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CUTS Centre for Competition, Investment & Economic Regulation
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Airline cartel fines could be better used

Business Standard

Record fines of more than US$500m have been levied on British Airways and Korean Air Lines by the UK and US competition authorities for their part in a web of global conspiracies in airline travel. These fines will accrue to the British and American treasuries.

The victims of these cartels are from all over the world, rather than residents of the US and the UK alone. Since competition regimes in the developing world, are either weak or non-existent, the hope of recovering compensation for consumers by local action is rather dim.

If damages suits in the US are successful, compensation will be paid to its citizens only. It would appear unfair to compensate only one group of passengers. Hence, such damages should be used to promote education about competition in developing countries.

A suggestion to create a fund out of such fines to assist the developing world was proposed by the Czech Republic at the annual UNCTAD intergovernmental group of experts meeting on competition policy and law in Geneva in July 2007. But, the delegate from the US Department of Justice suggested that the Czechs should start such a scheme in their own country and then advocate it to others.

In US, fines in antitrust cases are put into a trust account to pursue education and research on competition law issues. The courts authorise distribution of unclaimed funds from the settlement of class action cases to charitable or educational entities under a legal doctrine called *cy pres*, a legal tag meaning "next best use". In June 2007, the George Washington University Law School received a *cy pres* award of US$5.1mn to endow a centre for competition law.

The law school at Loyola University in Chicago received an award to establish the Institute of Consumer Antitrust in 1994. The Vitamin Cases Consumer Settlement Fund (California) has already made 52 grants totalling more than US$29mn for a wide range of projects involving professional education and training.

With an estimated increase in price of between 20 and 40 percent, one can calculate a range of estimates for the overcharges paid by developing countries in 1997, if all 16 of these cartels were operating during that year. These overcharges are in the range of US$16-32bn, equivalent to between a third and two-thirds of the total annual multilateral and bilateral aid received by developing countries in the late 1990s.

Thus, the case for advocacy activities of competition authorities in the developing world *vis-à-vis* damages from legal action against cartels is strong. This can be done through the creation of an International Competition Trust Fund, to be managed by a credible inter-government organisation such as the World Bank. Such a fund should be accessible to any developing country's government and/or non-profit institution to promote competition culture through generation of awareness and capacity-building.

(Abridged from an article by Pradeep S Mehta in Financial Times, London, October 16, 2007).

Revival of Price-fixing in the Land of Free Enterprise

– John Kay

Resale price maintenance is the practice whereby a manufacturer and its distributors agree that the latter will sell the former's product at certain prices (resale price maintenance), at or above a price floor (minimum resale price maintenance) or at or below a price ceiling (maximum resale price maintenance). These rules prevent resellers from competing too fiercely on price and thus driving down profits.

The newly established conservative majority in the US Supreme Court decided last week to lift America's 100-year-old prohibition of resale price maintenance (RPM) – the practice by which manufacturers fix the selling prices of their goods. It has been a difficult month for competition policy on both sides of the Atlantic, with Nicolas Sarkozy, the French President, asking rhetorically what competition has ever done for Europe.

The basic American legal principle used to be that once a good is sold with the intent to restrict subsequent use through contract. Such a practice is anticompetitive. But the law has always acknowledged that producers may have legitimate reasons to influence resale conditions.

Some economists and lawyers have constructed inventive arguments why similar concerns might extend to price, so that consumers could benefit from the suppression of retail competition. US courts declined to entertain these claims.

The main issue in RPM has always been the balance of power between manufacturers and retailers. When the price of instant coffee became a cause célèbre in the 1950s, producers were not really anxious that people obtained wise advice when they asked for a jar of Nescafé. Nor was keeping retail prices high necessary to secure wide distribution. Food manufacturers wanted to limit the rise of Tesco and Sainsbury and when attempts at price-fixing failed that rise became inexorable.

