Competition Distortions in India – A Dossier

(CDI-19: January–March, 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: 19 for the first quarter: January-March 2013. As always, we have captured several interesting stories, a mix of good and bad. There are many instances of potential competition distortions caused by trade policy tools such as import duties, anti-dumping duties etc. We have always held the stand that while such policy tools are motivated ignoring important considerations that work to boost domestic industry, they may not be ideal from a competition policy point of view. Also, they are quick-fixes that do not serve a long term goal of encouraging competitiveness of domestic industries by artificially insulating/shielding them.

There are instances of violation of the competitive neutrality principle that can be seen in this edition as well. These are cases pertaining to the financial and aviation sector and apply both to the private as well as the public players. While in the aviation sector it is the private player that is seen to benefit, in the banking sector it is the public sector banks.

We also welcome two great initiatives taken by the government. After introducing Direct Benefit Transfer (DBT) scheme, next entry in the list is launch of LPG connection portability which has been rolled out in Chandigarh in January. The step could be considered as a revolutionary one as it would provide several choices to customers and improve competition among LPG dealers. And in yet another applaudable move, the government has decided to decontrol diesel prices. The move would definitely provide incentives to private companies to enter the market. Of late, private companies which entered the oil retail market in 2003 were forced to shut down most of their operation as they were not able to compete with public oil marketing companies which were selling petrol and diesel at subsidised rates set by the government. This would be a big step towards facilitating subsidy reforms in the country as well.

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A. Trade Policy

1. Dumping Duty to Help Indian Solar Power Gear Makers

Indian manufacturers of solar cells and modules would gain if the government imposes an anti-dumping duty, but it would also raise prices for project developers and eventually increase the price of power generated from these plants, industry officials and analysts said.

The Directorate General of Anti-dumping (DGAD) found *prima facie* evidence of dumping by suppliers in China, Malaysia and US in 2012. The Indian solar manufacturers' association, which comprises Indosolar, Jupitar solar and Websol energy systems, had an anti-dumping case with the DGAD.

http://articles.economictimes.indiatimes.com/2013-01-18/news/36415531_1_anti-dumping-case-anti-dumping-duty-solar-imports

Food for Thought

Recent developments regarding Indian solar cells and module industry seems to provide much needed relief to domestic players as the government is contemplating imposing anti-dumping duty on imports of these equipments, ad domestic manufacturers claim that it is hurting the overall growth of industry.

Domestic manufacturers are looking forward to the government to impose anti-dumping duties on imports as this would level the playing field in the industry. At present, the industry is not competitive with foreign players supplying their products at very low prices which domestic players cannot match.

However, if the government decides to impose anti-dumping duty on solar equipment imports, it has the potential to cause a rise in the cost of solar power which would in turn have an adverse impact on solar power projects. As much 80 percent of solar power projects rely on imported equipments and rise in prices is bound to disturb their input-output ratio.

Thus, it is advisable for the government to adopt a balanced approach before arriving at any decision. Providing benefits to one industry at the cost of another is not justifiable. As we know that the aim of competition law and policy is to protect competition and not a specific set of competitors. Also, one has to be wary of the increasing usage of anti-dumping as an anticompetitive tool in the recent past.

A good solution, therefore, could be that instead of resorting to such possibly protectionist measures, the government take steps to make domestic producers of solar cells and module more effective and efficient by promoting research and development in this field. It would empower the domestic industry to compete with their foreign counterparts in the long run which is far more advisable than artificially insulating them for a little while.

2. Pitch gets louder for review of import duty on natural rubber

Falling domestic prices of natural rubber, coupled with increased imports, have prompted Kerala growers and their supporters to demand a review of its import duty structure.

A delegation of Members of Parliament (MPs) from the ruling United Democratic Front in the State called on Prime Minister Manmohan Singh seeking a review of the duty structure.

www.thehindubusinessline.com/industry-and-economy/agri-biz/pitch-gets-louder-for-review-of-import-duty-on-natural-rubber/article4443600.ece

Food for Thought

Domestic rubber growers have approached the government to increase duty on the import of natural rubber in order to combat falling prices and ever increasing import of rubber. MPs from Kerala, one of the largest producers of natural rubber, have approached the Central government to fix import duty at a minimum of 20 percent as against 20 percent or Rs 20 per kg, whichever is lower.

In the recent past, prices of natural rubber have gone down drastically which is hurting the interest of domestic growers drastically. According to MPs, who have approached the government to look into the matter, fixing the import duty at 20 percent would help lowering import and hence would boost domestic suppliers.

