ReguLetter
A Quarterly Newsletter
25 years CUTS International 1983 2008
Volume 9, No. 3/2008

Corruption in Market Competition: Collusion and Cartels

Inside this Issue

Special Articles

CUTS Centre for Competition, Investment & Economic Regulation
CUTS C-CIER

Introduction


The Economist

Market competition is vital for the health of any economic system. It is so, especially for the consumer as it ensures that goods are provided to the latter at the price, quantity and quality warranted by the free play of forces of demand and supply. This free movement in an economy, gets restricted, however, when incidents of collusion and cartelisation among firms, often abetted by corruption from official parties, take place.

Cartels constitute a very potent restriction on the free play of market forces and are, termed as 'the supreme evil of antitrust', and considered illegal by antitrust authorities around the world.

Here, we explore the various types of cartels that have been observed in national and international economies, provide case studies of such cartels, present an estimate of losses from cartelisation that have been researched by scholars and suggest remedies.

Collusion and Cartels: A Typology

A cartel refers to "a combination of independent business organisations formed to regulate production, pricing, and marketing of goods by the members". Cartelisation takes place through illegitimate collusion by firms to maximise profit by limiting competition. A cartel operates through practices, such as price fixing, bid-rigging, allocation of territories/customers, etc.

Price fixing refers to the practice of firms agreeing to charge a common price, through implicit or explicit agreements, which is higher than the competitive price level. This is harmful to the consumer in terms of higher prices and lower quantities. It is usually carried out for products with inelastic demand.

In the case of bid-rigging, competing firms decide to collude on bids/tenders, share the contracts at prices which are higher than what would have been obtained if the bidding was fair and competitive. Thus, the effort by purchasers to ensure competitive prices in tenders is often frustrated by collusion among firms supposedly competing for multiple contracts; firms often collude to maintain high and non-competitive prices by sharing knowledge about each other's bids and entering into agreements through which each firm gets an equal opportunity to become the 'lowest bidder'. As is true of the other mentioned cases of collusion, consumers lose out through higher prices and lower quantities consumed. Sometimes, there is even a compromise on quality of goods or services obtained.

Cartels: Some Case Studies

This section looks at case studies of two of the three major types of cartels illustrated above: bid rigging and price-fixing, which also serve to illustrate the interface between competition and corruption.

In a major case of alleged bid rigging an American-Romanian businessman, Philip H. Bloom was charged of paying officials of the Coalition Provision Authority of Iraq, a US led agency, "bribes, kickbacks and gratuities, amounting to at least US$200,000 per month" to obtain reconstruction contracts through a bid-rigging scam. It was alleged that government officials actually connived in rigging bids for which they were compensated handsomely through gifts of cash, jewellery and real estate.

For an example of price fixing, consider the Baikonur case in Kazakhstan, where large-scale embezzlement of funds allegedly took place in 2004. In this case, Russia provided the Kazakhstan state railways credit of US$65mn to purchase equipment. The state railways subsequently awarded the tender for equipment to two Russian companies, and these companies inflated the price for the railway equipment by US$46mn (from an original price of US$19mn).

Harm Caused by Cartels – Economic and Social

Cartels, by their tendency to promote an unnatural condition in the economy and society have been seen to cause immense harm at the economic as well as social level. This has been corroborated as a fact by the Organisation for Economic Cooperation and Development (OECD) and various American and European Union (EU) antitrust/competition authorities.

Even though the harm caused is extremely disadvantageous to all nations, yet its effect on developing nations is even worse. This can be evidenced by data from six cartels in the vitamins, citric acid, bromine, seamless steel tubes, graphite electrodes and lysine industries, which resulted in overcharges of US$1.71bn, US$67mn, US$8mn, US$1.19bn, US$975mn and US$43mn, respectively from developing countries.

Moreover, it is seen that the negative effects of cartelisation are the worst for developing nations in their health and welfare sector. This has revealed possible fraud and corruption in the procurement of pharmaceuticals in the World Bank supported Reproductive and Child Health Programme. Similarly, in the livelihood sector, price fixing cartels deprive the poverty stricken sections of the population access to basic food items.

Tools for Effective Enforcement

Soft laws

Transparency International is promoting the adoption of the Integrity Pact by different companies worldwide through pressure exerted by different national governments; the objective is to eradicate bribery and help governments, businesses and civil society fight corruption in the field of public contracting.

In a different form of blacklisting the Norwegian Competition Authority has taken the initiative to remove companies convicted of violating competition regulations from listings on ethical investment indices and funds.

Given that the importance of these ethical funds and indices has increased because of increasing awareness of investors about ethical issues, such blacklisting is being used to send out a strong message about the unacceptability of anti-competitive crime.

Criminal penalties

Strong antitrust sanctions against companies are not as efficient a deterrent as criminal sanctions against individuals. Severe criminal sanctions, especially incarceration, serve as a powerful deterrent for white collar criminals considering entry into a cartel agreement.

However, cartel conduct constitutes a crime punishable by imprisonment and/or by criminal fines in only a few countries (US, Brazil, EU, UK, Australia, etc.). More, such as South Africa, are now adopting such a provision.

Leniency

Leniency is a generic term to describe a system of partial or total exoneration from penalties that would otherwise apply to a cartel participant for reporting such cartel participation to a competition enforcement agency. For example, the Office of Fair Trading, UK is offering whistleblowers US$148,910 for providing information on cartels.

Sometimes, where a cartel is suspected and leniency is still available, but no leniency applicant comes forward to report the conduct, the agency proactively approaches one of the suspected companies and clearly sets out the benefits that an application for leniency would provide.

Conclusion

Thus, from the above, it can easily be gauged that cartels in most cases cause immense damage to the economic fabric of a nation/society, and, that this harm spills over into social sectors such as health and education as well.

Moreover, it is found that the harm caused by this inter-linkage among collusion, cartelisation and corruption is greater in developing nations as compared to developed nations due to the fact that the former often lack effective competition regimes. At the same time, to counter this trend various direct measures such as soft laws, criminal penalties and leniency can be adopted which also create awareness about the same.

Israel to Deal with Oligopolies

The Israel Antitrust Authority (IAA) distributed a bill (the Proposed Law) to amend the Restrictive Trade Practices Law, which is intended to deal with oligopolies on June 19, 2008. The Proposed Law is the result of the Experts Committee for a Re-examination of the Law, chaired by Professor Zohar Goshen, which was appointed by the Minister of Trade, Commerce and Labour in March of 2005.

The Committee's work included examination of the Law's provisions dealing with oligopolies, and the committee concluded that there was a clear need to make a substantial change regarding the handling of the oligopolies in the Law's framework, in order to respond to the competition problems resulting from the existence of oligopolies in the Israeli economy.

The Israeli market is limited in size, in comparison to other developed economies, *inter alia*, due to the small local demand and the existence of various barriers to trade, such as geographic isolation, political barriers and language barriers. These characteristics occasionally limit the number of players who can operate efficiently in a wide variety of industries. Therefore, in many Israeli industries there are only a few actors, and the level of competition between some of them is often unsatisfactory. The Proposed law is important because it will allow the IAA to deal with competitive failures that prevails in the markets with few competitors – a type of market which is relatively common in Israel.

The draft bill, which is supported by the Committee's conclusions, is an important breakthrough for consumers and for competition in Israel, with far-reaching significance for the Israeli economy. *(IAA, 04.07.08)*

The Proposed Law provides new tools for dealing with oligopolies. These are established through two main amendments that address the deficiencies in the current statutory language:

- An amendment of the definition of an oligopoly: This definition is very problematic, as the level of competition cannot be measured in an empirical quantitative manner.
- Distinction between a monopoly and an oligopoly and the manner in which the Law regulates them: The Law, in its current form, imposes the same obligations on a monopoly as it does on an oligopoly, in the context of the chapter dealing with monopolies.

MACRO ISSUES: NEWS DIGEST

Expanding Antitrust Enforcement

Global law firms are adopting a variety of methods to help expand and deepen their antitrust practices before implementation of changes to antitrust rules and enforcement across the region that are expected to have far-reaching consequences for foreign companies.

Law firms expect a sharp rise in requests from multinational corporations eager to navigate the region's evolving antitrust landscape, with China, India and Hong Kong either introducing or revising competition law and merger policy.

Planned changes to competition law and enforcement in China and India are seen by lawyers as the most significant developments in the region in many years, and come as the strong economic growth in each country is attracting record levels of inward investments. *(FT, 21.07.08)*

Decisive Action on Shippers

In a communiqué, Asian Shippers' Council (ASC) has expressed the view that the Governments in Asia should take 'decisive action' to stop anti-competitive behaviour of containers lines.

The communiqué points out that the container lines like OOCL, Wan Hai, Evergreen, RCL, TS Lines, Kanway Shipping, Cheng Lie Navigation and Yang Ming separately announced the imposition of the same surcharge of US$56.8 from July 01, 2008 to be collected from the consignees in Hong Kong and South China.

The ASC has always maintained that bunker surcharge like is an integral part of the freight and therefore charging emergency bunker surcharge goes against normal international shipping practice. *(BL,14.07.08)*

Single Competition Authority

The French Government has adopted reforms to the law on the modernisation of the economy, paving way for the creation of a single competition authority.

The reforms aim at strengthening the country's competition framework by creating a single independent competition enforcer by replacing France's current twin regime – in which competition enforcement is divided between the General Directorate for Competition, Consumer Protection and Frauds (DGCCRF) and the Competition Council.

The DGCCRF deals with phase I investigations and the Competition Council conducts phase II investigations before passing on its recommendations to the DGCCRF, which makes the final decision. Under the new law, the DGCCRF will transfer all its merger control powers to the new authority. *(GCR, 24.07.08)*

Changes in Patent Laws

Proposed changes in China's patent laws require foreign companies entering the country to file for a patent in China to avoid losing legal protection to their intellectual property.

Another proposed change in the law involves the adoption of an 'absolute novelty' standard that will make it hard to get a Chinese patent for inventions that are already in use overseas, thus making it more challenging for foreign companies inventing in China.