A few years later, the end of RPM in electrical goods coincided with the growth of out-of-town discount retailers. Drug companies wanted to restrict retail competition because they would rather want to deal with small pharmacies than with big chains.

The outcome of the collapse of price-fixing by British publishers in the 1990s was broadly what some hoped and others feared. Chain retailers became more powerful and popular titles much cheaper. Many books though are now sold in supermarkets, and new channels, especially those pertaining to online purchase of books, have gained considerable market share.

The rise of Wal-Mart and the decline of small shops involve costs to communities as well as benefits to consumers. The issues are not one-sided. But the debate over the role of competition and competition policy is less about technical arguments than about the nature of society.

Sarkozy, his grasp of politics surer than his grasp of economics, understands this more clearly than the US Supreme Court. But both the anti-liberal Sarkozy and the business-friendly US justices realise that case-by-case analysis without a presumption of benefits of competition is a means of emasculating antitrust laws.

(FT, 03.07.07)

US Lifts Century-old Ban

Striking down a century-old rule, the US Supreme Court has said it is not automatically unlawful for manufacturers and distributors to agree on minimum retail prices.

The decision will give producers significantly more power to dictate retail prices and to restrict the flexibility of discounters.

Five justices said that the new rule could lead to more competition and better service. But four dissenting justices agreed with 37 states and some consumer groups that abandoning the old rule could result in significantly higher prices and less competition for consumer and other goods.

The Court struck down the 96-year-old rule that resale price maintenance agreements were an automatic, or *per se*, violation of the Sherman Antitrust Act. In its place, the court instructed judges considering such agreements for possible antitrust violations to apply a 'rule of reason', approach on a case-to-case basis to assess their impact on competition. The new rule is considerably more favourable to defendants.

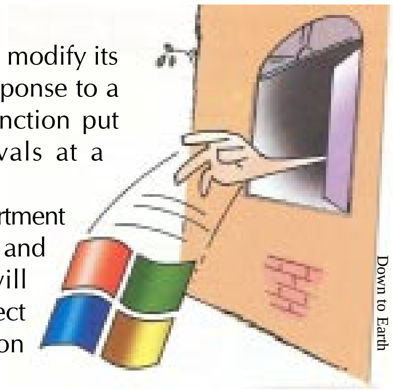
The Bush administration had agreed that the blanket prohibition against resale price maintenance agreements was archaic and counterproductive because some resale price agreements actually promote competition.

It was also the latest of a series of antitrust decisions in recent years rejecting *per se* rules that had prohibited various marketing agreements between companies.

(NYT, 29.06.07)

MICROSOFT

A New Vista



Microsoft Corporation has agreed to modify its Windows Vista operating system in response to a complaint that its computer search function put Google Inc. and other potential rivals at a disadvantage.

Under an agreement with the US Department of Justice and 17 state attorneys general and the District of Columbia, Microsoft will build into Vista an option to let users select a default desktop search programme on personal computers running Windows.

The function, known as 'Instant Search', allows Windows users to enter a search query and get a list of results from their hard drive that contain the search term.

As part of the deal, the company also had pledged to place links inside the Internet Explorer window and the "Start" navigation menu to make it easier for people to access that default desktop search service.

The changes will be introduced in a service pack, or updated version of Windows Vista software. Microsoft also promised to provide additional technical information to third-party developers, such as Google, in order to optimise the performance of their desktop search service on Vista. *(FE, 20.06.07)*

No Respite Yet

Microsoft suffered a stunning defeat when a European Union (EU) court backed a European Commission (EC) ruling that Microsoft illegally abused its market power to crush competitors. The EU's second highest court dismissed the company's appeal on all substantive points of the 2004 antitrust ruling.

The court said Microsoft, the world's largest software maker, was unjustified in tying new applications to its Windows operating system in such a way that affected consumer choice. The verdict, which may be appealed only on points of law and not of fact, could force Microsoft to change its business practice.

