google's Search Engine Result Page.

8 Supra Note 6

9 *Ibid*

As a result, according to the complaint, Google profited from the members' content without compensating them adequately. According to the CCI, the case will be combined with two other ongoing matters against the search engine giant in which the allegations are substantially similar.[10]

Food for Thought

Google is on the radar of several antitrust authorities worldwide, and the CCI is no exception. The CCI has launched numerous investigations into alleged violations of the Competition Act 2002, particularly starting from February 2018 to the most recent probe initiated on a complaint filed by the Digital News Publishers Association and The Indian Newspaper Society alleging Google of unfair revenue sharing terms about news content.[11]

Globally, there is a growing understanding that Big Techs enjoy undisputed market dominance. This dominance helps them unilaterally benefit by dictating the terms and conditions for smaller players in the ecosystem. These companies also benefit from the network effect and status quo bias, which significantly raises the entry barriers for competitors to enter or operate in the relevant markets. It is critical to regulate such big-tech dominance to provide a level playing field for small entities to promote innovation and development in general.

Governments worldwide are enacting regulations to keep a check on Big Tech, and competition authorities in many jurisdictions are actively investigating them. For example, in August 2021, a group of US senators introduced the "Open App Markets Act" aimed at Apple and Google's app marketplaces. The European Union (EU)'s Digital Markets Act (DMA). The Federal Cartel Office, Germany's competition watchdog, recently notified that Google has "unrivalled significance across markets" and is thus subject to special abuse control established to monitor large digital companies as part of an overhauled German competition law, enacted in January 2021.[12]

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[10] https://www.tribuneindia.com/news/business/cci-orders-another-probe-against-google-439283

[11] https://www.moneycontrol.com/news/business/googles-antitrust-cases-in-india-other-markets-a-quick-look-7914881.html

[12] *Ibid*

Recently the Parliamentary Standing Committee on Finance, in its report, recommended enacting "The Digital Competition Act of India" (DCA). The proposed legislation will be an ex-ante framework aimed at limiting the dominance of Big Tech firms, ensuring a level playing field for all stakeholders. The DCA is currently being worked on and may seek to establish regulations similar to the Digital Markets Act of the European Union (EU). This new big tech regulation has received positive feedback from industry stakeholders for being consistent with global standards. However, it is also important to recognise that imposing an EU-based approach in an Indian setting may not produce the desired results. As a result, proper consideration of how different the Indian market is from such global markets is critical.[13]

CCI to Tighten Threshold for Assessing Mergers Under the Competition Regime

On September 22, 2021, Zee and Sony merged, integrating their television stations, film assets, and streaming platforms. The proposed combination will include (i) amalgamation of each of Zee and BEPL with and into CME; and (ii) preferential allotment of certain shares by CME to Sun bright International Holdings Limited (earlier known as Essel Holdings Limited), and Sun bright Mauritius Investments Limited.[14]

The ZEE Board approved the merger with CME following a 90-day due diligence period that ended on December 21, 2021. As proposed, Sony will own a majority stake, i.e., 50.86 percent of the combined entity, whereas the promoters of ZEEL will own 3.99 percent, and the remaining ZEEL shareholders will own 45.15 percent.[15] This merger will result in the creation of a media and entertainment powerhouse with 1.4 billion viewers.

Food for Thought

The Zee Entertainment Enterprises and Sony Pictures Networks India have operations in overlapping segments such as (i) Operation and wholesale supply of television (TV)

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[13] https://www.livemint.com/companies/start-ups/should-india-adopt-an-ex-ante-regulation-to-rein-in-big-tech-11672246024070.html

[14] https://www.cnbctv18.com/business/companies/cci-approves-zee-sony-merger-with-conditions-14870611.htm

[15] https://www.thehindubusinessline.com/companies/zee-sony-get-cci-nod-after-agreeing-to-sell-3-hindi-channels/article66057779.ece

channels in India; (ii) Retail supply of over-the-top audio-visual (AV) content in India; (iii) Supply of advertising airtime on TV channels in India; (iv) Licencing of AV content in India; (v) Production and supply of films to third-party distributors and exhibitors for theatrical release in India; and (vi) Licensing of music rights in India.[16]

The merger of Zee and Sony Pictures will combine at least 92 TV channels, including the two companies' sports and entertainment channels and several video streaming platforms, into a single entity in which Sony will hold a majority stake.[17]