The concern raised by domestic producers of rubber is valid to a certain point. But the government must not hasten to take any final decision regarding fixing of import duty on rubber. The same argument as made in the case of caution in the use of anti-dumping duty applies here as well. It is, therefore, advised that the government try to analyse other reasons/factors responsible for fall in production and prices of rubber grown in India. Also before arriving at any decision on import duty, the government should take into consideration the fact that it might affect the growth of tyre and other industries which uses natural rubber as raw material to produce the final good.

3. Centre rules out increase in import duty on sugar

The government has decided not to increase import duty on sugar although industry bodies and manufacturers had demanded a hike to curb shipments of the sweetener.

In a written reply to the Lok Sabha, the minister of state for finance SS Palanimanickam said representations received from industry associations and sugar companies were examined.

"... After taking into account relevant factors like international prices, domestic prices, import volume and domestic production, it was not found feasible to increase the customs duty on sugar," he said.
The minister was replying to a query whether the Centre has received demands to raise sugar import duty to 60 percent to stem shipments.

www.financialexpress.com/news/centre-rules-out-increase-in-import-duty-on-sugar/1078329

Food for Thought

This is a good example of the discussion in the previous story about using caution in adopting various trade policy tools. In the case of import duty on sugar, the government turned down its request of increasing the duty to the disappointment of the domestic industry. The sugar industry in India is going through a lean patch because of surplus of production over demand of sugar in India. It was expecting a breather from the government and had appealed to the government to raise the import duty which at *present is 10 percent. They believed that this move would have helped in curbing imports of sugar in India.*

The government, on the other hand, has taken a decision of not hiking import duty on sugar after analysing various aspects such as international prices, domestic prices, import volume, domestic production and consumption etc.

It could be considered as a wise decision as mere increase of import duty and such quick solutions as argued previously are not a good solution in the long run and would not help much if other factors hampering the growth of sugar industry are not addressed as well. Besides advocating for such measures would amount to advocating for distortion of a level playing field (between the domestic and foreign players in this case) and against the spirit of competition. Rather, the government should seriously think along the lines of early implementation of recommendations made by the Rangarajan Committee report regarding total decontrol of sugar. The report has been endorsed by various stakeholders such as mill owners, farmers etc.

B. Competitive Neutrality Principle

4. Documents indicate aviation ministry partial towards GMR

India's Civil Aviation Ministry continues to be partial to the GMR Infrastructure Ltd-led consortium that runs Delhi airport, even if this comes at the cost of government interests, according to documents reviewed by Mint.

The documents show that over the past two years, state-owned Airports Authority of India (AAI) has brought to the attention of the ministry, several moves by Delhi International Airport Pvt. Ltd (DIAL) that were not in keeping with the terms of agreement between the two, and which, therefore, affected the share of the state's revenue from the airport.

www.livemint.com/Home-Page/dRGyZSQqX9oNUYGjlJHJ4J/Documents-indicate-aviation-ministry-partial-towards-GMR.html

Food for Thought

The matter regarding irregularities in the management of Delhi International Airport has again popped up. The AAI on several occasions has tried to highlight the misdeeds of DIAL in managing the Airport which has affected the state's exchequer in an adverse manner. DIAL is a joint venture consortium of GMR Group (54 percent), AAI (26 percent), Fraport and Eraman Malaysia (10 percent each). GMR is the lead member of the consortium.

There is clear evidence that DIAL has flouted the terms and conditions of the Operation, Management and Development Agreement (OMDA), keeping rules and regulations at bay and has received undue favours. The Comptroller and Auditor General of India (CAG) have also acknowledged this fact in a report which has condemned the aviation ministry for favouring DIAL by ignoring the government interest. AAI officials have also accepted that DIAL has never been prompt in sharing the revenue according to the agreement and has often delayed payment to AAI. AAI on its part has taken up this matter with the aviation ministry which has not taken any effective step as yet to solve the issue.

Often we speak of the important principle of competitive neutrality which gets distorted in the numerous instances that show favourable treatment of public enterprises over private. This issue at hand could be seen as an example of reverse anticompetitive *neutrality case where a private company is benefitted at the cost of state. Such cases also highlight widespread corruption in the entire system and apathy from the part of government to remove such discrepancies.*

5. PSUs asked to park funds with banks

All ministries, departments and public enterprises have been asked to keep at least 60 percent of their surplus funds with public sector banks, Parliament was informed.