The court upheld a record €497mn (US$689.9mn) fine imposed on the company as part of the original decision. More importantly, it endorsed the Commission's sanctions against Microsoft on account of tying together of software and refusal to give rival makers of office servers information to enable their products to work smoothly with Windows. Windows is used in all 95 percent of computers worldwide. *(ET, 18.09.07)*

• PRICE FIXING

Temasek Accused

Indonesia's competition authority (KPPU) accused Temasek, the investment arm of the Singapore Government, of violating competition laws by using subsidiaries' shareholdings in the two largest mobile phone operators to fix prices.

Singapore Telecom, of which Temasek is the largest shareholder, owns 35 percent of Telkomsel, Indonesia's largest mobile phone operator. ST Telemedia, which is wholly owned by Temasek, owns 42 percent of Indosat, Indonesia's second largest mobile operator. Together, Telkomsel and Indosat control about 85 percent of Indonesia's mobile phone market. *(BS, 24.05.07)*

Price-fixing Probe

Australia's competition watchdog has launched legal action against Australia and New Zealand Banking Group Limited (ANZ) over an alleged price-fixing agreement between the bank and one of its mortgage brokers.

The Australian Competition and Consumer Commission (ACCC) alleges the bank breached the Trade Practices Act by seeking to limit the level of refund that broker Mortgage Refunds could provide in case of ANZ home loans, and that seeking an agreement on the limit was a condition of its dealings with the bank.

ANZ attacked the ACCC's move for being 'ill-conceived and misplaced in law'. *(FT, 22.08.07)*

Raid by Regulator

Japan's competition watchdog raided 29 offices of four leading steelmakers, in one of the biggest crackdowns on alleged collusion the industry has ever faced.

The Japan Fair Trade Commission raided the offices of Nippon Steel, the world's second-leading steelmaker, as well JFE Steel, Sumitomo Metal Industries and Kubota, as part of an investigation into the alleged formation of a cartel to fix prices for construction-use steel products.

The investigation is the second by the competition watchdog into the steel industry in four years. The four companies are suspected of having agreed the timing of price increases on steel parts sold to construction companies.

The total sales of the products involved in the investigation were Y100bn (US$839m) in 2004. If the companies involved were found guilty, they will be forced to pay an administrative fine of 10-15 percent of the sales of the product. *(FT, 01.08.07)*

• CARTELS

Criminal Charges

Greek dairies are facing criminal charges for price-fixing. It is the first criminal competition case to be brought against a company in Greece.

Public prosecutor Isidoros Dogiakos has announced that a preliminary investigation garnered enough evidence to bring charges against Greece's four largest dairy companies –Vivartia, FAGE, AGNO and MEVGAL.

According to the prosecutor's office, a number of milk producers accused the companies of threatening to stop buying milk from them unless they lowered their prices. The companies then failed to pass these savings on to consumers, using the lower prices to boost their profits.

(GCR, 18.07.07)

Bank Cartel in Denmark

As a result of the raids and subsequent investigation, the Danish Competition Council issued a ruling concluding that seven Danish banks had violated the Competition Act by participating in a cartel for a period of several years.

The ruling stated that the banks had violated Section 6 on anticompetitive behaviour by participating in a market-sharing agreement, both on a geographical basis and by segmenting customers.

The existence and seriousness of the agreement was confirmed by the fact that Max Bank was excluded from the cartel after violating the segmentation of the market by opening a branch in an area that belonged to another bank under the agreement.

In addition, the banks had violated the Act by coordinating their commercial behaviour through the exchange of detailed confidential information regarding the banks' pricing policies.

(ILO, 21.06.07)

BA Fined for Fixing Prices

A global web of criminal price-fixing conspiracies in the aviation industry was revealed by British and American investigators as they announced they were fining British Airways and Korean Airlines a total of more than US$800m.

The penalties imposed by the US Department of Justice (DoJ) and Britain's Office of Fair Trading (OFT) are the first to come out of a series of ongoing probes into leading airlines from several continents, including Virgin Atlantic and Lufthansa.