The two companies have secured approvals for the merger from the Securities and Exchange Board of India (Sebi), the National Company Law Tribunal and their shareholders but Zee Entertainment and Culver Max Entertainment Pvt. Ltd (formerly Sony Pictures Networks India), has struggled to convince the CCI that the merger will not harm competition.[18]

It has been alleged that for a few markets, including Hindi entertainment and a few regional ones, their combined share will exceed the 40 percent mark. However, the CCI approved the merger agreement between Zee Entertainment Enterprises Limited (ZEEL) and Culver Max Entertainment (Sony).[19]

Before approving any merger, CCI must determine whether the combined entity will reduce competition or if the other competitors can maintain sufficient pressure on the combined entity. CCI evaluated the merger in the case mentioned above and recommended modifications based on the combined entity's potential market share. Here, it is important to note that Section 5 of the Competition Act of 2002 has no such thing as a market share threshold. The section only allows for two criteria: combined turnover or combined value of assets.[20]

Multiple large combination transactions have been observed to avoid and bypass the said parameters due to these limited and narrow thresholds prescribed under the law.

16 https://www.exchange4media.com/media-tv-news/cci-approves-sony-zee-merger-deal-122818.html

17 https://www.livemint.com/companies/news/zee-to-shut-channel-for-cci-merger-nod-11664735275087.html

18 https://www.thehindubusinessline.com/companies/cci-review-will-not-risk-zee-sony-merger-analysts/article65836739.ece

19 https://economictimes.indiatimes.com/industry/media/entertainment/media/cci-okays-sony-zee-merger-with-conditions/articleshow/94643824.cms

20 https://www.mondaq.com/india/antitrust-eu-competition-/1260440/raising-the-bar-tightening-the-thresholds-of-the-combination-regime-of-the-competition-commission-of-india

This limitation in the application of Section 5 of the Competition Act 2002 has been called into question in some mergers. CCI, through its activism, has attempted to overcome this legislative shortcoming by applying the market share threshold in certain cases.

Government Seeks ₹640bn for IDBI Bank in Stake Sale

India is pushing for a valuation of around ₹640bn (US$7.7bn) for state-owned IDBI Bank Ltd. in what could be the biggest sale of the government's stake in a lender in decades. This would be a test for the Government of India, which has committed to divest from most large businesses India owns and use the funds to bolster public finances.

The government invited bidders for a 60.72 percent stake in the Mumbai-listed lender. The valuation target means the administration is seeking a premium of roughly 33 percent, based on IDBI Bank's market value of about US$5.8bn and shares of IDBI Bank rose as much as 3 percent.

IDBI Bank's improved profitability could support the valuation target. Potential investors from domestic and foreign banks to non-banking financial companies and private equity funds have expressed initial interest in the asset. Bidders could get regulatory approvals and security clearances. A majority stake sale could be completed as soon as the next fiscal year starting from April 01.

Just four years ago, IDBI Bank had the highest bad-loan ratio among banks in the nation. Rakesh Sharma, the lender's chief executive officer, came out of retirement in 2018 to helm a revamp. About ₹195bn of bad debt could be recouped, Sharma said in an interview in August. The bank reported a 25 percent jump in net income from a year ago for the three months that ended in June.

IDBI Bank was penalised by the central bank in 2017 with several restrictions on lending after its bad-loan ratio surged and capital ratios depleted. LIC acquired 51 percent of the lender in 2019 in a government bailout of the firm. The Reserve Bank of India removed sanctions on the bank last year, paving the way for its proposed sale.

Food for Thought

The federal government and the state-owned Life Insurance Corp. of India own about 95 percent of IDBI Bank. After years of trying, the government has only been able to privatise national carrier Air India Ltd. and introduce outside backers to LIC. At the same time, its plans to sell refiner Bharat Petroleum Corp Ltd. hit a wall as bidders struggled to find partners.

The government has been slow in raising funds from disinvestment this year, and the annual budget earmarked ₹650bn from asset sales for the current fiscal year. Still, it has raised just over a third of the target, primarily from the US$2.7bn initial public offering of LIC in May. Therefore, this stake sale in IDBI bank will be a major step towards achieving the divestment goals.

Captive Mines May Sell 50% Output in Open Market

Captive mines producing major minerals may soon be allowed to sell half their output in the open market, outlining a striking departure from norms. Currently, captive mine operators can sell 50 percent of the annual output from their mines but only after meeting the end-use plant's entire needs, for which the government initially allocated a mineral block.

But this reform, introduced as legislation last year, is thought to disincentivise miners from raising mineral production. Any disruption in end-use plants — such as power, steel and cement plants — leads to unused mineral stocks, which would not be permitted to be sold. The previous amendment failed to increase production, and the end-use clause was considered an impediment.