However, the new law would also make it easier to challenge rogue Chinese patents. If the revisions are adopted, foreign companies would also have to draft patents in Chinese for inventions made in the country. *(FT, 03.07.08)*

Copyright Hits Broadcasters

In a move that would reshape the treatment of music copyright across Europe, the European Commission (EC) has barred the agreements between copyright collecting societies that restrict nationally-based societies from offering their services to authors and commercial users outside their domestic territories.

This move is expected to break the societies' domestic monopolies over broadcast material and make it easier for composers and lyricists to choose and manage their copyright.

This decision is sought to benefit cultural diversity by encouraging collecting societies to offer composers and lyricists a better deal in terms of collecting the money to which they are entitled. The Commission would extend the copyright term for recorded performances from 50 to 95 years.

(FT, 17.07.08)

Dealing with Predatory Pricing

Predatory pricing complaints in Canada will now to be examined under abuse of dominance provisions, with criminal enforcement reserved for "egregious" predatory conduct.

Average avoidable cost will be used as the primary economic tool in price-cost analysis; price matching will also be viewed to meet competition as a reasonable justification for below-cost pricing.

The new guidelines are envisaged to give companies and competition specialists a clear view as to what constitutes anti-competitive predatory pricing in Canada. *(GCR, 22.07.08)*

Fixing Freight Rates

The shipping lines active in Europe will stop fixing freight rates together or managing capacity, thanks to the EU's decision to repeal the block exemption to liner conferences on trade routes to and from Europe.

The European shippers can take credit for it. Since 1994, the EU has been voicing concern over collective rate-setting practices, the aim being to dismantle price fixing cartels and increase competition, a mission that has long been cheered on by the European Shippers Council (ESC) and other shipper bodies around the world.

ESC waged a long campaign against abuse of anti-trust immunity privileges enjoyed by the conferences and finally won a decisive victory after having succeeded in consolidating its political power in Brussels. *(BL, 29.09.08)*

Amendments Cause Concern

South Africa's Competition Commission and Competition Tribunal have made a joint submission to the Government, raising concerns about the criminalisation of cartel behaviour and the lack of clarity in the proposed amendments to the country's competition laws, which could leave them facing constitutional challenges that would detract from effective cartel enforcement.

Under the draft law, guilty individuals would face penalties of up to US$49,112 and 10 years in prison. By criminalising anti-competitive behaviour and making individuals personally liable, company directors would be far less willing to reach consent agreements with competition authorities. *(GCR, 30.07.08)*

Strict Measures

To contain rampant Inflation, Vietnam has resorted to strict measures wherein companies passing on higher commodity costs to consumers without proper justification will either be prosecuted or their license will be revoked.

Inflation accelerated to 27 percent in July 2008, and measures are taken to control cost of food which accounts for two-fifths of Vietnam's consumer price Index. The Ministry of Planning and Investment unveiled curbs on the construction of golf courses, which have been encroaching on agricultural land.

While the Government could impose sever sanctions on companies that push up their prices because of higher costs, it has been trying to cut its ballooning subsidy bill by raising retail fuel prices. *(FT, 05.08.08)*

Multi-tiered Enforcement

Three agencies and a governing anti-monopoly commission will comprise China's competition enforcement regime when the country's long-awaited anti-monopoly law takes effect. The enforcement duties will be split between the Ministry of Commerce, the National Development and Reform Commission and the State Administration for Industry and Commerce.

The Commerce Ministry would become home to the country's merger control unit. The other two agencies would handle behavioural issues, including pricing and non-pricing-related abuse of dominance cases, respectively.

The structure would be the result of a compromise between the three agencies, as all three were rumoured to be jockeying for position during discussions of how to implement the law. *(GCR, 18.07.08)*

Computing Consumer Benefits

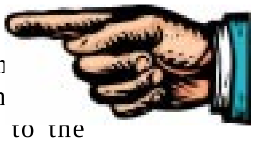
The UK's Office of Fair Trading (OFT) has published its annual report, in which it claims it has saved consumers US$483mn per year. According to this report, the office's merger work produces benefits of US$171mn per year, while market investigations and reviews of undertakings produce benefits of US$181mn.

http:i181.photobucket.com

Competition enforcement results in an average saving of US$114mn per year. A further US$17.8mn is saved each year by the office's actions against illegal scams. The savings represent six times the value of the office's annual budget, ahead of a government target that requires it to achieve five times its budget in annual benefits.

OFT has enjoyed several high-profile successes in 2008, including reaching early settlement agreements totalling US$196.2mn with six companies that pleaded guilty to fixing the price of tobacco products in the UK. *(GCR, 22.07.08)*

Competition Reforms Challenged



Hungarian President Laszlo Sólyom has challenged amendments to the country's Competition Act, which were passed by the Parliament in 2008. The reforms have now been put on ice.

The reforms, passed on June 02, 2008 include new provisions for cartel-busting and the introduction of a leniency policy. They also improve claimants' rights to obtain damages from cartelists and were scheduled to take effect on September 01, 2008.

But President Sólyom has challenged the constitutionality of the bill, thereby freezing the amendments. Sólyom objects to a procedural provision, which bars individual cartel ringleaders from holding managerial positions at other companies within the sector for a period of two years following an indictment.

Although the scope of the challenge is very narrow, it has frozen the bill entirely. The Constitutional Court is reviewing the challenge, and says that new legislative amendments will probably be required.

(GCR, 17.07.08)

Recommendation for Break-up

The UK's Competition Commission will recommend the break-up of the UK's largest airport manager, British Airports Authority (BAA), calling for it to divest at least one of its properties.

The Commission has been investigating competitiveness among the UK's seven BAA airports since March 2007 and found no competition between BAA's three London airports, and only very limited competition from non-BAA airports. Most BAA airports suffered from a lack of capacity, and a perceived unwillingness to expand to meet airlines' demand.

Concerns have been raised over BAA's alleged "lack of responsiveness" to the differing needs of its airline customers, as well as the level and quality of its investments and services. The BAA develops one airport at the expense of developing another, which would not happen with separate ownership. *(GCR,11.08.08)*

EC Proposal Rejected

The European Parliament has rejected a proposal by the EC to force energy companies to either unbundle their gas supply and gas transmission networks, or to hand over the operation of transmission networks to independent system operators.

An alternative known as the 'independent transmission operator' model was endorsed by European Council, which would allow companies to retain the ownership of pipelines, but compel them to abide by rules and a structure to ensure operational independence.

The Parliament also introduced a series of safeguards to the legislation to ensure the proposals are properly implemented, including compliance programmes to safeguard against "discriminatory conduct" and the appointment of an independent trustee to oversee the transmission system operator. *(GCR, 10.07.08)*

Indonesian Commissioner Arrested on Bribery Charges

Indonesia's war on corruption has taken a leap forward with the arrest of a national competition commissioner on bribery charges.

The move throws into disarray an eight-year-old attempt at creating business transparency in the country and some of the Commission's more controversial decisions are now being called into question.

Competition Commission member Muhammad Iqbal was arrested at a central Jakarta hotel after allegedly accepting a US$66,275 bribe from the director of a major television network.

The Commission ruled the Direct Vision network not guilty of monopoly practice in broadcasting the English Premier League on its pay-TV channel Astro Nusantara. Direct Vision is owned by the Lippo Group, one of Indonesia's biggest conglomerates.

The monopoly case against Direct Vision was brought by a group of competing networks. A senior executive of the company that owns Direct Vision, Billy Sundoro, was also arrested in the raid after an anonymous tip-off to the powerful Corruption Eradication Commission.

Sundoro is alleged to have handed Iqbal the cash in a black briefcase in a hotel elevator, as the two headed for a traditional fast-breaking ceremony – the high point of the day for Muslims during the holy month of Ramadan.

Competition Commission chief Syamsul Ma'arif said that commissioners were "certainly often given envelopes (of money) but these are always returned".

http://international.ibox.bg

Ma'arif said that if anti-corruption prosecutors believed there was anyone else in breach of the law at his office, which has only existed for eight years, they were welcome to conduct further raids.

Recent major rulings by the Competition Commission include a finding that Singapore state investment company Temasek was in breach of anti-monopoly provisions by owning stakes in Indonesia's two biggest telecommunications companies, Telkomsel and Indosat.

Temasek lost its Supreme Court appeal against that ruling, was ordered to sell one of the stakes and was also fined US$1.19mn. Singapore Telecom, in which Temasek holds a 54 percent stake, and Temasek's wholly owned subsidiary Singapore Technologies Telemedia were also each fined US$1.19mn.

That case was widely thought to be without great substance and has cast doubt on Indonesia's sincerity in trying to attract foreign investment.

National Parliamentarian Djoko Susilo, a member of the house's standing commission for communications, called for the corruption commission to go further in investigating the competition body. *(TA, 19.09.08)*

Price Fixing In Namibia's Agronomic Industry

Maize, millet *(mahangu)* and wheat are the main staple food of Namibia, oftern referred to as 'controlled products'. The Northern Communal Areas (NCA) considers the "Marketing Agreement" through which the price (floor price) is set, to be greatly unfair towards consumers as it clearly favours producers and millers at their expense. Not only does the Namibian agronomic industry get together to determine the price, but also charge consumers a premium as the industry believes its products (maize & mahangu) are free from Genetically Modified Organism (GMO).

A genetically modified organism refers to organisms (e.g. plants) whose genetic materials have been altered using genetic engineering techniques; consumption of these products can be a health risk. Some countries have actually banned trade and consumption of GMO products, while others require GMO products to be clearly labeled so that consumers can choose whether to buy GMO products or not. A few countries have adopted such products due to the advantages; for example in the case of maize it increases yield while reducing production cost and the use of pesticides.

This is said to have been demonstrated in South Africa as well. The NCA, however, considers this premium unnecessary and exploitative as consumers in any case have a right to GMO free food and should not be subjected to such a penalty. It has also come to the NCA's attention that some producers have planted GMO maize in Namibia.

Regardless of the significance of the quantity and of the millers (grain processors) assurance that this produce will be isolated, the NCA is convinced that consumers in Namibia have a right to know about this incident (planting of GMO maize without any stakeholder consultation or safeguards).