"In the light of Public Sector Banks' (PSBs) special role and importance in the banking industry and in advancing the economic policies of the government, in 2008, the government asked all the ministries/departments and Central Public Sector Enterprises to place at least to the extent of 60 percent of their surplus funds with PSBs," Minister of State for Finance Namo Narain Meena told Rajya Sabha.

www.livemint.com/Companies/ZFfldrs0gExNK53zViHIkO/PSUs-asked-to-park-60-of-surplus-funds-with-public-banks.html

Food for Thought

As explained in the previous item, the principle of competitive neutrality is a core principle upon which competition policy is premised. The issue of providing a level playing field to private players along with state owned enterprise has often been recommended by experts to achieve high economic growth. However, governments seem to be least interested in adopting such measures and continue to provide undue advantages to public sector units (PSUs),depriving private players of a level playing field.

The recent case related to this matter came into light when the minister of state for finance, Namo Narain Meena, informed Rajya Sabha that in the year 2008, the government directed all the ministries, departments and PSUs to park at least 60 percent of their surplus money with public sector banks. This could be termed as complete violation of efforts of establishing competitive neutrality in an economy (and as seen in previous stories, such instances and of the reverse are plenty). There are many other examples where banking policies have clearly favoured the PSU banks in the past and not much has been done to correct them despite flagging them. The continuance of such biases in policy-making can severely threaten the future growth of private sector banks in India.

C. Reform Initiatives

6. LPG connection portability launched in Chandigarh

The UPA government launched portability of LPG connections in Chandigarh. Online booking, tracking and delivery of gas, and booking of new connections through mobile and web portal have been introduced across the country.

Launching gas connection portability, Petroleum and Natural Gas Minister, Veerappa Moily, said the service would be extended to 25 more districts in the next fiscal.

www.thehindu.com/news/national/lpg-connection-portability-launched-in-chandigarh/article4298560.ece

Food for Thought

The Government of India is trying hard to introduce new age reforms in a full-fledged manner. After introducing Direct Benefit Transfer (DBT) scheme, next entry in the list is launch of LPG connection portability which has been rolled out in Chandigarh in January. The step could be considered as a revolutionary one as it would provide several choices to customers and improve competition among the LPG dealers.

Unlike mobile connection portability, consumers through this scheme would not be able to change their service provider. However, now they will have the right to choose a dealer within the same distribution company. According to Petroleum Minister Veerappa Moily, the scheme would be introduced in more places in coming few months. Along with it, various online services such as booking, tracking etc. of LPG have been initiated throughout the country.

The step taken by government is aimed at enhancing consumer welfare. The power of choice provided to the LPG customers will help in improving the quality of services provided by distributors of LPG as now there would be fear of losing the customers in case of poor service. Government should enforce such reforms in other sectors/areas also to achieve high rate of economic growth.

7. Diesel decontrol sparks fresh hopes for private oil marketers

At 65 million tonnes per annum, diesel accounts for nearly 40 percent of all petroleum products sold in the country. Not surprisingly, it is a huge opportunity for private oil marketing companies. Now that the government has decided to decontrol diesel prices for bulk users and allowed government-controlled oil marketing companies to raise retail prices in small monthly doses, private oil companies such as Reliance Industries, Essar Oil and Shell India have a real opportunity on their hands. Bulk sales could be an immediate business, but in retail with a 45 paisa a litre increase, the current under-recovery of Rs 9.25 a litre will take 21 months to wipe out, if future increases, too, are of the same order.

www.business-standard.com/article/companies/diesel-decontrol-sparks-fresh-hopes-for-pvt-oil-marketers-113012500061_1.html

Food for thought

At last the government is seriously considering promoting competition in the oil retail market and creating a level playing field for both state-owned oil marketing companies and private players operating in this field. In fact the current system makes a joke of the policy adopted many years ago when the government stopped the administered pricing mechanism.

In a recent decision, the government has decided to decontrol diesel prices. The move would definitely provide incentives to private companies to enter the market. Of late, private companies which entered the oil retail market in 2003 were forced to shut down most of their operation as they were not able to compete with public oil marketing companies which were selling petrol and diesel at subsidised rates set by the government.

This step would allow PSUs to sell diesel at decontrolled prices to bulk users, i.e. defence, railways, state transport undertakings, etc. which further would lead to private companies such as Reliance, Essar Oil etc. competing with them at market determined rates.

The government had made similar attempts to infuse competition in market by decontrolling petrol prices in 2010. Decontrol of diesel which accounts for 40 percent of total sale of oil products would create a favourable environment for private companies to do profitable business. Overall the entire process could be termed as a huge step towards subsidy reforms which is considered as a major prerequisite for improving the condition of Indian economy.

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