The phrase ‘after meeting the requirement of an end-use plant linked with the mine’ in the Mines and Minerals Development and Regulation (MMDR) Amendment Act, 2021 is being removed in the new Amendment to MMDR Act, 1957 that would come up for approval during the winter session of Parliament.

The government amended the MMDR Act last year, permitting the open market sale of 50 percent of annual production from captive mines with restrictions and after payment of an additional amount to state governments as royalty. But the restriction proved counterproductive and mining companies asked the government to remove

the clause. The government sees the expansion of mining as key to promoting manufacturing and creating more jobs. The changes in the law, endowed with a significant mineral resource base, are now aimed at facilitating investment from the private sector.

Apart from captive mines, the government is auctioning commercial mines to expand the sector quickly. Changes in MMDR Act will further blur the line between captive and commercial mines, allowing universal auction of mineral resources at competitive bids. Major companies with captive mines include Hindalco, Balco, Jindal, JSW, Adani, GMR, Essar, ArcelorMittal, NTPC and SAIL. Other than coal, captive mines produce minerals, such as iron ore, bauxite, limestone, copper, potash, lead and zinc.

Food for Thought

The proposed change aims to incentivise captive mines to increase mineral production, boosting manufacturing and job creation. It essentially allows captive miners to turn commercial miners for half their production.

The reform is expected to speed up production from mineral blocks and aid industrial production. The growth of production by the mining sector has been flat for the last several years, as indicated by the Index of Industrial Production (IIP). The government now expects captive mines to play a major role in stepping up mineral production. In the coal sector, production from captive mines is targeted to increase from just about 85 million tonnes (MT) in FY22 to over 138 MT in FY23. Permission for unrestricted market sale from captive mines may lead to faster development and production from idle blocks.

According to some industry representatives, the unrestricted market sale of minerals from captive blocks will be a big reform initiative that would help raise the production of key minerals in the country. Restrictions currently disincentivise output in the event of a shutdown of an end-use plant or any other disruption, including a fall in demand for end-product.

RIL Set to Acquire German Co Metro's India Unit for ₹4.5k Crore

Reliance Industries Ltd will acquire German firm Metro AG's wholesale operations in India for ₹2,850 crore as the conglomerate seeks to strengthen its dominant position

in India's mammoth retail sector. Reliance Retail Ventures Limited (RRVL), a subsidiary of Reliance Industries Ltd, signed definitive agreements to acquire 100 percent equity stake in METRO Cash & Carry India Pvt Ltd. (METRO India) for a total cash consideration of ₹2,850 crore, subject to closing adjustments. Reliance Retail is a subsidiary of RRVL, the holding company of all the retail companies under the RIL group. RRVL had reported a consolidated turnover of around ₹2 lakh crore for the year ended March 31, 2022.

METRO India started operations in India in 2003 as the first company to introduce a cash-and-carry business format in the country and currently operates 31 large format stores across 21 cities with about 3,500 employees. The multi-channel B2B cash & carry wholesaler has reached over 3 million B2B customers in India, of which 1 million are frequently buying customers through its store network and eB2B app. METRO India has established itself as a trusted partner for *kiranas* and other small businesses and merchants. In the financial year 2021-22 (FY ended September 2022), METRO India generated sales of ₹7700 crores (€926mn), its best sales performance since its market entry into India.

According to the Director of RRVL, the acquisition of METRO India aligns with their new commerce strategy of building a unique model of shared prosperity through active collaboration with small merchants and enterprises. She added that METRO India is a pioneer and key player in the Indian B2B market and has built a solid multi-channel platform delivering a strong customer experience. RRVL believes that METRO India's healthy assets, combined with their deep understanding of the Indian merchant/*kirana* ecosystem, will help offer a differentiated value proposition to small businesses in India.

The CEO of METRO said:" With Metro India, we are selling a growing and profitable wholesale business in a very dynamic market at the right time. We are convinced that in Reliance, we have found a suitable partner willing and able to successfully lead METRO India into the future in this market environment."

METRO has six wholesale distribution centres in Bangalore, four in Hyderabad, two each in Mumbai and Delhi, and one each in Kolkata, Jaipur, Jalandhar, Zirakpur, Amritsar, Ahmedabad, Surat, Indore, Lucknow, Meerut, Nasik, Ghaziabad, Tumakuru, Vijayawada, Visakhapatnam, Guntur and Hubballi.