While the NCA has no intention to cause unnecessary alarm, it would fail in its duty to protect consumers if it keeps quiet about this kind of premature optimism on the part of some producers. It is also well known that Namibia's domestic production does not meet the local demand and that maize and mahangu have to be imported to meet such demand. In this regard, it is acknowledged by the industry that it is not certain that such imports are free of GMO as no tests are done at the borders.

There is still debate on the international arena with regard to the benefits provided by genetically modified food items. Proponents of GMO believe that products derived from them are safe for consumption as there is so far no evidence of adverse effects on consumers in countries where these products have been consumed.

Since Namibia is signatory to the Cartagena Protocol on Biosafety and that there is a Biosafety Act of 2006 (although not implemented yet), these instruments should enable Namibia to act in a sovereign manner and not accept GMO products simply because other countries have accepted it. The NCA, would therefore, like to appeal to the Government of the Republic of Namibia that this matter be treated with great caution until such time that first class agricultural research convinces the Namibian society that risk to human health is minimal from GMO products. If GMO products are allowed in Namibia these should clearly be labelled so that consumers' rights can be respected.

In conclusion, while the NCA appreciates the need for food security, it herewith reminds the agronomic industry of the country that it is the poorest of the poor who are their loyal customers and that a lack/limited competition in the industry would not help reduce poverty. Therefore, the NCA can only appeal to the conscience of the industry to seriously consider doing away with the "Marketing Agreement" (even if the arrangement is not illegal). There must be competition among the industry players like in many other industries which will not only benefit consumers, but will make the industry more efficient.

The NCA deemed this opinion piece necessary due to the generally accepted consumer rights in a market system, which are;

1. **The right to safety – this entails protection against products that may be dangerous or detrimental to life or health.**
2. **The right to be informed – this entails that objective information be available to enable the consumer to make rational choices.**
3. **The right to freedom of choice – this entails giving the consumer access to competitive products or substitutes (protection against monopolies).**
4. **The right to be heard – this entails that consumers be given the assurance that their interest will receive attention from government and other stakeholders.**

– Press Release issued by Namibia Consumers Association, Namibia, August 2008

FINES & PENALTIES

Highest Cartel Fine

An EU court upheld one of the EU's highest cartel fines, confirming that Lafarge SA must pay US$248mn by 2002 for trying to fix the price of plasterboard.

The European Court of First Instance said it backed the European Commission's 2002 decision to demand the French construction materials group pay the fifth highest penalty imposed by EU regulators in a cartel case.

But it gave a 10 percent reduction to Britain's BPB PLC –world leader in the supply of plasterboard – because it said regulators had undervalued the company's co-operation. *(BL, 08.07.08)*

Under Mounting Pressure

Gazprom is under mounting pressure ever since its shares fell 7.9 percent to their lowest after a key Russian regulator said the state-controlled gas export monopoly would be fined for restricting access for an independent gas producer to its pipeline network.

The Russian federal anti-monopoly was pressing ahead with the fine for 'violations' of antitrust rules regarding denying pipeline access to Transnafta, an independent producer in the Tatarstan region.

Amid fears that Gazprom might not be able to meet rising domestic demand, the Russian Government has charged the regulator with drafting amendments to a pipeline law that would force Gazprom to open access to independent producers. The Government is due to make a decision on the law by September 2008. *(FT, 10.09.08)*

Fine for Abusing Dominance

The antimonopoly office of the Slovak Republic imposed its heaviest fine ever, an amount of US$37.1m on Slovak Telekom for an abuse of a dominant position for refusing competitors access to local lines.

The office said that by its behaviour "the vertically integrated company seriously damaged its rivals acting in the retail markets. It restricted their possibility to apply the most modern technologies independently on already offered Slovak Telekom's products and also closed the market for potential rivals intending to act in newly opened markets".

The office stressed the seriousness of such behaviour and its detrimental impact on an information society. Slovak Telekom is entitled to appeal within 15 days of the notice.

(Reuters & AFP, 20.08.08)

PRICE FIXING

Airlines Charged

New Zealand's fair trade watchdog had charged three carriers, including Cathay Pacific and Singapore airlines, with failing to provide information to a cargo price-fixing probe.

The Commerce Commission had filed criminal charges against the two firms and Aeroloneas Argentinas over the investigation into the US$262mn air cargo market.

The Commission said the charges related to a failure to comply with statutory notices requiring the airlines to provide documents and information requested for the ongoing price-fixing probe.

The Airlines could be fined up to US$19,661 if they are found guilty. The Commission is investigating allegations that certain carriers have colluded on setting cargo rates, including fuel surcharges on international flights to and from New Zealand. *(BL, 16.07.08)*

Avoiding Hearing?

The Competition Appeal Court in South Africa has rejected a bid by dairy producers Clover and Ladismith Cheese to avoid a price-fixing hearing. This ruling is considered to be a major plus for the public benefit.

Clover faces four charges, including price-fixing, abuse of dominance and fixing trading conditions. Ladismith faces one charge of price-fixing. Clover was granted conditional immunity on a sixth charge involving two other producers, Parmalat and Woodlands.

The case against the major milk producers has not been stopped as was intended by Clover and Ladismith. The Commission will proceed with its case against them to show they were involved in anti-competitive practices.

(M&G, 19.09.08)

Clean Chit in Price Rigging

Home grown pharma major Ranbaxy Laboratories Ltd. got a clean chit from English Crown Court in a case relating to allegation of price rigging of pencillin-based antibiotics, including amoxicillin, ampicillin and flucloxacillin, that were supplied to the UK's National Health Services (NHS) between 1996-2000.

The court has also declined an application by the UK Serious Fraud Office (SFO) for permission to appeal to the English Court of Appeal. The SFO, however, retains a right to appeal to the Court of Appeal directly.

Welcoming the decision of the court, the company said: "Ranbaxy is a responsible company committed to providing high quality generic medicines at affordable prices to its customers and patients". *(ToI, 22.07.08)*

Cleared of a Conspiracy

Five companies, including Goldshield Group, Kent Pharmaceuticals, Norton Healthcare, Generics (UK), and Ranbaxy (UK) have been cleared of an alleged conspiracy to defraud the National Health Service (NHS) by fixing prices of some common drugs, penicillin-based antibiotics, and the blood-thinning drug warfarin, after more than six years of investigation by the Serious Fraud Office (SFO), UK.

Because the allegations refer to the period 1996-2001, they pre-date the Enterprise Act 2002, which makes price fixing a specific offence. The charges were instead brought under the common law offence of conspiracy to defraud.

SFO's lawyers had accused the companies and individuals of "costing the taxpayer millions of pounds", but the judge ruled that the SFO brought a prosecution on the basis of a defective and misconceived assumption.

(BL, 12.07.08)

CARTELS

Entry Blocked

Bharti Airtel, which plans to launch mobile services in Sri Lanka by December 2008 has accused the existing mobile players there of 'not providing interconnection to it on the same terms as they practice amongst themselves'.

When Airtel requested other operators to provide an interconnection with their networks, the operators wanted the company to pay for interconnection at Rs 1.50 per minute, whereas they themselves were practicing a free call system amongst themselves.

However, Sri Lanka's four mobile operators have rejected claims by Airtel and they were anti-competitive and blocking new players. Sanjay Kapoor, President, Mobility, Bharti Airtel said that the island nation should have a 'friendly interconnection charge' as this could help down bring tariff charges. *(ET, 08.09.08)*

Raid Against Collusion

The Japan's Fair Trade Commission (JFTC) raided four companies suspected of colluding to increase the price of polyethylene sheet, used in insulation materials for the construction industry during 2004-2006.

The companies – Toray Industries, Furukawa Electric, Hitachi Chemical and Sekisui Chemical – could face fines of up to 10 percent of their turnover on the products over the duration of the offences if found guilty.

The JFTC alleges that the companies formed a cartel to help them pass on price increases in crude oil, which is used in the manufacture of polyethylene to downstream customers. *(GCR, 24.07.08)*

Focus on Consumer Goods

The Russian Government will investigate suspected cartels in the food, fertiliser and fuel sectors, in an effort to curb rising inflation in the country.

The Prosecutor General's Office will coordinate their investigations with Russia's Federal Anti-Monopoly Service, as well as the Federal Customs Service, the Federal Service for Financial Markets, the Transportation Ministry and the Agriculture Ministry.

Focus is on basic commodity sectors, all of which have a direct influence on consumer products in Russia. Rising food and fuel prices saw Russia's inflation rate reach 15.1 percent in June 2008 – the highest rate for six years.

Building materials and real estate markets, together with metals and mobile phones, are other sectors in which cartels are likely to occur in Russia. *(GCR, 23.07.08)*

Corporate Leniency Policy

The Competition Commission of South Africa received a Corporate Leniency Policy application pursuant to the raids it conducted at Cape Town Iron and Steel Works, Highveld and the South African Iron and Steel Institute (SAISI) on 19 June 2008.

The raids were conducted as part of an investigation into allegations of price fixing and exclusive dealing in the steel industry. The applicant confirms the existence of a cartel among competitors for products like Reinforcing bar, Wire rods, Roofing bolts and Fencing products.

Discussion between the parties lead to agreements to fix prices, exchange price lists and fix discounts.
(BD, 18.07.08)

ABUSE OF DOMINANCE

Abuse of Market Dominance

The Korea Fair Trade Commission (KFTC) has imposed a corrective order and a punitive surcharge on Intel Corporation, Intel Semiconductor Limited and Intel Korea for abuse of market dominance.

It was found that Intel was leveraging its dominant market position in the CPU market by providing a royalty inducing financial arrangement to Samsung Electronics and Sambo Computer, putting a condition on them to not purchase CPUs from their rival AMD.

