Competition Distortions in India – A Dossier

(CDI-20: April–June, 2013)

For earlier Dossiers please see: http://cuts-ccier.org/Competition_Distortions_India.htm

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

We are pleased to bring before you the Competition Distortions Dossier Edition No: 20 for the second quarter: April-June 2013 (http://www.cuts-ccier.org/pdf/CDIDossier-Apr-Jun13.pdf). As always, we have captured several interesting stories, a mix of good and bad. There are many instances of potential competition distortions caused by policy adopted by the government to save public sector enterprises at the cost of overlooking interest of private sector. We have always held the stand that such policy tools are not sustainable in the long run and have adverse impact on the economic development of the country. Also, they are quick-fixes that do not serve the goal of encouraging competitiveness in domestic industries by artificially insulating/shielding state-owned enterprises.

There are instances of creation of entry barriers for private players and violation of the competitive neutrality principle that can be seen in this edition as well. These are cases pertaining to the oil, education, aviation and telecom sector. In all cases, public sector seems to be getting undue advantage out of government policies while interest of private players is kept on the backburner.

We also welcome some of the initiatives taken by the government. After introducing FDI in the aviation sector, the government has allowed for one time approval for importing aircrafts by domestic airline companies. The step could be considered as a progressive one as it would further open-up the sector and also help domestic airline companies to be more realistic while forecasting their future business plans. And in yet another laudatory move, the government has decided to introduce long awaited reforms in the shipping industry in India. The move would definitely provide incentives to private companies to enter the market. Of late, private companies have shown their disinterest in investing in the shipping industry as the regulated tariffs did not allow them to cover their cost of investment and earn profits.

List of Contents

A. Trade Policy

1. Govt plans push for local cable equipment manufacturers

The Centre is all set to bring the acquisition of cable equipment, including set-top boxes (STBs) and digital head-ends, under regulation to make it mandatory for the 70,000-odd cable operators and over 6,000 Multi-Service Operators (MSOs) to acquire at least 30-40 percent of STBs made in India.

Currently, around 90 percent of STBs and other cable equipment are imported from countries, such as China and Taiwan as they are cost-effective. Also, the local manufacturing capacity of Indian manufacturers is not in a position to support the fast-paced requirement of the industry, which is seeding more than 18-20 lakh STBs every month.

www.financialexpress.com/news/govt-plans-push-for-local-cable-equipment-manufacturers/1102408

Food for Thought

In a bid to encourage local manufacturers of the cable equipment, such as STBs and digital head ends, government is mulling over the idea of bringing its acquisition under the regulatory purview. The step would be taken in order to boost the sales of locally produced cable TV equipment. At present, only 10 percent of domestic demand is met through Indian sources and rest 90 percent is imported from countries like China and Taiwan. One of the main reasons behind low contribution of local industry in serving total demand is limited capacity of Indian manufacturers in terms of production.

The plan is targeted at enhancing local supply up to 30 to 40 percent of the domestic demand by making it mandatory for cable operators and multi-service operators to procure equipment from domestic manufacturers.

The stance taken by the government would help domestic manufacturers to improve their overall contribution in Indian market for cable equipment. However, the government has to be cautious in its approach in order to ensure that it does not end up adopting protectionist and restrictive measures. Rather, endeavour should be directed towards developing the capacity of domestic industry so that they are able to compete with foreign manufacturers in terms of being cost effective as well as producing quality products.

B. Competitive Neutrality Principle

2. Sibal Urges PM to form Panel for Revitalising BSNL & MTNL

With state-owned telcos – Bharat Sanchar Nigam Limited (BSNL) and Mahanagar Telephone Nigam Ltd (MTNL) – on the verge of financial collapse, Telecom Minister Kapil Sibal has urged the Indian Prime Minister Manmohan Singh to set up a panel of ministers to look into revitalising the two public sector phone companies.

Currently, Empowered Group of Ministers (EGoM), headed by Finance Minister P Chidambaram, looks into all spectrum-related issues for telecom.

http://articles.economictimes.indiatimes.com/2013-04-08/news/38374000_1_bsnl-and-mtnl-loss-making-bsnl-pitroda-panel-recommendations

Food for Thought

Here comes yet another example of government heading in the direction of providing undue advantage to state-owned enterprises while defeating the concept of fair competition and level-playing field. This time, developments are taking place in the telecom sector where the Communication Ministry is trying its best to convince the government to revive the fortunes of BSNL and MTNL by way of providing multi-crore bail-out packages.