Food for Thought

"Through this acquisition, Reliance Retail gets access to a wide network of METRO India stores located in prime locations across key cities, a large base of registered kiranas and other institutional customers, a strong supplier network and some of the global best practices implemented by METRO in India. The acquisition will further strengthen Reliance Retail's physical store footprint and ability to better serve consumers and small merchants by leveraging synergies and efficiencies across supply chain networks, technology platforms and sourcing capabilities," the company said in a statement.

Reliance is India's biggest brick-and-mortar retailer, with over 16,600 stores, and a robust wholesale unit would further deepen its operations in India. METRO is a leading international wholesale and retail food specialist in 34 countries. Reliance already has a 20 per cent market share in the organised food and grocery business, with a store count nearly triples that of its nearest competitor, 'More', in the segment. It has also forayed into fast-moving consumer goods (FMCGs) with the launch of the brand 'Independence' for staples, processed foods, beverages and other daily essentials, rivalling the likes of ITC, Tata Consumer Products Ltd, Patanjali and Adani Wilmar.

The B2B segment is considered a low-margin business and multinationals such as Carrefour have exited from the country. E-commerce major Flipkart Group has acquired a 100 percent stake in Walmart India Pvt Ltd, which operates the Best Price cash-and-carry business. Retailers, including Siam Makro, which operates Lots Wholesale cash and carry trading business under the brand name LOTS Wholesale Solutions, were also in the race to acquire Metro Cash & Carry business.

C. Policies Inhibiting Competition

Tata to Merge all its Airlines under AI Brand

The consolidation of Tata Sons' airline companies Vistara, Air Asia India, and Air India Express under Air India began in late 2021. This decision was made after discussions with Singapore Airlines (SIA), Vistara's joint venture partner. Following the merger, the group will have a low-cost carrier and a full-service airline under Air India, the only airline brand in the group.

While the two entities will begin commercial cooperation soon, it will take more than a year for them to function as one. Top officials from Tata Group, Air India, Singapore Airlines, and Air Asia have finalised the details of the merger.[21]

Food for Thought

The Tata Group owns four airlines: Air India and its subsidiary Air India Express, as well as a majority stake in Vistara and Air Asia India. The Tata Group recently announced its intention to merge all of its airlines into one entity known as Air India. With this consolidation, Air India will be India's leading domestic and international carrier, with a combined fleet of 218 aircraft, making it the country's largest international carrier and second-largest domestic carrier.[22]

According to an aviation consulting firm, India requires a high-quality, dependable long-haul and ultra-long-haul airline to meet the country's air connectivity needs. Tata Sons and Singapore Airlines' merger will give Air India the necessary strategic expertise, industry capabilities, access to capital, etc. Further, the merger should benefit India's aviation market by boosting profitability and encouraging lower fares.[23]

However, the consolidation mentioned above could exacerbate the turbulence in the aviation sector, unsettling smaller Indian competitors. The economies of scale enjoyed by large carriers are critical in the airline industry, and larger airlines can reduce the cost per passenger mile, giving them a competitive advantage.[24]

The merger is also expected to change the competition dynamics in the aviation sector to a two-pillar system centred on the Air India group and IndiGo.[25] *That is to say, while the merger will result in increased capacity, lower pricing, and integrated schedules that provide passengers with more options in the short run, its long-term effects on the competition must also be considered and properly regulated.*

[21] https://economictimes.indiatimes.com/industry/transportation/airlines-/-aviation/tata-sons-kicks-off-process-to-bring-all-airlines-under-air-india-wings/articleshow/95495613.cms?from=mdr

[22] https://www.tata.com/newsroom/business/air-india-vistara-consolidation#:~:text=The%20Tata%20group%20today%20announced,and%20second%20largest%20domestic%20carrier.

[23] https://travel.economictimes.indiatimes.com/news/aviation/domestic/air-india-vistara-merger-will-bring-corporate-strength-to-indian-aviation-positive-impact-on-entire-ecosystem-capa-india/95875400

[24] https://www.thenationalnews.com/business/aviation/2022/12/05/why-air-india-and-vistara-merger-could-unsettle-smaller-indian-rivals/

[25] https://www.financialexpress.com/industry/vistara-air-india-merger-to-strengthen-aviation-sector/2896149/

Some Hits, Many Misses: Do India's Disinvestment Plans Need a Reset?