This act is in violation of Article 3-2(1)5 preceding paragraph of the Monopoly Regulation and Fair Trade Act (MRFTA) dealing with "exclusion of competing enterprise". KFTC launched investigation into this case in June 2005, which took three years of thorough investigation, data collection and debates with renowned economists and legal scholars before issuing a final decision. *(ANA, July 2008)*

Antitrust Review of IBM

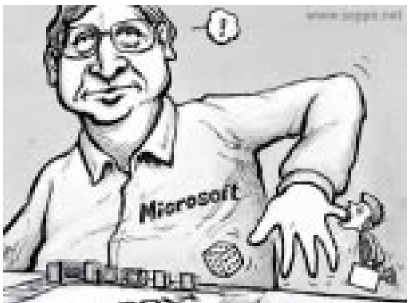
European regulators are to push ahead with antitrust inquiry into IBM's dominance of the computer mainframe market. Platform Solutions Inc (PSI), a Silicon Valley start-up had been pursuing an antitrust suit against IBM in the US and had complained to European competition regulators. It withdrew the objection just before IBM deal, for an unnamed sum was disclosed.

According to sources, Brussels confirmed that the Commission would continue to investigate issues that PSI had raised. Although IBM's own mainframes, in which its hardware and software are tightly integrated, continued to dominate the market, the licensing requirements allowed some rivals to carve out smaller niches, for instance in selling mainframes to smaller companies.

IBM in turn counter-sued, accusing PSI of breaching its intellectual property rights (IPRs). *(FT, 04.07.08)*

Probe into Microsoft

Taiwan's Fair Trade Commission (TFTC) has launched a probe into Microsoft following a complaint filed by the Consumers' Foundation that it is forcing customers to buy its Windows Vista operating system.



Microsoft is accused of violating Taiwan's Fair Trade Act by ending sales of its Windows XP operating system in most computers from June 2008.

If found guilty, Microsoft could face a fine of up to US$99,000 and be ordered to stop the abusive conduct.
(AFP, 18.08.08)

Google-Yahoo Pact Could Hit Probe

European antitrust regulators are scrutinising the proposed alliance between Google and Yahoo over entering the advertising pact to see if it contravened European competition law.

An international association that represents newspaper trade groups in many parts of the world has also voiced its own opposition, claiming that the pact would leave Google with "unwarranted market power over important segments of online advertising".

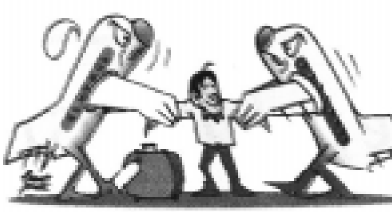
Under the non-exclusive partnership, Yahoo will let Google supply some advertisements returned when users search the Yahoo properties, with the two splitting the revenues.

Google and Yahoo are the two leading suppliers of content ads and syndicated search ads to online news sites, and they compete intensely for that business. The proposed deal is said to fatally weaken Yahoo as a competitor for these deals.

(FT, 16.09.08)

Pursuing Alliance

British Airways (BA) and American Airlines (AA) have applied to regulators in the US and Europe for antitrust immunity that would permit them to combine their route networks, pricing, sales, marketing and purchasing power. Iberia, Finnair and Royal Jordanian are included in the submission but are secondary players.



Financial Express

This is the third attempt by BA and AA to join forces. The previous efforts, in 1997 and 2001, failed because regulators insisted on the pair giving up Heathrow landing slots to reduce their dominance at the world's busiest international airport.

Willie Walsh, the Chief Executive of BA, said this would no longer be an issue because of the US-EU open-skies agreement that began in 2008, whereby any airline, in theory, can operate from Heathrow. *(FT, 15.08.08)*

Global M&As Plummet

Facing continued uncertainty in the global credit markets and a steep decline in stock markets around the globe, the volume of worldwide mergers and acquisitions (M&As) totalled US$1.6tr in announced deals during the first half of 2008, a decrease of 36 percent over the record-breaking first half of 2007, according to "Mergers & Acquisitions Review".

With just US$152.4bn in announced deals, the volume of financial sponsor-backed transactions reached its lowest levels since 2005.

Financial sponsors accounted for for just over 9 percent of announced transactions during the first six months of 2008 compared to 25 percent during the first half of 2007. *(FE, 03.07.08)*

New Approach

The appetite of drug companies for large acquisitions has not changed, but with fewer pickings available globally, acquisition targets are getting sharply defined, observe pharma industry representatives.

As M&A strategies of Indian companies gain sophistication, they are making acquisitions for very specific objectives like entering a sub-segment, acquiring patents, acquiring a brand or its distribution.

Big acquisitions will not go out of fashion, but companies will find easy-to-digest, focused transactions valuable and may not always look at acquisitions in a conventional manner of biting big. *(BL, 13.07.08)*

Consortium to Claim Stake

A consortium led by Japan's Marubeni and France's GDF Suez is set to buy Singapore's biggest power station in a US$2.8bn deal. Marubeni and GDF Suez each hold a 30 percent stake in the winning consortium that includes Japan's Kansai Electric Power and Kyushu Electric Power, as well as the Japan Bank for International Co-operation.

The consortium, which was one of five final bidders, will pay US$2.40bn and assume US$211bn of Senoko's debt. GDF Suez is expected to supply liquefied natural gas to power the Senoko plant. Senoko, with 3,300 MW of capacity, supplies a third of Singapore's electricity.

In March 2008, Temasek sold the first of the three stations – Tuas, the smallest and most efficient in Singapore – to China's Huaneng group for US$2.74bn. *(FT, 06.09.08)*

Coke Eyes China Deal

Coca-Cola has offered US$2.4bn to buy China Huiyuan Juice Group, in what would be the biggest takeover by a foreign company in China. The deal will help the US-based company expand in the world's most populous nation and allow it to diversify its drinks portfolio at a time when growth in the carbonated drinks market in China is slowing.

Coke's efforts to expand beyond carbonated drinks have included buying Multon, Russia's second largest juice company, three years ago, and its US$4.1bn acquisition of Glacéau, maker of Vitaminwater, in 2007.

China's fruit and vegetable juice market was worth US$10.6bn in 2007 and was growing at an annual rate of 18 percent. *(FT, 04.09.08)*

Merger Talks Mature

Commerzbank and Dresdner bank are on the point of a potential merger that could create a bigger domestic rival to Deutsche Bank in Germany's fragmented banking sector. The two discussed a joint bid for Deutsche Postbank, Germany's former post office savings bank that Deutsche Post, the majority owner, may sell.

The deal would not be based solely on subsequent bid for Postbank, which is considered difficult and would heighten risks involved in integrating the institutions.

Dresdner Kleinwort, Dresdner's investment banking arm which made heavy writedowns because of its subprime exposure could be a potential obstacle to this deal. *(FT, 02.07.08)*

Infosys to Buy Axon Group

Indian outsourcing giant Infosys plans to buy British consultancy Axon Group for US$753.1mn in a bid to expand its business advisory footprint. The deal is expected to be completed by November 2008.

Chief Executive Kris Gopalakrishnan said the deal would boost the company's ability to provide "business transformational services" to firms globally. The acquisition comes as India's flagship outsourcing industry, which has seen profits come under pressure in the international economic downturn, seeks to diversify its activities and look for new business models.

Infosys believes that the acquisition will accelerate the achievement of some of Infosys' current strategic corporate objectives including the continued expansion of its consulting capabilities

(FT, 26.08.08 & AFP, 25.08.08)

Rationalising SoEs

China will speed up restructuring of its state-owned enterprises in the second half of 2008, forcing mergers of large conglomerates and accelerating sales of non-strategic assets across a wide range of sectors.

China intends to reduce the number of giant state enterprises under central government control from 150 to as few as 80 by 2010. Wang Huisheng, President and Chief Executive of the largest state-owned industrial holding company, said the Government will now begin driving the process.

In the shipping sector, Wuhan-based China Yangtze Transportation Group, the country's biggest river shipping company, and Beijing-based Sinotrans Group, a logistics group are set to merge at the urging of the State-owned Assets Supervision and Administration Commission (SASAC).

(FT, 21.08.08)

Roche to Buy Genentech

Swiss drugmaker Roche Holding AG has offered to acquire all outstanding shares in its US partner Genentech Inc. for US$43.7bn in cash to reinforce its position in cancer medicines.

Roche would gain control of all revenues for big-selling Genentech cancer drugs Avastin and Herceptin, as well as absorbing an attractive portfolio of new medicines.

The Genentech bid is the latest in a string of acquisitions of promising biotech assets as large pharmaceutical companies snap up new drugs to fill sparse new product pipelines.

(ET, 22.07.08)

Public Takeover Offer

BASF, the world's biggest chemicals group, launched a bid to acquire Swiss specialty chemicals company Ciba in an agreed cash deal worth US$2.9bn to strengthen its position in the specialty chemicals business.

BASF and Ciba have reached a transaction agreement in which the Board of Directors of Ciba supports BASF's attractive offer and recommends its acceptance to Ciba's shareholders.

The offer corresponds to a premium of 32 percent above the closing price for Ciba's shares and a premium of 60 percent above the volume-weighted average share price for Ciba shares in the 30 days prior to announcement of the public takeover offer. *(BL, 15.09.08)*

Virgin to Sell Stakes

Virgin Atlantic is in talks to sell its 49 percent stake in Virgin Nigeria, following an increasingly acrimonious dispute with the Nigerian Government over the location of the loss-making west African carrier's domestic operations.

Virgin Nigeria was hailed as a symbol of investor confidence in Nigeria when it was set up in 2005 by Virgin Atlantic and Nigerian institutional investors, in part to meet demand for a reliable carrier given the country's poor record for air safety.

Virgin Atlantic claims that the Government reneged on a deal signed under Olusegun Obasanjo, the previous president that let it use the international terminal for all services.

(FT, 20.08.08)

Forming Metals Group

Kazakhmys, the UK-listed Kazakh copper producer and Metalloinvest, the Russian iron ore and steel group, have held early stage talks about combining to form a metals group that could be worth more than US$40bn.

Shares in Kazakhmys closed up 6.2 percent after the group confirmed it was in very preliminary discussions about a possible combination of its business with a third party, which according to people was Metalloinvest, a metals conglomerate controlled by billionaire Alisher Usmanov.