Both BSNL and MTNL have been experiencing huge financial losses for the past few years and the situation seems to get worse in future. Given this, the Sibal has suggested the government to provide financial help to both telecom giants in order to prevent them from collapsing. Further, the Ministry also claims that recommendations made by the panel headed by technocrat Sam Pitroda were implemented in order to improve the overall situation but they proved to be insufficient in terms of controlling the damage.

However, the fact does not seems to be falling in the line of claims made by the Ministry as it has largely failed to implement major recommendations made by the above mentioned panel in 2010. For example, the panel had suggested both public sector undertakings (PSUs) to opt for strategic sale of stake, reduction in the number of employees, appointment of professionals from private sector etc. All these recommendations were rejected on the grounds of adverse consequences on other PSUs.

Thus, it is quite clear that government is not serious about infusing competition in the public sector and taking steps to ensure effective management of PSUs. Such steps are against the principle of competitive neutrality and would discourage private players operating in the sector. Reference could be drawn from other sectors also, such as civil aviation.

The government has been providing several benefits to Air India in order to help it come out of financial turmoil. However, Kingfisher Airlines, a private airline company, never received any sort of relaxation from the government when it was going through financial crisis, thus forcing it to shut down all its operations in 2012. It is highly advisable for the government to relinquish its approach of doling out benefits to PSUs at the cost of keeping private sector's interest at bay. However, it should try to adopt timely measures as suggested by the Pitroda panel, in order to turn around the loss making PSUs and also to make them efficient and competitive.

3. Discount to help AI trim fuel bill by Rs 700-800 cr

Air India is set to get a discount of 8-8.5 percent on purchase of aviation turbine fuel from state-owned oil marketing companies, which will help reduce the national carrier's fuel bill by Rs 700-800 crore…………………..*(The Financial Express, 08.05.2013)*

Food for Thought

In its recent attempt to protect Air India from getting grounded, courtesy its inability to do profitable business and mismanagement of available resources, the Oil Ministry has decided to provide discounts to airline on its mounting fuel bills. In a high profile meeting between Aviation and Petroleum Ministry, it was decided that the public sector oil *companies would allow 8-8.5 percent discount to Air-India on its pending bills on the purchase of aviation turbine fuel (ATF).*

The discount being retrospective in nature, it would be taken into account from January 01, hence letting Air India save around Rs 700-800 crores. The airline owes Rs 4,324 crores to the oil marketing companies (OMCs), and that too, would be paid through Rs 5,000 crore grant provided by the government to the airline that has been going through a rough patch for the past several years.

The government has long history of doling out benefits to Air India at the cost of distorting competition in the market and taxing the taxpayer while adding to the fiscal deficit. The measures being adopted by the government cannot be considered as wise one as it not only violates the principle of competitive neutrality, it might also result into adverse impact on financial health of OMCs. Forcing oil companies to provide discount to Air India would affect their profit margins on the sale of ATF and that too when market of jet fuel is in slump.

C. Reform Initiatives

4. One-Time Nod for Aircraft Import

Airlines operating in India will now need just a one-time approval to import aircraft over five years, following an easing of norms that required a clearance before placing an order and then another approval before bringing in every batch of planes to join their fleet.

The new rule follows the abolition on March 21 of the Aircraft Acquisition Committee (AAC) headed by Civil Aviation Minister Ajit Singh that vetted the requests of airlines for importing each plane and granted permissions.

http://articles.economictimes.indiatimes.com/2013-04-10/news/38434077_1_in-principle-approval-aac-amber-dubey

Food for Thought

The Aviation Ministry seems to be on the right track in terms of taking forward the ongoing reform process in aviation sector. As per the latest development, domestic airline companies need not to seek approval twice for increasing the size of their fleet of aircrafts. The new rule would require airlines to take an in-principle approval in order to import the aircrafts depending on their projection of business and air traffic, spanning over the period of next five years. On the other hand, previously airline companies had to take the consent of authorities twice before getting the delivery of aircraft.

The entire process started with scrapping the existing AAC which had primary task of monitoring orders placed by airline companies for acquiring aircraft and granting permission for the same. The committee was being headed by the Aviation Minister Ajit Singh.

The move could be counted among one of the positive steps taken by the government in recent times in terms of doing away with unnecessary procedures resulting into wastage of resources. It would also encourage domestic airline companies to be more realistic while forecasting their future business plans and avoiding placing bulk orders and then cancelling them for various reasons. The step would also provide a competitive edge to *domestic aviation sector at a time when more foreign airlines are showing their interest in the Indian market.*

5. Shipping Ministry to Unveil New Policy to Deregulate Port Tariffs

The Union Shipping Ministry will unveil a new policy to de-regulate the tariff fixed at major ports in the country and allow operators to fix market-linked tariff at the ports in a move to attract private sector participation and increase investments in the sector.