It was touted as a game changer, but big-ticket privatisation has been a mixed bag as the government faces unanticipated challenges of lukewarm investor response, employee union agitation and legal hurdles. Prime Minister Narendra Modi's often-repeated statement 'the government has no business to be in business guided the drawing up of an ambitious privatisation pipeline. While Air India's sale succeeded, Bharat Petroleum Corporation Ltd (BPCL) divestment failed.

Tata Group acquired debt-ridden Air India last year. Still, the government had to call off two transactions — BPCL and SAIL's Bhadrawati Steel Plant — due to a lack of buyer interest and terminated the strategic sale of Central Electronics Ltd (CEL) as the successful bidder was disqualified for non-disclosure of pending legal cases. The sale of Pawan Hans is in limbo as the successful bidder has a pending NCLT case against it.

More than half of the proceeds raised from disinvestment came from the Initial Public Offering (IPO) of Life Insurance Corporation (LIC). The government sold a 3.5 percent stake at ₹949 per share, helping the government raise ₹21,000 crores. The script, however, got listed at ₹872. Since the listing, the LIC share price has remained lower than the IPO issue price and is currently trading at around ₹659 apiece.

In the last fiscal year (April-December), the government raised about ₹31,100 crores from Central Public Sector Enterprise (CPSE) disinvestments against the full-year budget target of ₹65,000 crore. In the last four years, the government has missed the disinvestment target set in the budget by a wide margin.

The biggest test in 2023 would be the strategic sale of IDBI Bank, where the government and LIC are selling about 61 percent of the current holding of 95 percent. The sale would fetch around ₹30,000 crores to the exchequer at the current market price.

Next year, one of the challenges before the government would be to go ahead with the strategic sale of Rashtriya Ispat Nigam Ltd (RINL) or Vizag Steel, where employee unions are vehemently opposing the privatisation move. Although the government has been narrating the turnaround success story of RINL, which was bought by Tata Steel Long Products for ₹12,100 crores earlier this year, RINL privatisation remains a

challenge as employees demand it be given to a PSU company. As per some government officials, if the government fails to privatise RINL, it may have to be closed down in a couple of years because of mounting losses.

In 2023, the government will likely conclude the strategic sales of Shipping Corporation, Concor, BEML, NMDC Steel and HLL Lifecare. The major ones like SCI, Concor and BEML are demerging their non-core businesses, after which financial bids would be invited from interested buyers.

Food for Thought

As per key experts, because there is little scope for further minority stake sales in bluechip Public Sector Undertakings (PSUs) and the problems in executing strategic sale transactions, the government needs to set realistic budget disinvestment targets.

According to a key Industry expert, investor interest is primarily dependent on specific factors like ring-fencing of the CPSEs' existing liabilities, its attractiveness in terms of sector of operation, existing customer base/assets/facilities, and pass-through mechanism for any rights from the administrative ministry if applicable. Herein the transaction structure plays a key role in determining the time frame. For example, any merger or demerger requires approval from multiple authorities, requiring significant time, whereas an asset or business sale may take less time.

Therefore, to achieve divestment goals and save certain loss-making PSUs and CPSEs, the government must opt for structures of sale which are time and cost-efficient.

Amazon to Shut Down its Food-Delivery Business in India

Amazon Inc will shut down a food-delivery business it was testing in India, retreating from a US$20bn vertical it entered less than three years ago. It launched Food in India in May 2020 in parts of the south-Indian city of Bengaluru. The company later expanded the service across the city, tying up with additional restaurants, but it never heavily promoted or marketed the platform.

India’s food delivery market is estimated to be worth US$20bn in three years, according to Sanford C. Bernstein. Zomato, publicly listed, currently maintains a small lead in the market against rival Swiggy, backed by SoftBank, Prosus Ventures and Invesco.

"Customers have been telling us for some time that they would like to order prepared meals on Amazon in addition to shopping for all other essentials. This is particularly relevant in present times as they stay home safe," the company said at the time of the Food launch. The company said, "We don't take these decisions lightly. We are discontinuing these programmes in a phased manner to take care of current customers and partners and we are supporting our affected employees during this transition. Amazon remains focused on providing our growing customer base with the best online shopping experience with the largest selection of products at great value and convenience.".

The announcement is part of Amazon's broader restructuring in India. This move came after the announcement of shutting down the Amazon Academy platform in India, launched early last year amid a boom in virtual learning during the COVID-19 pandemic.

An uncertain macroeconomic environment makes the e-commerce giant review its global workforce, as the company plans to lay off around 10,000 employees in corporate and technology roles. The company said it is exiting meal deliveries as well as a service providing bulk doorstep deliveries of packaged consumer goods to small businesses. The exits will involve layoffs of just several hundred out of a workforce of thousands, leaving Amazon relying on its core offerings, such as online retail in the country.