The deal was being structured as a reverse takeover of Kazakhmys that could leave billionaire Usmanov as the biggest shareholder in the combined group. Kazakhmys, in which founder and chairman Vladimir Kim owns 45 percent and the Kazakh Government 15 percent, has a market valuation of about US$12.9bn. *(FT, 15.07.08)*

Teva to Acquire Barr

Teva Pharmaceutical Industries, the world's largest generic drug company would buy rival Barr Pharmaceuticals Inc for US$7.46bn to expand its leadership in the US market and fortify its presence in Europe.

The deal is the largest in a wave of consolidation in the generic drug sector that some analysts suspect will result in a handful of major global players. Israel-based Teva, the world's largest generic drug company, plans to buy New Jersey-based Barr for US$66.50 per share in cash and stock.

The combined company would be a generic powerhouse employing about 37,000 people globally and operating directly in more than 60 countries. Together, Barr and Teva had revenue of about US$11.9bn in 2007.

By acquiring Barr, Teva would move closer to its stated goal of boosting its US market share to 30 percent of generic prescriptions by 2012, from about 20 percent. *(ET, 20.07.08)*

Greening Wal-Mart?

www.img.slate.com

In line with its ambitious goals of all renewable energy, zero waste, and sustainable products, Wal-Mart unveiled a new jewellery line, the first to be completely traceable from mine to store.

Wal-Mart's inherently unsustainable business model exposes its environmental initiatives as greenwash. Wal-Mart currently operates in a context that is more than 90 percent unsustainable.

Wal-Mart has clearly anticipated this solution, and is aligning its operations with models acknowledged for their more inherent sustainability. For example, Wal-Mart is the largest seller of organic produce in the world, and also become the nation's largest purchaser of local produce. However, one questions how Wal-Mart defines "local".

Shareholder activist Conrad MacKerron similarly questions the supply chain implications of Wal-Mart's greening – especially for workers. As with its usual practice, Wal-Mart is primarily passing along costs – including the cost of greening – to its suppliers. *(CSRwire.com, 15.07.08)*

Starbucks to Close 600 Stores

After a rigorous evaluation of its store portfolio, Starbucks Corporation, the premier roaster and retailer of specialty coffee in the world, has announced its decision to close approximately 600 underperforming company-operated stores in the US market.

Both full-time and part-time retail positions will be eliminated, however the company expects to place many of the affected partners (employees) into available positions at nearby Starbucks stores.

Several criteria are used to identify stores for closure, including locations that were not profitable at the store level and not projected to provide acceptable returns in the foreseeable future. *(Reuters, 02.07.08)*

Largest Tractor Manufacturer?

Mahindra & Mahindra (M&M) Ltd is inching closer to becoming the largest tractor manufacturer globally.

After a joint venture (JV) with China's third largest tractor maker Jiangsu Yueda Yancheng Tractor Manufacturing Company Ltd, the Mahindra Group, will be able to achieve its aspiration in a much better fashion.

M&M will hold 51 percent (US$26mn) stake in the Chinese JV through its subsidiary, Mahindra Overseas Investment Company (Mauritius) Ltd. The value of the net assets transferred to the JV will be around US$50mn. *(FE, 18.08.08)*

Banking on Sustainability

Banks are increasingly being recognised as the fulcrum of financing, and thus a key lever for achieving sustainability. Now, banking practice is shifting from minimising negative impacts to advancing positive change.

On the environmental side, Piraeus Bank is opening the first green banking branch in Athens. The move fits into the broader context of the bank's environmental initiatives, which follows the Global Reporting Initiative G 3 guidelines.

The Union Bank of California Foundation fuses promotion of green building with support for low-income families by contributing US$5,000 to the first green home project for the Riverside, California chapter of Habitat for Humanity. *(CSRwire.com, 05.08.08)*

For Human Rights Policy

Around 167 companies around the world have adopted a formal policy statement explicitly referring to human rights, according to the Business & Human Rights Resource Centre (BHRRC.)

Harvard Professor John Ruggie, UN Special Representative on Business and Human Rights, opined that "companies need to adopt a human rights policy" in his latest report to the UN.

It also underlined the importance of Human Rights Impact Assessments (HRIAs), a process pioneered for a proactive way to support human rights. *(CSRwire.com, 26.08.08)*

Microsoft under Scanner

Microsoft's Indian arm has come under the scanner of the service tax department. It has been alleged that Microsoft India's Gurgaon unit carried out certain marketing activities for the Indian operations and not for the Singapore arm of the company. The company has not paid tax for these services, claiming them to be exports.

As per Rule 3(2) of the exports and services rules of 2005, services rendered by the company do not fall under exports category, since the services were consumed in India and not outside India.

The service tax department has confirmed a tax demand of Rs 128 crore and imposed a penalty of Rs 128 crore on the company for alleged evasion under Section 78 of the Finance Act, 1994. *(ET, 24.09.08)*

Ranbaxy Faces Allegations

The US Government has levelled serious allegations against India's largest drugmaker, Ranbaxy Laboratories.

The US Department of Justice (DoJ) has evidence suggesting use of active pharmaceutical ingredients (API) from unapproved sources blended with approved API. It is also alleged that Ranbaxy manufactures products at other plants contrary to the stipulation of manufacturers using approved sites.

Specific allegations under investigation include the Indian drug maker fabricating bioequivalence and stability data to support Abbreviated New Drug Applications (ANDA) for generic drugs to be sold in the US and also for anti-retroviral drugs (ARVs) paid for by the President's Emergency Plan for AIDS Relief (PEPFAR) and distributed to foreign countries. *(ET, 14.07.08)*

Economic Rationalism on Rise

The European Trade Commissioner Peter Mandelson strongly criticised the restrictions faced by foreign companies investing in the country by saying that economic nationalism is on the rise in China.

He said that investment by European companies in China is actually falling in spite of the country's growth and the EU might take up some of the obstacles to investment at the WTO.

The obstacles facing European companies were not only theft of intellectual property, but also an "unpredictable" policy for M&As and barriers to market entry including capital requirements, licensing and forced joint ventures. *(FT, 26.09.08)*

Gates Open

The gradual process of opening the Saudi stockmarket to foreign investors has taken a significant step forward with the announcement that non-residents will be entitled to trade in local stocks through Saudi intermediaries.

The news prompted an immediate rally in the market – which has lost ground so far in the year 2008 – in apparent anticipation of a surge in foreign interest.

That optimism is well-founded, as there is plenty of value to be found on the Saudi bourse, which is by far the largest in the Middle East by market capitalisation, and most of the big names in global equity investment have a presence in Riyadh.

(TE, 27.08.08)

Hanoi to Boost Banks

HSBC and Standard Chartered are gearing up to expand their operations in Vietnam after securing approval to be the first overseas banks to incorporate their local operations in the fast-growing economy.

The State Bank of Vietnam has awarded each bank a licence to apply to open wholly-owned units in the country, honouring a pledge made to open the sector when it joined the WTO in 2007.

Some 40 foreign banks account for less than 15 percent of total lending in Vietnam and local incorporation will give HSBC and Standard Chartered a head start on foreign rivals to expand their branch networks and product offerings. *(FT, 10.09.08)*

Egypt Halts New Plant

Egypt is being pressed by a Canadian company Agrium for compensation after construction of a US$1.4bn fertiliser plant on the country's Mediterranean coast was halted in a case closely followed by foreign investors.

Agrium has already invested US$500m in the project and now plans to "aggressively" pursue full recovery of its costs, equity contribution and lost profits. Egyptian Parliament recommended that the plant be moved to another location in response to local protests triggered by concerns about potential damage to health and the environment.

Ahmed Nazif, Prime Minister, Egypt cited Agrium's inability to forge a local consensus on the safety of its project as the main reason for halting it

(FT, 25.07.08)

China's Double Investments

China's overseas investment more than doubled in the first half of 2008, as the energy-hungry nation sought to secure resources globally to fuel its economic boom.

Non-financial direct outward investment hit US$25.7bn in the first six months of 2008, 2.3 times the level recorded in the same period in 2007. The figure for the first six months was already bigger than for all of 2007, when total Chinese investment overseas reached US$18.7bn.

Analysts opine that a key factor behind the dramatic surge was rising international commodities prices, giving Chinese companies an incentive to go directly to the source for raw materials.

With forex reserves of US$1.8tr and growing, China is looking abroad to acquire resources to fuel an economy that has maintained double-digit growth in five consecutive years. *(DT, 25.07.08)*

Out of Cambodia

Acleda, a Cambodian microfinancer became the first Cambodian bank to make a foray abroad, after obtaining a banking licence from neighbouring Laos. The bank is eyeing China and Vietnam next.

Acleda began 15 years ago as a microfinance programme backed by the UN and has since established itself as one of Asia's leading providers of microcredit. It has also developed a full-fledged retail business, with 214 branches across Cambodia.

With inflation recently soaring in Cambodia, In Channy, Chief Executive, Acleada insisted that Acleda could weather any serious economic downturn, noting that its rate of non-performing loans was 0.02 percent in 2007, compared with an average of 5.2 percent for the country's banking sector. *(FT, 10.08.08)*

Privatise Power Assets

A plan to privatise US$6.6bn worth of Australian power assets collapsed after the State Government of New South Wales (NSW) abandoned a parliamentary vote at the 11th hour after failing to secure enough support.

This move could damage the state's standing in the eyes of the international investment community. The sale of the assets was an important factor under pinning the AAA rating because it provided flexibility to manage infrastructure priorities to maintain state competitiveness.

Sale of assets could have generated from US$6.6bn to US$7.9bn for the NSW Government, which now faced an opportunity cost of US$9.9bn needed to upgrade existing power assets. *(FT, 29.08.08)*

India-US Investment Pact

India and US have decided to launch formal negotiations for bilateral investment promotion agreements (BIPA) by developing a formal framework. India has a standard model for a BIPA, which is slightly conservative.

The US bilateral investment treaty, on the other hand, is very ambitious under which US investors get national treatment or most-favoured-nation treatment when they initiate investment, and throughout the life of the investment.

According to sources, India would be willing to upgrade the investment agreement and incorporate certain provisions the US agreements seek to put in a treaty.

US on its part is ready to pare its ambitions to certain extent. India, however, may not agree to inclusion of labour or environment standards in the agreement. *(ET, 09.07.08)*

Guiding Investment Practices

Global sovereign wealth funds have reached a preliminary agreement on a set of voluntary principles to guide their investment practices.

