Competition Distortions in India – A Dossier

(CDI-15: January-March 2012)

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.

Herewith please find the CUTS Competition Distortions Dossier #15 which carries news on several government policies related to trade, public sector enterprises and few others that may be seen as a threat to competition.

Some good news to begin with: We have for long been advocating reforms in the grant of subsidies by governments due to its ill-effects on competition. The initiative on direct transfer of subsidies for fertilisers, food and petroleum would significantly contribute towards cutting down on subsidy doles and better targeting them so as to optimise their benefits.

India's fertiliser subsidy bill has proved to be one of the biggest causes of concern of late. Last year, 2011, saw several deliberations by the fertiliser ministry on this issue which has been covered in the previous dossiers. India imports almost all of its requirements of potash and phosphate which are plagued by high prices resulting from cartelisation in the global fertiliser market. Unfortunately, the huge subsidy bills do not translate into a proportionately high volume of fertiliser use. To read more on this, refer: http://economictimes.indiatimes.com/opinion/view-point/hit-fertiliser-cartels-with-alliances/articleshow/7803720.cms

During 2002-07, 88 percent of the reported increase in subsidies was due to the sharp rise in international fertiliser prices while only 12 percent was a result of enhanced consumption of fertilisers.

While at the international level, we need to address this problem by building alliances with countries that are similarly hit by such cartelisation such as China, at the domestic level, better management measures such as efficient allocation and optimum utilisation of fertiliser subsidies are very helpful. This is why the mobile based Fertiliser Management Systems (mFMS) that is set to be introduced in 2012 under the leadership of Nandan Nilekani, to track the movement of fertilisers and subsidies is a much needed and timely reform. It is estimated that such a move would benefit as many as 12 crore farmer families while curtailing expenditure on subsidies by curbing misuse of fertilisers.

Some bad news: Governmental actions can distort market competition by promoting monopolies in the market which was the case when the Mayawati administration in Uttar Pradesh gave wholesale and retailing rights of liquor to a sole entity, which was hitherto democratic and brought in higher revenues to the state exchequer. Such stories and many more have been covered in the current edition. For a full view, click on: www.cuts-ccier.org/Competition_Distortions_India.htm

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A. Good News

1. Soon, subsidies directly to farmers

The government will do a nationwide roll-out of mobile-based Fertiliser Management Systems (mFMS) in 2012 to track the movement of fertilisers and subsidies, from the manufacturer to retail level.

This follows the recommendations of the task force headed by Nandan Nilekani on IT strategy for direct transfer of subsidy.

"Direct transfer of subsidy to the retailer and eventually to the farmer will be implemented in subsequent phases. This step will benefit 12 crore farmer families, while reducing expenditure on subsidies by curtailing misuse of fertilisers," the Finance Minister, Pranab Mukherjee, said.

www.thehindubusinessline.com/industry-and-economy/article3003322.ece

Food for Thought

The government is seriously mulling over the provision of direct transfer of subsidies for food, fertiliser and petroleum products from 2012-13. It could be a path breaking move as it will help in control of leakages in the public delivery system through direct transfer of subsidies into beneficiaries account. A panel, headed by Nandan Nilekani, has given its recommendation on the subject, which advocates for direct transfer of cash into the bank account of the beneficiaries by linking payments to their unique ID.

In order to shrink expenditures on subsidies on fertiliser through curbing misuse of fertiliser, the government has designed an mFMS which will monitor the movement of fertiliser and subsidies, from the manufacturers to retailers and hence making it sure that subsidy is reaching to intended beneficiaries. According to sources, this programme will be executed in different phases and benefit around 12 crore farmer families.

Public Sector Oil Marketing Companies have also come up with LPG transparency portals to improve customer service and reduce leakages. Various pilot projects have been initiated in different parts of country to test the feasibility of selling of LPG, kerosene etc. at the market price and then transfer of subsidy directly into the beneficiaries account, a recent one being done in Alwar district of Rajasthan.

Such a step is very progressive and in line with the State Aid Action Plan introduced as part of the state aid reforms by the European Union (EU) towards "less and targeted aid". It is heartening to see such reforms being introduced in the governance of subsidies in India.

2. Airlines may get international flying rights in a month

Jet Airways (India) Ltd. and other local carriers may soon get the rights to add flights to overseas destinations, applications for which have been pending with the government for the past one year, allowing the money-losing airlines to serve the more lucrative routes, Civil Aviation Minister Ajit Singh said.

While Jet Airways may be able to expand its services in Europe and other medium-haul destinations, low-cost carriers SpiceJet Ltd and IndiGo, run by InterGlobe Aviation Pvt. Ltd, will be able to expand into West and South-East Asia.

www.livemint.com/2012/02/17002254/Airlines-may-get-international.html

Food for Thought

Finally private carriers might be able to add more flights to international routes. This is good move as it is offers much needed relief to the private players operating in the industry that have been faced with huge monetary losses in the recent past. According to the present Aviation Minister, Ajit Singh, the government is seriously mulling over the subject and if everything goes well, orders would be passed within a month.