The move follows a slew of measures that the Shipping Ministry has lined up to implement in the current fiscal to boost the shipping industry which has been witnessing one of its worst phases.

http://articles.economictimes.indiatimes.com/2013-04-08/news/38373994_1_major-ports-shipping-ministry-tariff-regime

Food for Thought

Finally, there are some positive developments related to the shipping industry in India. The Shipping Ministry is planning to initiate the process of policy reforms in the sector struggling from financial woes for the past few years now. The reform process would basically target at de-regulating the existing tariff structure at major ports in the country. It would allow operators at major ports to fix prices that are being determined through the market forces. In addition to it, the Ministry is also planning of deregulating tariff at existing terminals at major ports.

According to the sources, the government has been contemplating over implementing these measures in order to provide breather to shipping industry and also to attract private investment in the sector. Of late, private companies have shown their disinterest in investing in shipping industry as the regulated tariffs did not allow them to cover their cost of investment and earn any profits. The move would definitely instill confidence in private sector players by making their investment viable.

6. CERC and the power market

The Central Electricity Regulatory Commission (CERC), the country's apex power sector regulator, has offered some level of relief to Tata Power by allowing the company to temporarily raise tariffs for power produced at its Mundra plant. This comes soon after CERC allowed another private power producer, Adani Power, to revise tariffs. In both cases, the regulator found sufficient reason in the increase in the price of imported Indonesian coal to allow the tariff hike.

www.livemint.com/Opinion/by1PePALZHwQbCLMMA03cI/CERC-and-the-power-market.html

Food for Thought

Tata Power has been granted partial relief from CERC. The regulatory authority has allowed one of the major private power generating companies to temporarily raise tariffs for generating power at its Mundra plant. The decision comes following to its permission granted to Adani Power to revise tariff. The common cause for CERC in both cases has been the increase in the price of imported Indonesian coal.

The step taken by the regulatory authority is supposed to be effective in terms of improving financial position of these firms in short term which have been forced to keep their tariff rates low due to restrictive regulations.

It could be considered as a welcome step from the part of CERC as not allowing power companies to decide upon the tariffs to be charged from consumer based on demand and supply condition might lead to distortion of market. It would also discourage private firms from further investing in the sector.

D. Creating Entry Barriers

7. State Oil Cos all Set to Take on RIL, Essar, Shell

State firms have launched an all-out attack to guard their monopolistic grip on petrol pumps from an onslaught from Reliance Industries, Essar Oil and Shell, which had captured a sizeable chunk of the lucrative market before they were knocked out by subsidised sales from the public sector. With diesel prices being raised slowly towards international levels, private petrol pumps are expected to be viable again by 2014…………..

http://articles.economictimes.indiatimes.com/2013-04-02/news/38218211_1_petrol-pumps-diesel-prices-india-petrol

Food for Thought

Post developments related to de-control of diesel, state-owned OMCs have started to recollect efforts in order to safeguard their dominant position in oil marketing and distribution industry. The main reason behind this sudden change of stance has been the fact that with diesel prices getting de-regulated gradually, it would provide incentive for the private oil marketing companies, such as Reliance Industries, Essar Oil and Shell to regain their ground which they lost few years back due to oil being supplied at subsidised rates by the PSU companies.

It was during the period 2002-03, that private players had entered into the oil retail market. However, they were forced to shut down all their operations as they were not able to compete with PSU oil companies, as they were selling highly subsidised fuel. In 2010, de-control of petrol price was put in place and it was supposed to work in favour of the private companies but it did not happen. One of the key factors to be blamed is the sale of diesel which is proportionately high as compared to that of petrol, making oil retailers dependent on sale of diesel for maximising their profits. However, decision taken by the government to deregulate diesel prices seems to change the direction of tide in favour of private players. It would help creating level-playing field in oil industry because now both public and private OMCs have to sell diesel at same rate.

The practice being adopted by PSU oil companies albeit would not allow infusion of competition in the market. Indian Oil Corporation, Bharat Petroleum and Hindustan Petroleum have started to acquire prime location for new pumps and so far they have acquired more than 16,000 sites across India. Private players have shown their dissent over such a move from the part of public sector players as it is creating a barrier for them to enter and function in the market. They have urged the regulator for the sector to look into the matter and ensure level playing field for both public as well as private players.

Taking all these facts under consideration, it is highly recommended for the government to adopt appropriate measures in order to promote fair competition in the sector. Otherwise it would end up nullifying the effects of reforms initiated by the government itself.