The fines have eaten up more than £250m (US$492m) of a £350m (US$688m) pot that British Airways set up to cover the legal fall-out from the cases. The company still faces probes by the European Commission, Australia, Canada, New Zealand and South Africa, as well as civil litigation.

The British Airways took the biggest hit in the announcement, as the US DoJ fined it US$300m and the OFT a record £121.5m (US$239.1m) over its role in two separate conspiracies to fix aircraft fuel surcharges. Korean Air was fined US$300m in the US over conspiracies to fix passenger and cargo fares over a period of more than six years.

Virgin Atlantic – which conspired with BA for more than a year in a cartel to fix the prices of a fuel surcharge on passenger fares – escaped financial sanction because it reported the wrong-doing to both the US and British authorities.

(FT, 02.08.07 & 04.08.07)

• ABUSE OF DOMINANCE

Investigation in France

EDF and Electrabel, a unit of French utility Suez – the main electricity companies in their home markets – are under investigation by EU competition regulators over suspicions that the energy groups may abuse their dominant market positions in France and Belgium, respectively.

The EC has not charged the companies with an offence, and the opening of the investigations does not imply they have broken EU competition rules. However, they could face painful financial sanctions should they be found guilty.

The EC opined that EDF and Electrabel may have introduced 'long-term exclusive purchase obligations' that could make it difficult for new, rival electricity suppliers to service new customers.

Such a delay in introducing competition on the market could lead to higher prices and lower quality of services for all electricity consumers in these countries. Both EDF and Suez were aware of the investigation and have agreed to co-operate.

(FT, 22.07.07)

Mittal Steel Guilty !

The Competition Tribunal found that Mittal Steel South Africa had contravened the Competition Act (89/1998) by charging excessive prices for its flat steel products to the detriment of consumers.

The Competition Tribunal described Mittal's pricing policy as being 'the most fundamental and egregious monopolistic conduct' and found this to be the essential 'ancillary conduct' whereby Mittal abused its structural advantage to maintain its pre-selected price level.

The Tribunal cautioned that excessive pricing allegations should be carefully scrutinised in dynamic industries characterised by investment and innovation. Accordingly, only where the price appears to have no explanation other than the pure exercise of monopoly power will be considered as unreasonable in relation to economic value.

The matter is currently on appeal at the Competition Appeal Court.

(ILO, 28.06.07)

Record Fine

Telefónica was told to pay a •152m (US$207mn) antitrust fine, after the European Commission (EC) found Spain's dominant telecoms group guilty of illegally freezing out rivals from the lucrative broadband market.

It is the largest fine Brussels has ever imposed on a telecoms company, outstripping earlier penalties imposed on Deutsche Telekom and France's Wanadoo for similar abuses by a factor of 10.

The EU's top antitrust regulator stated that the fine was intended as a warning to other groups, and reflected Brussels' determination to defend competition in newly liberalised markets such as energy and telecoms. Telefónica railed against the size of the fine, describing it as 'unjustified and disproportionate'.

The Commission found Telefónica operated a "margin squeeze" on its rivals for more than five years beginning in September 2001. The group weakened its competitors by setting the wholesale cost of accessing Telefónica's broadband network so close to the retail price that rivals were forced to make losses to stay in the market. *(FT, 05.07.07)*

● FINES & PENALTIES

Heavy Fines in Korea

The Korea Fair Trade Commission (KFTC) decided to impose corrective orders and a total surcharge of US$5.6bn won on Kumho Petrochemical Co. and Seetec Co. for colluding to raise the price of synthetic rubber sold to tire manufacturers over three years, i.e. between March 2000 and March 2003.

Since 2000, the two companies created a price cartel to secure stable income by preventing price decrease caused by excess supply, and earned themselves the maximum price increase out of negotiations with their customers – the tire manufacturers.