It will boost the balance sheets of domestic like Jet Airways, Indigo, Kingfisher Airlines etc. Till now, Air India which is a public sector enterprise has dominated the international routes with Jet Airways and Kingfisher Airlines being the exceptional cases so much so that foreign carriers enjoy 65 percent share of international traffic in and out of India with Indian carriers having only 35 percent share.

Domestic airline companies have been demanding approvals to enhance their frequency on international routes in vain. But one major obstacle in their way was the priority being given to Air India which can be seen as a violation of the principle of competitive neutrality.

This move has shown its determination to infuse competitiveness in the aviation industry.

B. Trade Policy Related Distortions

1. Israel, Taiwan face antidumping duty

India may impose an antidumping duty of up to US$194.5 per tonne on a chemical, used in beverages and pharmaceutical industry, imported from Israel and Taiwan, to protect domestic players against damages from cheap rivals. The Directorate General of Antidumping and Allied Duties (DGAD) has recommended imposition of the duty on imports of 'phosphoric acid', the Commerce Ministry said in a notification…………………………..

www.financialexpress.com/news/quick-view-israel-taiwan-face-antidumping-duty/915161/

Food for Thought

Indian government has taken a decision to levy antidumping duty on the imports of 'phosphoric acid' to discourage import of chemicals from countries like Israel and Taiwan. Taking into consideration the fact that these chemicals which are generally being used by pharmaceutical and beverages industry are causing 'material injury' to domestic industry, DGAD has recommended the levy of antidumping duty on import of these chemicals which might range between US$116.45 and US$194.50 per tonne.

While antidumping duty, if based on appropriate findings, might help boost domestic companies, there is a caveat that needs to accompany such cases in general. The World Trade Organisation (WTO) agreements prescribe remedial measures such as duties of antidumping and safeguards, which are often seen to have a protectionist flavour and used to boost domestic industries even though they are necessary tools to deal with unfair competition and alleviate the suffering of domestic industries at the hands of foreign competitors. While in the short term, they may be useful to prevent foreign players from capturing the market, in the long run, some of these actions may hinder competition by creating barriers to entry and also promote inefficiencies.

Recently, there have been many debates about the increasing use of antidumping regulations as an anticompetitive tool. For starters, there is always a potential for misuse of such measures by powerful domestic players who may deliberately use this to block entry by foreign competitors for fear of losing their own market share. Therefore, such decisions by the government should be made after a cost-benefit analysis.

2. Dumping duty sought on car radials from China

Manufacturers seek antidumping duty on car radials from China. Overall, imports account for 40 percent of the replacement market.

"Since tyres from China are almost 15 percent cheaper than domestic brands, they almost dominate the replacement market here, and it's really worrisome," said Raghupati Singhania, Vice-Chairman and Managing Director of JK Tyre & Industries Ltd.

The company's Chennai facility went on stream. Singhania, who announced this at a press conference, said the company has managed to commission the unit well ahead of schedule.

www.thehindubusinessline.com/industry-and-economy/article2866207.ece

Food for Thought

Domestic tyre manufacturers have been taking a hit from Chinese imports that cover almost 40 percent of the market.

Apart from levying antidumping duties on such imports, the domestic tyre companies suggested that the government lower import duty on rubber which is 20 percent at present. Tyre is one of the industries infamous for the prevalence of an inverted duty structure where the import duty on raw material, i.e. rubber is higher than that on the finished good. This has been hurting tyre industries for long now.

Several such stories in the past regarding the inverted duty structure faced by the tyre industry has been covered in previous editions. It is only hoped that given the gravity of the problem and the suffering of the domestic companies due to the distorted level playing field favouring foreign players over the domestic ones, this matter is urgently attended to by the government.

C. Distortion of Competitive Neutrality

1. Competition panel to probe if AI bonds tilt playing field

Air India's proposed restructuring could get into trouble with the Competition Commission of India (CCI) saying it would examine specific aspects of the issue from the point of view of whether it vitiated level playing field concerns. Of Air India's ₹18,000 crore of debt, about ₹11,000 crore is sought to be converted into long-term bonds.

Air India's debt restructuring had hit a hurdle with banks not too keen as this would mean they would have to make greater provisioning in their books. One solution being worked on was for the loans to be converted into bonds that would be guaranteed by the government. The issue is now before the Reserve Bank of India which has to take a call on whether such a solution would be acceptable to it.

www.financialexpress.com/news/competition-panel-to-probe-if-ai-bonds-tilt-playing-field/909279/0

Food for Thought

The CCI has decided to investigate the issue related to government's decision on restructuring of the debt of Air India. Chairman of CCI has raised concern over the matter as *he doubts that this particular move from the government could go against the principle of level playing field for private sector.*

Air India has been facing severe financial crunch for the past few years because of governance failure. Earlier, the government had planned to convert major part of it into long term bonds. But the banks have shown their disinterest in doing so because it might end up adding to their non-performing assets. In order to resolve this problem, it was decided to convert loans of Air India into bonds which would be guaranteed by the government itself.