The International Working Group (IWG) of Sovereign Wealth Funds (SWFs), which consists of 26 of the wealthy state-owned funds, would present the guidelines to the International Monetary Fund's (IMF) policy-setting committee.

These principles and practices aim to promote a clearer understanding of the institutional framework, governance, and investment operations of SWFs, thereby fostering trust and confidence in the international financial system.

The guidelines include a set of 24 principles that cover legal, institutional, governance, investment policies and risk management structures of the funds. *(HT, 03.09.08)*

New Opportunities!

To capitalise on international investing, Dimensional Fund Advisors (DFA) LP has launched an international-equity fund despite comparatively stronger US stock market performance.

The International Vector Equity Portfolio invests in small-capitalisation companies with attractive valuations that trade internationally and are located in developed markets. The mutual fund relies on quantitative strategies to make investment decisions.

While the US stock market recently began to outperform the global stock market for the first time in 10 years, advisers do not think the timing of the launch will dampen interest in the fund.

The basis for offering the fund is not to exploit a hot sector but to identify long-term opportunities. *(IN, 01.09.08)*

Privatisation and China

China has a large untapped source of further growth: its vast state-owned assets, including enterprises, resources and land. Privatising these assets would unleash the wealth effect and boost domestic consumption.

This reform would transform China's growth model from being investment and export-driven to being led by domestic consumption. It would reduce its over-dependence on industry and stimulate its service sector. At a time of a global slowdown, such reform is timely.

When reform started in 1978, almost all productive assets were state-owned in China. But reforms since then have not included privatisation. Today the Government owns more than 70 percent of China's productive wealth.

To the Government's credit, the initial 'marketisation-without-privatisation' approach has paid off. A robust infrastructure has emerged and China is an industrialised economy. *(FT, 07.08.08)*

Rising Costs Hit FDI

European companies have slashed investments in China amid rising labour and transport costs at the same time as they expand in eastern Europe and Russia.

Foreign direct investment (FDI) from the European Union (EU) into China fell in 2007 from US$7bn in 2006 to US$2.7bn. In Russia, it soared from US$13.6bn to US$22bn.

Companies from many European countries such as Samas, a French maker of office equipment, and Sennheiser, a German headphone maker, have moved production out of China because of difficulties from intellectual property to rising labour and transport costs.

Part of the weakness in the EU investment figures in China can be explained by negative flows by Dutch and UK companies, which suggest groups from those countries have closed plants, taken dividends out of a Chinese subsidiary or called in an intra-company loan. *(FT, 11.08.08)*

Investment Called-off

The Tata Group has decided to call off its proposed US$3bn investments in Bangladesh. The move was prompted by a failure to get assured supplies of natural gas to the proposed projects.

The group had proposed to set up four large projects in Bangladesh in 2004 with an investment of US$3bn, which included a 2.4-million tonne steel plant, in addition to a 1-million tonne urea plant and a 1,000-MW power plant and a 6-million tonne coal mining project.

"However, it is clear that the Bangladesh Government will not be in a position in the foreseeable future to grant the projects the natural gas commitment they would require. Consequently, there is no prospect of taking these projects further", the Tata Group said. *(ET, 01.08.08)*

Telcos Under Pressure

Big European telecoms groups, such as Deutsche Telekom could be forced by regulators to open further their networks to boost competition, legislators have decided.

A European Parliament backed plans to allow national telecom authorities in the EU to divide dominant operators' networks and services businesses into separate units.

Viviane Reding, the EU telecom chief who brought the move, argues that so-called 'functional separation' has served markets, such as the UK well, increasing competition, especially in broadband. However, this plan is only to be used as an exceptional measure. *(FT, 09.07.08)*

Overseas Drug Prescription

In April 2008, Takeda, the country's largest pharmaceutical group, agreed to pay US$8.5bn to take over Millennium Pharmaceuticals of the US, after buying full control of TAP, its US joint venture with Abbott established in 1977.

In December 2008, Eisai said it would acquire MGI Pharma for US$3.9bn. And Daiichi-Sankyo has just completed a US$5bn acquisition of a majority stake in Ranbaxy, the Indian generics manufacturer. The flurry of deals highlights how conditions in their home markets are pushing Japan's drugmakers to establish a significant standalone presence beyond their own borders.

Japan remains the world's second largest market for prescription medicines but growth has slowed as the government has made regular official price cuts on patented drugs to ease rising healthcare costs.

(FT, 08.09.08)

New Consumer Law

The Ministerial Council on Consumer Affairs has released a communiqué with proposals for far-reaching consumer policy reform it will recommend to the Council of Australian Governments.

One of the main recommendations is for the introduction of a new national consumer law to be based on the current consumer protection provisions of the Trade Practices Act 1974 plus appropriate amendments reflecting best practice in state and territory legislation.

Relevantly for consumer credit, the communiqué states that constitutional issues may mean that the financial services sector may need to retain a distinct legislative framework. The other major recommendation is that laws dealing with unfair contract terms should form part of the national law – but limited to standard form contracts.

(www.claytonutz.com, 15.08.08)

Solution to Financial Crisis

The International Monetary Fund (IMF) Managing Director Dominique Strauss-Kahn called for a global solution to the US financial crisis, saying coordination of the reform effort "is a job for the IMF".

He said a proposed US$700bn bailout plan should be a first step toward reform of the global financial system, and called for greater regulation of financial institutions and markets.

"The US plan is welcome because it is comprehensive. But it has to be the first step of international political action", said Strauss-Kahn, a former French finance minister who took over as IMF head. *(IMF, 29.09.08)*

Fixing the System

With the sector teetering on the brink of financial distress, investors are again asking if the recently re-elected Fernandez administration now has the political will and conviction to fix the system.

The stand-by agreement with the IMF, which provided a framework for the sector to reach financial self-sustainability while providing a more efficient, reliable and cost conscious electric service, expired January 2008 and has yet to be renewed. Unfortunately, little was achieved during the period the agreement was in place.

So far, the re-elected government seems to be taking an approach that is likely to perpetuate the sector's instability, rather than to eliminate market distortions and enforce the new electricity law. *(BW, 04.08.08)*

Etisalat in Afghanistan

The United Arab Emirates' (UAE) leading telecom services provider Etisalat is concentrating its efforts on developing the telecom industry in Afghanistan. A meeting was held between a visiting high-level Afghan government delegation and Etisalat chairman Mohammad Hassan Omran.

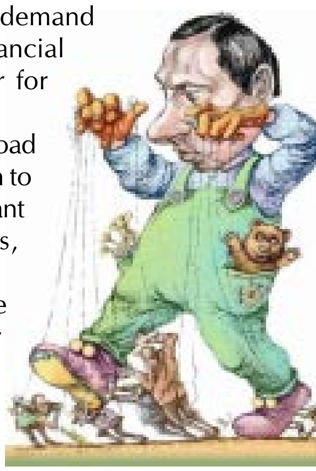
The two sides discussed areas of cooperation between Etisalat and its subsidiary in Afghanistan and different services introduced in Afghanistan since Etisalat won the fourth mobile licence in that country.

The Abu Dhabi-headquartered Etisalat is one of the largest telecommunications companies globally and the largest operator in the Arab world. It has over 64 million subscribers across 16 countries.

(ET, 08.09.08)

MPs Demand Tough Regulation

Members of the European Parliament demand EU regulation of the crisis-struck financial sector, targetting hedge funds in particular for restrictions.



www.independent.co.uk

EU lawmakers adopted a report by a broad majority calling on the European Commission to draft proposals by year-end covering "all relevant actors and financial market participants, including hedge funds and private equity."

Among its main recommendations, the report urges mandatory capital requirements for all financial institutions, full transparency about executive compensation, disclosure of leverage and identification of major shareholders. The report targetted hedge funds and private equity funds but included the sector as a whole in light of the recent turmoil and under pressure from conservative lawmakers. *(www.eubusiness.com, 23.09.08)*

Competition Policy and Promotion of Investment, Economic Growth and Poverty Alleviation in Least Developed Countries

– R S Khemani

The sustainability and benefits that accrue from the competitive process are not solely dependent on the business conduct of enterprises but also depend on the business environment or investment climate in which they operate, including the legal and regulatory framework, barriers to entry and exit, and prevailing conditions in markets for labour, land, finance, infrastructure services, and other productive inputs.

Introduction

Competition is a fundamental characteristic of a flexible, dynamic market economy where competing businesses are spurred to reduce costs, increase productivity, make investments, adopt new technologies and organisational methods to innovate in processes and products.

The process of competition is impaired in developing nations. Firstly, it is not automatic. Secondly, vested interest groups, incumbent large monopolistic firms, and other stakeholders can dampen, distort, or capture the benefits of market-oriented economic reforms such as trade and investment liberalisation, privatisation and deregulation.

There are also widespread misconceptions about the beneficiaries of competition, on which vested interest groups capitalise by marshalling fears of unemployment and need for supporting "national champions".

During the past two decades, more than 100 countries have enacted or significantly revised and strengthened their competition legislation – including many developing nations. However, there has been considerable variation with regards the enforcement of these legislations. This paper recommends various actions to be performed jointly by national governments, inter-governmental organisations and civil society to effectively enforce competition laws in least developed countries.

Recommendations:

Policy and Diagnostics Projects

Extend policy advisory and diagnostics projects aimed primarily at reducing public policy-based barriers to entry-exit, regulatory costs and delays, licensing, etc. to also cover restrictive business practices engaged in by private sector firms, business associations, and those emanating from closed, opaque government-business relations.

Industry/Market Studies

Conduct industry/market-specific competition assessments and regulatory impact analysis to identify the principal public policy and private sector created barriers to competition as well as "winners and losers", and explore alternative, less interventionist policy approaches to promote broad-based competitive investment and growth. Priority should be given to sectors that:

- have direct impacts on the poor;
- provide products and basic services that serve multiple upstream or downstream economic activity;
- could help reduce corruption; and
- attract investment and technology transfer.