The sales representatives of Kumho Petrochemical Co. and Seetec Co. gathered each time they raised prices over the three-year period. They initially set the price increase target high and lowered it later if tire manufacturers objected to the announced price increase. There were a total of four price increases pursued in such a collusive manner.

These practices were unduly limiting competition in the synthetic rubber sales market in violation of Article 19 of the Monopoly Regulation and Fair Trade Act.

This case is significant in that the KFTC successfully detected and imposed remedies on a cartel for industrial intermediate raw material that persisted for over three years.

Penalty Against Coca-Cola

The Coca-Cola Export Company, the Mexican subsidiary of the Atlanta-based drinks manufacturer, would have to pay US$1m fine for adopting monopolistic practices.

The fine is the first successful prosecution among 70 similar cases brought in recent years against Coca-Cola and its bottlers in Mexico by the country's Federal Competition Commission (Cofeco).

The fine comes as the country's competition watchdog turned down a US$380m planned purchase of Jugos del Valle, which makes fruit juices, by the Coca-Cola Company and Coca-Cola Femsa, a joint venture between Femsa, the Mexican brewer, and the US drinks maker.

Financial Express

Coca-Cola Femsa, which is one of 14 bottlers involved in Cofeco's investigation into monopolistic practices, is now the world's second largest Coca-Cola bottler, and accounts for about 10 percent of the Atlanta-based company's global sales.

The complaints arose after shopkeepers confirmed that Coca-Cola bottlers had forbidden them to sell rival brands of soft drinks. *(FT, 29.05.07)*

● POTPOURRI

Consumer's Hit Google

Beuc, the European consumer rights group, has joined the growing criticism over Google's proposed US$3.1bn acquisition of DoubleClick in an official letter to Neelie Kroes, the European Competition Commissioner.

Jim Murray, director of Beuc, warned that the proposed deal, which would bring together the world's largest search engine with online advertising group DoubleClick, may have a negative impact on the selection of online content available to consumers and on privacy.

It has already been referred to the US Federal Trade Commission after rivals such as AT&T and Microsoft complained that the deal would give Google a dominant position in internet advertising.

Google is the most visited internet destination in 13 of 16 European nations and has defended its position in the past, saying that the DoubleClick acquisition poses 'no risk to competition and should be approved'. *(FT, 03.07.07)*

Telecoms Deal Blocked

South Africa's Competition Tribunal has rejected the proposed acquisition of IT outsourcing company Business Connexion by incumbent telecoms operator Telkom.

The Tribunal blocked the US$325mn deal on the recommendation of the Competition Commission. The Commission was concerned that Telkom would favour Business Connexion in the downstream market and raise costs for competitors, making it harder for new players to enter the telecoms arena.

John Oxenham of Webber Wentzel Bowens stated that the Tribunal's ruling is a 'victory for millions of consumers'.

Mondo Ntlha, competition partner at Cliffe Dekker, said that South Africa is in the process of liberalising the telecoms market. The new telecoms Act came into effect in 2006 and, at this stage, it would not have been advisable to approve the deal, given Telkom's position in the market. *(GCR, 02.07.07)*

Collusion Over Milk Prices

The UK's largest supermarket groups – Asda, Morrison, J Sainsbury and Tesco – and their suppliers colluded to raise milk prices, costing consumers an estimated £270m (US$531m).

The OFT said the parties had colluded in spite of an earlier warning that their actions may be anticompetitive. A final decision including the level of possible fines is not expected to be determined before 2008.

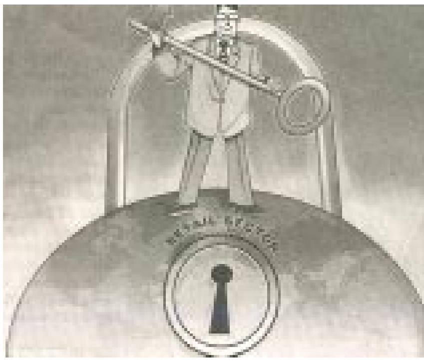
The price of milk, in particular, has long been the subject of controversy. There have been increasing calls for dairy farmers to be protected from what some see as aggressive behaviour by supermarkets and to ensure they receive a fair price for their milk.