Food for Thought

This move of Amazon shows that even the crucial growth market with 1.4 billion consumers is not immune to the cost-reduction campaign. Amazon is reducing expenses and jobs around the world amid slowing growth in several areas of Amazon's business. In India, the pullback underscores Amazon's struggles in one of the world's fastest-growing e-commerce markets, where it is facing regulatory heat and competition from homegrown conglomerates Reliance Industries and Tata Group and Walmart's Flipkart.

After investing billions of dollars in everything from grocery delivery to payments in India during the past decade, the company has failed to achieve the dominance it enjoys in markets such as the US. India is a key overseas market for Amazon, which has deployed over US$6.5bn in its local business. But the company is lagging Walmart's Flipkart and struggling to make inroads in smaller Indian cities and towns, according to

a recent report by Sanford C. Bernstein. Amazon's 2021 gross merchandise value in the country stood between US$18bn to US$20bn, lagging Flipkart's US$23bn.

Why Jet Airways Stays Grounded Despite its Rescue

After more than 25 years of operations, full-service airline Jet Airways was grounded on April 17, 2019, in the face of severe financial difficulties. The airline became bankrupt and the insolvency process began in June 2019. Jet has since been owned by its creditors — a group of banks led by the State Bank of India (SBI). In 2020, the creditors approved a reorganisation plan submitted by the Jalan-Kalrock Consortium (JKC), which became Jet's new promoter.

The National Company Law Tribunal (NCLT) approved a resolution plan submitted by the Jalan-Kalrock Consortium on June 22, 2021. The airline secured its air operator certificate from the Directorate General of Civil Aviation on May 20 and has hired more than 200 employees. However, the airline faces fresh turbulence as a standoff has emerged between the banks and the JKC over the airline's ownership transfer. 17 months since the NCLT approved the resolution plan for Jet Airways, the airline is yet to return to service.

The JKC consists of UAE-based non-resident Indian Murari Lal Jalan and businessman Florian Fritsch's Cayman-based Kalrock Capital Partners Ltd. The consortium deposited bank guarantees worth ₹150 crores and says it will invest further only after the next steps of the resolution plan are fulfilled in terms of the company's handover. It said the formal handover has taken longer than expected and has also approached NCLT for the implementation of the resolution plan. It said the recent foreign investigation on Florian Fritsch will not impact the airline's revival.

The resolution stated that the winning bidder must make an upfront payment of ₹185 crore to banks within 180 days from the effective date. The effective date is considered the date of fulfilment of all conditions and was May 20. Lenders say the consortium has not paid the amount, as it has only deposited bank guarantees worth ₹150 crores.

The consortium said it had to restructure salaries for some employees to secure cash flows. One-third of the total workforce of around 230-250 employees was impacted. Many affected staff were on temporary pay reductions of up to 50 percent. Around

10 percent of the employee strength was on leave without pay for a temporary period.

Food for Thought

For months, Jet Airways, once India's largest private airline, has been aiming to re-enter Indian skies. But these plans are being hindered by one key obstacle: Jet's new promoter does not own the airline yet. After it went bankrupt in 2019, three years on, JKC finds itself in a standoff with Jet's creditors over pending dues, including payments owed to former employees. As a result, the banks still own Jet, and the airline, which was expected to start domestic operations in 2022, is still grounded. But JKC started facing financial difficulties.

"The longer-than-expected time being taken for the [transfer of ownership] may result in some difficult but necessary near-term decisions to manage our cash flows to secure the future while the airline is still not in our possession," a JKC spokesperson was quoted.

The standoff between JKC and Jet's creditor owners is unfolding in the NCLT. The creditors have claimed that JKC has not fulfilled the conditions mentioned in its reorganisation plan and are refusing to hand Jet over to JKC. These conditions include obtaining approvals for landing slots at major Indian airports and clearances for international traffic. For its part, JKC claims it has fulfilled all these necessary conditions.

For months, reports have emerged of Jet's owners worrying about recovering their losses from JKC. Citing unnamed sources, it was reported that the owners were considering selling 11 of Jet's planes because of JKC's delay in clearing payments.

Paying the dues owed to Jet's ex-employees is one of JKC's other major concerns. Last October, the NCLT ordered JKC to pay the former staff a sum totalling ₹275 crores (US$33mn). But JKC maintains that, as per its approved reorganisation plan, only ₹52 crores were allocated for employee payments.

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