8. Creating another entry barrier

Historically, political leadership in our country has always connected education with economic development as reflected in various national documents like the Radhakrishnan Commission Report on University Education (1948-49), the Report of the Education Commission (1964-66), the National Knowledge Commission Reports (2006-09) and the National Skill Development Initiative (2009). The main objective always being to meet the needs and aspirations of a self-reliant nation committed to democracy.

www.financialexpress.com/news/column-creating-another-entry-barrier/1116839

Food for Thought

Quality education is one of the main factors that determine sustainable growth of a nation in the long run. India is no exception and contribution of education in the overall socio-economic development has been revealed many a times through several reports of commissions set up by government. Hence, it is imperative for the government to create proper infrastructure, i.e. school, colleges, universities, vocational training centers etc. in the country that could help ensuring appropriate educational facility for all.

Taking these points under consideration, participation of private sector becomes very crucial as it is not possible for the government alone to cater the demand of providing quality education to the entire population. In this regard, it is necessary to mention that private sector has been quite active in education sector since independence and has developed numerous institutions that have helped in producing skilled man-power related to various fields. At present, private sector accounts for 64 percent of institutions in India and 59 percent of all enrollments. The data itself speaks volume of contribution of private sector in the field of education and in shaping the future of young population.

However, it could be termed as apathy on part of the government that efforts of private institutes have never been acknowledged in a proper manner. The existing regulations pertaining to education sector still remains largely against the interest of private players and hence, act as an entry barrier for them. Specifying few of the regulations that create entry barrier for private sector, we could refer to the fact that there still remains only one way for private entities to establish national level universities in India, i.e. through deemed to be universities route under Section 3 of the University Grants Commission (UGC) Act, 1956. Though few of the states have realised the importance of private sector participation in providing higher education and have come up with State Private Universities laws, but there still remains huge gaps affecting establishment of private universities.

Apart from this, Federation of Indian Chambers of Commerce and Industry (FICCI), in its analysis highlighted few of concern areas that require immediate attention on part of the government in order to create conducive regulatory environment for private players. It includes retrospective application of regulation that causes problems for deemed universities, regulation isolating the management of deemed universities from promoter society, regulation requiring deemed universities to get prior approval before introducing *a new programme or course and new regulation barring deemed to be universities from offering distance education.*

These limitations in the existing regulatory framework might prove to be fatal in the long run as the demand for higher education in India in coming years is set to grow fast. Hence the participation of private sector is inevitable in education sector. It is required for the government to act wise and try to remove these entry barriers in the form of regulatory bottlenecks, causing problems for private players in becoming more effective and efficient.

E. Other Issues

9. With Air Asia Set to Fly in, IndiGo Urges Govt for a Level-playing Field

…………………All the same, there should be a level playing field for Indian carriers to do well, said Ghosh. "If an Indian carrier wants to fly overseas, it has to wait for five years. Indian carriers must seek permissions every summer and winter for routes. These things do not apply to a foreign carrier."

The government permitted AirAsia, Malaysia's biggest budget carrier, to establish a passenger airline partnering the Tata Group in March 2013. It is due to start operations later in 2013. The operations of IndiGo and AirAsia are strikingly similar. Both are genuine low-cost operators, with a track record of keeping their planes almost continuously in the air and their point-to-point network.

http://articles.economictimes.indiatimes.com/2013-04-19/news/38674522_1_aditya-ghosh-budget-carrier-airasia

Food for Thought

As AirAsia, one of the giants in low budget carrier segment is all set to make its mark in the Indian skies, domestic airline companies falling in the same basket have started to feel the heat. Domestic players, such as IndiGo which could be considered as the market leader among low cost airlines, have urged the government to play fair in terms of providing level playing field to both domestic as well as foreign airline companies.

According to an official from IndiGo, decision of AirAsia to fly in India would definitely infuse more competition in the market and hence would motivate all the players to be competitive and ensure providing quality service to consumers. However, there are certain policies of government which often deprive domestic carriers of level playing field. For example, if a private airline company in India wants to extend its services to foreign countries, it is required to have experience of at least five years and in addition to it, airline should also get approval every summer and winter for routes it intends to operate on.

On the other hand, these terms and conditions apply neither for Air India nor for any foreign airlines having plans to operate in India. Thus, it is sensible for the government to have a uniform set of rules and regulations for all airlines whether it be private sector domestic, public sector domestic or any foreign airline. It would ensure creating a level playing field in the aviation sector.