The OFT said that, while this collusion had kept milk prices high for supermarkets and dairies, this had not been passed on to farmers.

Companies named by the OFT denied the allegations and said they would defend themselves vigorously.

(FT, 21.09.07)

NZ Regulator Blocks Takeover


Business Line

The planned consolidation of New Zealand's retail industry suffered a setback when the country's antitrust regulator blocked an attempted takeover of Warehouse by its largest competitors.

The regulator said that neither Woolworths, which is Australia's leading retailer, nor New Zealand's Foodstuffs should be allowed to buy leading non-food retailer Warehouse because that would 'substantially' reduce competition in the retail sector.

Warehouse has a market value of NZ$1.9bn (US$1.4bn), but analysts had predicted that a bid battle could push the price up to well above NZ$2bn (US$1.58bn).

The moves came after Stephen Tindall, Warehouse's founder, scrapped a plan to take his company private with the help of Pacific Equity Partners, the private equity firm.

Woolworths said that it would review its options, but whether it and Foodstuffs will appeal the pre-emptive block is likely to depend on the detailed reasons offered by the regulator. *(FT, 09.06.07)*

Railways vs. Airlines

Nine European high-speed train operators have formed an alliance to take on the three big airline alliances on international routes.

The Railteam Alliance will offer a common booking system, simplified ticketing and better-integrated frequent traveller benefits. The new alliance would offer travellers an alternative to the Star Alliance, One World Alliance and Sky Team.

The Alliance combines the high-speed services of France's SNCF, Germany's Deutsche Bahn, Belgium's SNCB, the Netherlands' NS, Austria's ÖBB and Switzerland's SBB. Three international rail joint ventures will also participate: the Anglo-French-Belgian Eurostar, the Franco-Belgian-Dutch-German Thalys and the Swiss-French TGV Lyria.

The Alliance will offer passengers the chance to buy a single ticket for a rail journey that would at present require tickets from different outlets. Timetables will be better co-ordinated and passengers who miss connections because of delays will be able to take the next train at their connecting station without changing tickets. *(FT, 03.07.07)*

Immunity to US banks

The US Supreme Court gave US investment banks broad immunity from some antitrust lawsuits when it blocked an attempt by investors to recoup losses suffered on investments made in internet and other technology stocks.

The court refused to let investors sue 16 investment banks and institutional investors, including Credit Suisse, Goldman Sachs and Merrill Lynch, for allegedly rigging initial public offerings of some technology stocks.

The plaintiffs in the case claimed that the banks had colluded to force up the price of new issues before the shares were dumped on unsuspecting investors who saw their value plummet.

The banks said they should not have to face antitrust lawsuits over Initial Public Offerings (IPOs) because the Securities and Exchange Commission authorised them to work together in syndicates to share risk. *(FT, 19.07.07)*

Google Sued Over Links

The Australian Consumer watchdog is taking global search engine Google to court over "misleading and deceptive conduct" in the way it tabulates search results.

The Australian Competition and Consumer Commission (ACCC) alleges that US-based Google Inc breached the Trade Practices Act by failing to adequately distinguish between sponsored links and those that would come up in the normal course of an internet search.

The watchdog also demanded that Google stop publishing search results that did not identify which were paid advertisings and which were 'organic' results. *(BL, 12.07.07)*

INTEL Accused of Unfair Practices in Korea


www.cartoonstock.com

Intel has been accused of anticompetitive behaviour by another regulator as the Korean Fair Trade Commission (KFTC) followed the EC with formal charges against the world's biggest chip-maker.

Intel said that it has received the equivalent of the Brussel's 'statement of objection' from the Korean Regulator. It sets out allegations arising out from a two-year investigation of its practices.