Technical Assistance and Institution Building

Increase capabilities and responsiveness to requests by least-developed countries (LDCs) for technical assistance for:

- drafting new or revising existing competition legislation and regulatory policies, administrative and interpretation guidelines, and related materials for effective policy implementation;
- providing advice and capacity development in skills such as case management, investigative techniques, compliance programmes, regulatory interventions, industry/market competition assessments and regulatory impact analysis, and competition advocacy;
- promoting greater inter-governmental cooperation and coordination, and coherency and consistency in the application and formulation of economic and regulatory policies to be least restrictive of competition; and
- facilitating cooperation and exchange programs, sharing of information, and expertise with peer competition authorities in other countries.

Information Dissemination/Building Coalitions

- Work with consumer associations, non-governmental organisations, private sector business organisations and trade associations, academic research and policy institutions, and legislators to foster greater understanding and appreciation of the benefits of competition and encourage grassroots ownership and demand for pro-competition policies.

– Abridged from the Executive Summary of a Discussion Paper , 'Competition Policy and Promotion of Investment, Economic Growth and Poverty Alleviation in Least Developed Countries' written by R S Khemani, FIAS, October 2007 (available at: http://www.fias.net/ifcext/fias.nsf/Content/FIAS_OccasionalPapers).

Market Liberalisation and Competition Law in Nigeria

Leonard Ugbajah* & Ken Ukaoha, Esq.**

The challenge before the competition legislation in Nigeria is to set the standards of acceptable market conduct for firms with the view of ensuring that competition and competitiveness are not jeopardised.

The need for a competition law in Nigeria was not lost to the architects of the current economic reform agenda but what seem to have been missing up until this moment is the political will to carry through the process to realisation. In 2000, the Nigerian Government though the National Council on Privatisation (NCP) set up a Competition and Antitrust Reform Steering Committee to look into the needs for competition antitrust policy and reform.

The Committee with support from some foreign donor agencies did quite some work in terms of consultations workshops/seminars etc., with technical inputs from foreign and local consultants. This culminated in the production of the Draft policy earlier referred to, and the Bill called the Federal Competition Bill which was presented to the National Assembly in 2002. Unfortunately, the Bill was not passed during the tenure of the last National Assembly because both Chambers (Senate and House of Representatives) could not reconcile their views.

In the preamble to the Draft competition policy, it was observed that the committee was abundantly aware that competition legislation should have been promulgated before the major public enterprises and utilities are privatised so that the new owners of such privatised companies have the ground rules from the onset (NCP 2001). Even though the draft policy conceded to the need to go ahead with the privatisation process in spite of the absence of a competition legislation, it however, sought to use the policy, if approved as a "guidance and a statement on the intent of government".

In the immediate past tenure of the National Assembly, different versions of the Bill were reportedly passed by the Senate and House of Representatives and efforts to reconcile these different versions failed, hence the Bill was truncated. The Bill is tiled, 'Trade and Commerce (Protection Against Restraints and Monopoly) Bill, 2001'. It says: "this bill seeks to prohibit restraints in trade and commerce in any part of the Federation and between a state and a foreign nation". This Bill also seeks to protect stakeholders in trade and commerce from deceptive practices prevalent among traders by providing a level playing ground and equal trade treatment to persons engaged in trade and commerce.

This Bill was a good attempt at least for the first time to enact such a law in Nigeria and the efforts of its architects is commendable. However, it is the opinion of the writers that the scope and content of the Bill is limited in the light of contemporary global economic trends. The House of Representatives version is essentially fashioned after the American Sherman Act of 1890 which was in fact the beginning of Antitrust Legislation in the US. However, competition policies and laws in the US have been modified and expanded ever since by the introduction of further legislations targeted at specific conducts.

The Senate's version which is actually the version from the National Council on Privatisation and titled: 'The Federal Competition Bill' is more contemporary and comprehensive. With very minor modifications, this version of the Bill should be passed by both Chambers as a matter of urgency.

Both Chambers of the National Assembly would have worked for over five years on different versions of a Bill on the same issue, only to realise that the versions were irreconcilable, after expending enormous resources in the process. Be that as it may, the point is that further delay in this regard is counter productive for the country and its citizens.

In order for the stakeholders to appreciate the relevance of the competition policy/law in the post-liberalisation environment, it is imperative to examine market structures, conducts, and performances relating to various components of the Nigerian economy.

There is equally a need to ensure that the benefits of economics of scale are preserved. This entails a process of policy engineering to know when to allow or disallow collective actions by firms and outright industry concentration.

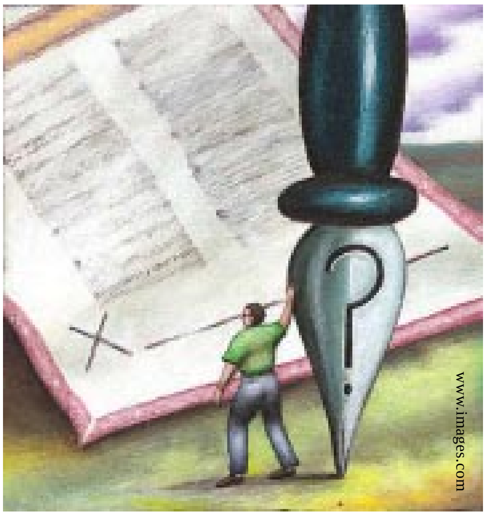
---

* *Head, Legal and Legislative Unit, National Association of Nigerian Traders (NANTS)*
** *President, NANTS*
Abridged from an article that appeared in the Trade Policy Monitor, NANTS, Volume 1, Issue 3, May 2008.

Changes to French Competition Rules

Andres Font Galarza* & Guillaume Chiras**

The Law No. 2008-776 on the Modernisation of the Economy which was passed on August 04, 2008 brings significant changes in French competition law. The most notable changes are the transfer of decision-making power with regard to merger control from the Minister of the Economy to a new Competition Authority which will replace the Competition Council and the abolishment of the per se prohibition of price discrimination in supplier-customer relations.



The main changes of the competition regulation brought by the Law on the Modernisation of the Economy are:

- The establishment of a single competition authority: the Competition Authority (Autorité de la concurrence) which will have full jurisdiction to review mergers;
- The Minister for the Economy retains some important powers in merger control: the right to re-examine a case and make an alternative decision;
- The calculation of the delay of notification in working days and the introduction of a "stop the clock" mechanism during the merger control procedure;
- Some new rules of notification affecting the retail sector and French overseas territories; and
- An increase in the protection of enterprises within the retail sector from an abuse of economic dependence or of dominant position.

A New Single Competition Authority

A new competition enforcement agency, the Competition Authority would be established instead of the Council on Competition (Conseil de la concurrence). The new entity, which is an independent administrative agency, would be institutional transformation of the Competition Council and have increased powers, which empower the President to bring a case in front of the Courts.

Jurisdiction Over Merger Control

Presently, the dual French system of merger control involves both the Directorate General for Competition, Consumer Protection and Fraud Control (DGCCRF) and the Council on Competition. With the new Law coming into effect, the Competition Authority will have complete jurisdiction concerning merger control issues.

Powers of the Minister

As per the new law, the Minister for the Economy holds certain important powers. Firstly, he may request an in-depth investigation without giving any justification. Secondly, he may re-examine an already cleared case and make an alternative decision on the grounds of general interest such as, most notably, industrial development, competitiveness of the enterprises or citing employment and social obligations.

"Stop the Clock" Mechanism

The Law on the Modernisation of the Economy has changed the current timetable. Now the time for the Competition Authority to clear a merger would be 25 working days instead of 5 weeks previously.

New Rules of Notification

Where two or more companies are involved or where one of the parties operate in a French overseas territory, the concentration has to be notified when the following criteria are met:

i) the combined aggregate turnover (exclusive of tax) of all the companies involved in the merger is greater than 75 million euros;

ii) the combined aggregate turnover (exclusive of tax achieved in France by at least two of the companies) is greater than 15 million euros; and

iii) the operation does not come within the scope of the EC merger regulation.

Some Specific Provisions

The Law on the Modernisation of the Economy has given an important power to mayors. A mayor may, in the event of the abuse of a dominant position, call on the competition agency to take necessary actions.

---

* *Antitrust and Competition Lawyer*

** *Antitrust and Competition Lawyer*

The article appeared in the Mondaq, August 27, 2008.

China Sets Up Anti-monopoly Commission

China's first anti-monopoly law, which was proposed 15 years ago and was not passed until 2007, has taken effect from August 01, 2008.

The law, seen by some as the "constitution for the market economy" because of its importance in promoting an environment of fair competition, is regarded by investors and legal experts as a landmark law in China's transition to market economy and further opening up.

The new anti-monopoly law establishes a basic framework to build up a fair, uniform and national competition law system that benefits consumers by recognising and preserving incentives to compete.

After the law takes effect, the decision-making process will become more transparent and will help reduce investment risks. Despite this progress and positive signs, experts think it is a law in transition and that much work needs to be done to enforce it efficiently.

Shi Jianzhong, a legal expert who participated in drafting the law, said it is probably the shortest anti-trust law in the world since it only lays out certain principles. He said that since China does not have much experience in anti-monopoly cases, it would be difficult to evaluate its influence on the market after it is put into practice if there are specific requirements at the very beginning.

The enforcement part of the law is still unclear, and that is another concern for investors. When passed in 2007, the law mentioned an anti-monopoly committee directly under the State Council but did not say who would enforce it.

According to sources, three government bodies – the Ministry of Commerce, the National Development and Reform Commission and the State Administration for Industry and Commerce – will enforce the law.

The new commission is responsible for anti-monopoly policy research, monitoring market performance and coordination in law enforcement to create a level playing field for all enterprises by preventing dominating companies from abusing their superior market positions.

EU Competition Commissioner Neelie Kroes said the implementation of a transparent and non-discriminatory competition framework will be a challenging task and she expressed that the EU stands ready to strengthen bilateral cooperation in this important area.

The anti-monopoly commission may coordinate enforcement but it is not a professional law enforcement body, according to Huang Yong, a professor of University of International Business and Economics.