According to CCI, the steps being taken by the government can affect the spirit of competition in the aviation industry. In the past, also the government has adopted similar methods of loan restructuring in order to bail out public sector airlines. This cannot be justified from the part of government as private carriers do not get same kind of treatment for coming out of financial turmoil. The case of Kingfisher Airlines can be cited as one example where government never interfered between the airlines and banks for any kind of restructuring of loan and hence no financial assistance was received by the private player, still struggling for its survival in the industry.

In a recent interview www.financialexpress.com/news/no-levelplaying-field-exists-for-private-carriers/909125/0 Saroj Dutta, who has 50 years of working experience with both Indian and International passenger airlines, gave his view point on various issues related to Indian Aviation Industry. He tried to analyse the basic reasons behind the current imbroglio through which industry is going at present. In his opinion, the industry is facing very tough financial condition due to huge monetary losses they have incurred in recent past and also there is no sign of recovery in near future. Adding to this injury, policies of government are also highly inclined towards public sector airlines, which do not provide equal opportunity and level playing ground to private carriers.

Decision taken by the CCI to look into the matter is a welcome step as it might pressurise the government to look at state aid from the point of view of its impact on competition distortion as well and provide for a control of the same as is done in the EU where the Commission adopts an effects based economic approach to balance the positives of state aid with the negative implications for competition before approving a grant of state aid.

D. Other Government Policy Induced Distortions

1. Ponty Chadha-King of 'Baptist Bootlegger' Coalition

Ponty Chadha, raided by tax authorities and who is Uttar Pradesh Inc's most colourful and controversial member, is a study in how power, politics and profit work when mixed liberally with alcohol commerce…

It is a variation of the model which political scientists call the baptist-bootlegger coalition. The Uttar Pradesh government decided to abolish the system of multiple wholesale dealers to control the trafficking of spurious alcohol from neighbouring states. The solution was to have just one seller of alcohol. The company that was picked happened to be Chadha's.

http://articles.economictimes.indiatimes.com/2012-02-05/news/31025083_1_gurdeep-singh-chadha-ponty-chadha-alcohol

Food for Thought

Governments, whether at Centre or state, play the most decisive role in incorporating and maintaining competition in every economy. Competition is one of the most important tools which could be applied in order to ensure consumer's welfare through optimum allocation of scarce resources.

However, if the government itself indulges in competition distortion activities, it might lead to chaotic situations where interest of consumers as well as industry is sacrificed to favour a particular entity or person.

This has been witnessed in Uttar Pradesh in the year 2009 when the then Mayawati administration decided to award the entire wholesale department of liquour and retailing in few lucrative districts to one particular entity.

The fortunate person happened to be Gurdeep Singh Chadha, better known as Ponty Chadha. His entity was awarded the entire wholesale end of liquor in Uttar Pradesh through tender process, which was allegedly rigged in favour of Chadha.

Prior to this, Uttar Pradesh was known to have had a very healthy liquour auctioning system which provided a level playing field to different players participating in it. However, with this development, most of the market has been monopolised at the hands of a single player. And the fact that this was done with full governmental support needs to be vehemently condemned.

2. WB, MP reject Centre's new interpretation of open access

The Centre's new interpretation of open access in the Electricity Act, 2003 that distribution companies need not provide power at regulated tariffs to industrial consumers, has led to a chaotic situation with certain states such as Rajasthan asking such consumers to make their own arrangements. Open access is a reform provision in the Act under which consumers are empowered to choose the electricity supplier of their choice.

Some other states such as West Bengal and Madhya Pradesh, however, view the Centre's interpretation in a different manner. West Bengal has trashed it, having received an opinion to the contrary from its Attorney General. Madhya Pradesh, on the other hand, said this would deprive its electricity board of its 'paying' industrial consumers since they will be free to procure power from other utilities.

www.indianexpress.com/news/wb-mp-reject-centres-new-interpretation-of-open-access/927795/0

Food for thought

Centre and states might lock their horns once again on the issue now with the Centre's new interpretation of open access[1] in the Electricity Act, 2003, according to which electricity distribution companies are not bound to supply power at regulated tariffs to industrial consumers.

The State, like Rajasthan have jumped onto draw from this an exemption from the obligation of supplying electricity to industrial consumers having a load of 1 MB or above and has asked

[1] Open access is a reform provision in the Act under which consumers are empowered to choose the electricity supplier of their choice.

them to hunt for other options. Madhya Pradesh has raised concerns regarding the Centre's interpretation of open access saying that electricity boards now stand to lose their "paying" industrial consumers who may now shift to other utilities for procuring electricity. What this means is that industrial consumers who get power from the discoms at tariffs fixed by the regulatory commissions, will now have to buy more expensive power from the market. The move could further dent India's industrial competitiveness.

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