Further, in recent times the Aviation Ministry has shown some proactiveness in initiating much needed policy reforms in the sector. In order to continue with the process, it is *imperative for the government to revisit above-mentioned policies pertaining to the aviation sector. It would help the private Indian carriers face increasing competition in the sector from public and international players in a more efficient manner.*

10. Stop Etihad's coming, Dinesh Trivedi urges PM

A Member of Parliament's Standing Committee on Transport, Tourism and Culture, Dinesh Trivedi has raised the issue within the panel. He said permitting Etihad would not only amount to "certain demise of national carrier Air India" but also stunt the growth of the New Delhi international airport as a world-class hub for the South Asian region.

www.business-standard.com/article/economy-policy/stop-etihad-s-coming-urges-dinesh-trivedi-113042100193_1.html

Food for Thought

Former Railways Minister and Rajya Sabha Member Dinesh Trivedi has strongly disagreed with the ongoing developments regarding Etihad Airlines getting green signal to increase the number of flights to and from India. According to him, if the steps are taken, then it will prove to be a fatal blow to the future of Air India as they have already complained to the Aviation Ministry that if Etihad is allowed to operate more flights, it would be forced to withdraw flights to Europe and US.

The point highlighted is completely out of proportion. If in future, people opt for Etihad to fly to Europe or US via Abu Dhabi, it would mean only one thing that Etihad is offering better services as compared to Air India. So efforts should be made to improve the quality of services being offered by Air India and enabling it to compete in open market rather than pleading protection from the government.

Another concern raised by him is that in the entire process, New Delhi International Airport would not be able to emerge as a hub for South-Asian region which would be a huge loss to the Indian aviation sector. According to him, it is very important for the Aviation Ministry to reconsider its strategy of allowing more flights to Etihad and accordingly modulate talk with its counterparts at Abu Dhabi.

Operators of Delhi and Mumbai airports, GMR and GVK groups have also opposed the plan and approached the government to reconsider its opinion on the whole matter.

The issues highlighted by Dinesh Trivedi regarding safeguarding national interest has some gravity, but completely debarring Etihad from operating in Indian market cannot be termed as viable solution, as suggested by him. One of the most expected outcomes of recent reform process adopted by the government to open up aviation sector has been to attract foreign companies to invest and operate in India. The entire process would further intensify competition in the aviation sector ultimately leading to benefit for consumers as market players have to ensure quality service to their customers, otherwise they might have to face losses in their market share.

Any decision from the part of the government to stop Etihad from operating in India would certainly discourage foreign airlines from investing in India further denting future prospects of the already bleeding Indian aviation sector.

11. Wrong target

The Telecom Regulatory Authority of India's (TRAI) decision to tweak roaming charges, and not abolish them altogether, has only added to the infighting in the sector. The government has been dangling the carrot of free roaming to subscribers for a while. But TRAI Chairman Rahul Khullar said that such a regime is not possible at the moment. What TRAI has done instead is that it has reduced the 2007 cap on roaming call tariffs and offered subscribers the option to pay a monthly amount and escape roaming charges altogether.

www.business-standard.com/article/opinion/wrong-target-113062001020_1.html

Food for Thought

Large telecom companies seem to have won their battle against the government's plan to completely remove roaming charges. In its latest decision, TRAI has made it clear that at present it is not possible to withdraw existing system and hence, decided to go for some alteration in duties paid by consumers on roaming.

However, if we look into the proposed changes in roaming charges, a bit closer, it becomes quite obvious that it has nothing new to offer to consumers who were expecting some real gains when it comes to paying their mobile bills. The plan related to incoming and outgoing calls has nothing in it except for miniscule reduction in charges on incoming calls. Further, the government has in offering a fixed amount on monthly basis for completely skipping the roaming charges which again is a replication of roaming plans offered by many telecom companies.

The stance taken by the government would ultimately benefit telecom giants operating in India who earn up to 10 percent of their total revenue through roaming charges. On the other hand, small companies making around 5 percent of their revenue through extra fee charged on roaming were in favour of complete removal of roaming charges. It would have allowed them to increase usage of their airtime further enhancing their average revenue per user. So free roaming in certain manner would have helped in creating level playing field in the telecom sector. Small companies have also tried to highlight the point that loss of revenue projected by large firms, i.e. Rs 13,000 crore, in case of rolling out free roaming regime is highly exaggerated.

However, all is not lost and government could still ponder upon the idea of issuing national licence to all telecom companies and hence addressing these contentious issues between large and small telecom companies. At present, some of the telecom companies have pan-India licence but smaller companies have their presence restricted to certain circles. By allowing national licence to all would provide equal opportunities to both small and big telecom firms to grow and do business. It would also lead to improved competition in the telecom sector and benefits to consumers. Countries, such as US, China among many others already have this system of single national licence in place and it has resulted in benefits to the players and consumers.