Chinese Government has also launched a high-level Antimonopoly Commission under this law to oversee enforcement of its new antitrust legislation, which is already facing a test from Coca-Cola Co's pursuit of what would be the largest-ever foreign takeover of a Chinese company.

The Antimonopoly Commission of the State Council had "recently" held its first meeting, where it agreed on some ground rules and decided to research the competitive situation in various domestic markets. The Commission's main job is to coordinate the work of the three government bodies responsible for carrying out antitrust policy.

The Commission is, as widely expected, headed by Vice Premier Wang Qishan, who also supervises China's trade and financial policy.

The Commission faces a difficult task of juggling the conflicting priorities it has been handed. On the domestic front, the Commission will "ensure the control of state enterprises in important industries and key sectors" while "preventing companies from abusing a position of market dominance to violate the rights and interests of other operators and the majority of consumers," the Xinhua report said. The meeting also agreed that enforcement of the law will provide "equal protection for all the legitimate rights and interests of foreign investors" but "prevent malicious foreign takeovers and protect national economic security".

Such ambiguity is one reason the Government's reaction to the recent bid by Coca-Cola to buy China Huiyuan Juice Group Ltd. for about US$2.4bn is being monitored so closely. Foreign companies have said they are watching to see whether China will permit a major foreign takeover when Chinese companies are themselves increasingly active in acquiring businesses in other countries.

(WSJ, 15.09.08 & CD, 31.07.08)

To Make the Law More Effective

First, under the established framework and system of the Anti-Monopoly Law, the country should lay down some corresponding administrative stipulations, department rules and official guidelines in a more detailed manner. These should enrich and perfect the content and system that the law badly needs to fulfill its objectives.

Second, more analyses of more cases should be applied in its implementation. This has also become a trend in many countries while practicing the Anti-Monopoly Law.

Third, the country should attach enough importance to the cultivation of professional anti-monopoly law talents and to forming teams of such people.

Other tasks include attaching importance to the appointment and training of law-enforcers, judges, lawyers, and relevant economists, as well as the installment and operation of the executive commission of experts. Interactions among these legal teams will decide the effect of the law's implementation and will push the Anti-Monopoly Law forward to a maximum.

About a Competition Law – Senegal*

Senegal is located in West Africa, bordering the North Atlantic Ocean, between Guinea-Bissau and Mauritania. Senegal obtained its Independence on April 04, 1960, from France. Though the country is smaller in comparison to its neighbours, economically, Senegal is much stronger with its well-developed physical and social infrastructure, and relatively well-diversified industrial base.

Economy

In January 1994, Senegal undertook a bold and ambitious economic reform programme, with the support of the international donor community which began with a 50 percent devaluation of Senegal's currency, the CFA franc, which was linked at a fixed rate to the French franc.

After seeing its economy contract by 2.1 percent in 1993, Senegal made an important turnaround, with real growth in GDP averaging 5 percent annually, during 1995-2003. As a member of the West African Economic and Monetary Union (WAEMU), Senegal is working towards greater regional integration, with a unified external tariff.

Competition Environment and Legislation

Since 1965, Senegal has had competition laws governing most sectors of its economy, which include state-owned business enterprises within their general scope. As part of the Structural Adjustment Programme (SAP) in 1994, Senegal embarked upon economic reforms under the World Bank initiative, and these reforms included the revision of competition law. The rationale behind these reforms was to create a favourable business environment to attract foreign investment and to integrate the country into the world economy.

Senegal's competition law revision was aimed primarily at raising awareness and based on the independence of the competition authority. The main changes introduced since 1994 concerned the creation of a group of specialised investigators, and measures to enhance the powers of the Competition Commission. The principal responsibility of the Commission is to monitor anti-competitive practices. Senegal's competition legislation appears to be modelled on French competition law.

Sectoral Regulation and Anti-competitive Practices

Financial sector

The banking sector in Senegal is regulated by the Central Bank of West African States (BCEAO), which keeps tight control of monetary policy. There are no state-owned commercial banks in Senegal. However, three banks dominate the market with nearly two thirds of all deposits. There are eight commercial banks currently operating in Senegal. Foreign exchange payments are directly executed by Senegal's commercial banks.

As a protection measure, the Government requires that all goods and merchandise, directly imported for trade or industrial purpose, must be insured, either though representatives approved by the Minister in charge of Finance, or through brokers established in Senegal.

Telecommunications Sector

The Telecommunication sector in Senegal is regulated by the Regulatory Agency for Telecommunications (RAT), which is in charge of regulating the industry and promoting the development of the New Information and Communication Technologies.

On December 14, 2003, Senegal's Parliament passed an updated telecommunications law that should lead to further liberalisation of Senegal's telecommunications sector. The new Telecommunication Act supersedes the 1996 telecommunication law; further liberalises the market for a number of services; and removes some monopoly benefits held by Sonatel, which retained a monopoly in basic telephone services until the end of 2003. The law could lead to more investment in the sector. With this development, more competition is likely in the telecom market, with new players entering and more business opportunities arising.

Energy Sector

Senegal is one of the leading developing nations with a strong renewable energy policy. Senegal's current renewable energy policy encourages citizens to get involved in the implementation, financing, and management of solar projects.

The liberalisation of the electricity sector in Senegal necessitated the creation of the Electricity Regulation Body by the Government. The responsibility of the Regulation Body is to monitor prices, prepare tenders and approve any influx of investment into the sector.

Consumer Protection

The Association for the Protection of Water, Electricity, Telecommunication and Service Users and the Senegalese Association for the Protection of the Environment and Consumers are the two consumer organisations in Senegal.

As a way of protecting consumers against unsafe foods, the Government has enacted rules and regulations that guide importers and food manufacturers, as a requirement for the employment of food handlers. With such laws and regulations in place, the Government requires the labelling of canned and preserved food products applicable to both domestic and imported goods, and for both human and animal consumption.

Future Scenario

Despite its political stability, Senegal is amongst the world's poorest LDCs and faces numerous challenges, such as poverty, and external debt totalling approximately US$3.7bn. Considering Senegal's comparative advantages, coupled with strong political will, the country has the potential to be an economic force in Africa. Additionally, it is hoped that the country will recover, economically.

---

* *Extracted from 'Competition Regimes in the World – A Civil Society Report', www.competitionregimes.com*

PolicyWatch

The July-September (2008) issue of the CUTS newsletter PolicyWatch encapsulates the need for a 'National Competition Policy for India' in its cover story, which puts forward the reasons for such a policy for India.

Special article by Rana Kapoor emphasises to develop a long-tem strategy that would reduce the vulnerability of the framing community and accelerate agricultural growth, while Nitin Desai's article focuses on how the Finance Ministry's tenancy rights to the RBI governorship distorts policy and regulation. The newsletter presents an interview with the Adviser to the Deputy Chairman of the Planning Commission on investment scenario for infrastructure development in the country. It also contains a very good article on governance as well as regulator's neutrality to ensure level field in the economy. Another special article lays stress on to improve and make relations more cordial between India and Pakistan through a series of confidence building measures.

Besides, it carries regular sections on Infrastructure, Trade & Economics, Governance & Reforms, E-governance, Corporate Governance, Expert Corner, Report Desk, Good practices, Corporate Governance etc.

To access the newsletter online please click on the following link:

www.cuts-international.org/pw-index.htm

Comparative Study of Regulatory Framework in Infrastructure Sector: Lessons for India

Analyses and compares the regulatory framework in seven countries in respect to institutional and governance aspects, and identifies lessons for India.

http://www.cuts-international.org/pdf/CCIER-9-2008.pdf

Competition and Regulation in Indian Retail Sector

Describes the structure of the retail sector in the country, including its diverse components. It looks at the main challenges faced by the retail sector, and analyses the nuances of regulation and competition for the sector.

http://www.cuts-international.org/pdf/2-2008Comp_Reg_in_Indian_Retail.pdf

National Competition Policy for India

Questions type of platforms that Competition Policy Council (CPC) can create to coordinate with all relevant stakeholders in implementing the National Competition Policy (NCP) and the best ways providing incentives to state and sub-state governments to encourage them to carry out pro-competition reforms keeping in mind the principles of the NCP?

http://www.cuts-international.org/pdf/3-2008National_Comp_Policy_In_India.pdf

Using Competition Policy to Regulate MNC Behaviour in Namibia

Seeks to explore ways in which the Namibian competition law can be effective in controlling unfavourable behaviours of multinational corporations (MNCs) operating in Namibia.

http://www.cuts-ccier.org/7up3/pdf/BriefingPaper04-2008.pdf

Privatisation Initiative in Botswana: Any Bearing on Competition?

Examines the relationship between privatisation and competition, highlighting implementation of the privatisation policy in Botswana and its likely impact on competition in the market.

http://www.cuts-ccier.org/7up3/pdf/PolicyBrief6.pdf

Competition Law and Intellectual Property Rights: Controlling Abuse or Abusing Control?

Examines the interface between competition issues and the protection of Intellectual Property Rights (IPRs): both complementarities and conflicts.

http://www.cuts-international.org/pdf/CompetitionLaw_IPR.pdf

Sources

AFP: Agence France Presse; ANA: Antitrust News Alert; BD: Business Day; BL: The Hindu Business Line; BW: BusinessWire; DT: Daily Times; ET: Economic Times; FE: Financial Express; FT: Financial Times; GCR: Global Competition Review; HT: Herald Tribune; IAA: Israeli Antitrust Authority; IMF: International Monetary Fund; IN: Investment News; M&G: Mail and Guardian; TA: The Australian; TE: The Economist; ToI: Times of India; WSJ: Wall Street Journal

Published by

Published by: **CUTS Centre for Competition, Investment & Economic Regulation**
D-217, Bhaskar Marg, Bani Park, Jaipur 302 016, India, Ph: +91.141.228 2821, Fax: +91.141.228 2485,
Email: c-cier@cuts.org, Web site: www.cuts-ccier.org

Printed by: Jaipur Printers P. Ltd., M.I. Road, Jaipur 302 001, India.

Annual Subscription Rs. 150/US$30

The news/stories in this Newsletter are compressed from several newspapers. The sources given are to be used as a reference for further information and do not indicate the literal transcript of a particular news/story.