In July 2007, the European Commission alleged that Intel offered chips below cost, gave substantial rebates to PC makers to encourage them to buy its chips, as well as made payments to induce a manufacturer to delay or cancel a product like featuring those of Advanced Micro Devices (AMD).

Intel will have the opportunity to respond to allegations and, if the Korean regulator penalises it, to seek a judicial review. *(BS, 12.09.07)*

Risks Looming over M&As in Asia

Protectionist legislation and management culture are the most serious obstacles to continuing growth in M&As activity in the Asia Pacific region.

More than 80 percent of senior executives of major companies in the region cited "domestic legislation that stifles foreign ownership" and widely different management cultures across Asia as the issues most likely to derail their cross-border acquisition plans during the next 12 months.

Companies seeking to sign deals in fast-growing markets such as China and India can face bewildering and changing array of local regulations, which often prove insurmountable. Carley group, the US private equity fund, has spent more then 18 months trying to secure regulatory approval to buy a significant stake in Xugong, China's construction machinery maker, amid a nationalist backlash against foreign investment.

Further obstacles to M&A cited by executives were the lack of consistency in application of laws and the fact that target businesses are often unwilling to sell.

In spite of the concerns over obstacles, M&A activity has hit record level in the region as companies rush to engineer acquisitions and alliances to gain exposure to soaring growth rates in countries such as China and India. *(ET, 30.06.07 & BS, 28.06.07)*

M&As on Peak

Emerging markets are likely to overtake developed countries in terms of international acquisitions in the next two to three years, while India has emerged as the most acquisitive among the emerging nations.

According to global consultancy KPMG's Emerging Markets International Acquisitions Tracker, deal flow between emerging and developed economies is beginning to converge as Companies from the BRIC nations (Brazil, Russia, India and China) start to ramp up their mergers and acquisitions activity.

Earlier KPMG had warned that the frenzy of mergers and acquisitions activity is about to peak as the number of new deals slows.

KPMG's forecast is based on an analysis of its global mergers and acquisition (M&A) predictor – in an index that looks at 1,000 companies and their ratio of share price in earning.

(FE, 13.09.07 & FT, 16.07.07)

Financial Express

EU Commission to Compensate


www.images.com

A court ordered the European Commission to compensate France's Schneider Electric in a dispute over a blocked takeover, the first such ruling. The case stands as the first time the Commission has been ordered to pay such damages.

The European Union's number two court said that experts would set the level of compensation Brussels would have to pay for illegally barring Schneider's €6.7bn (US$9.2bn) bid for rival Legrand in 2001.

The Commission said it would have to pay just a fraction of the €1.66bn that Schneider's sought because that court struck down the main thrust of the company's case.

"Schneider must be partially compensated for the losses sustained as a result of the illegal prohibition of its merger with Legrand", the court of the First Instance (CFI) said.

The Commission can appeal against the decision to the European Court of Justice, the EU highest court. *(ET, 12.07.07 & GCR, 11.07.07)*

Snippets

Global M&As on the Rise

Global corporate merger activity in the first half of 2007 surged 53 percent to a record US$2.5tr as Europe equalled the US for the first time in four years. The Netherlands was the most targeted country in the European M&A in the first half with a total of US$258bn, but Britain claimed the most deals with 1,261, valued at US$173bn. European deal activity increased 73 percent in the first half from a year earlier to US$1.02tr, while the US gained 45 percent to US$1.03tr. *(ET, 25.06.07)*

Norms Tightened in US

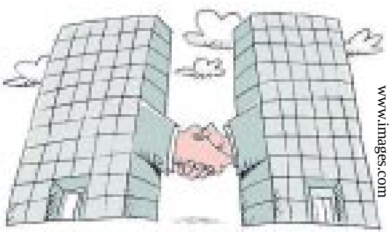
US takeovers by foreign state-owned companies will face heightened scrutiny by the inter-agency panel that investigates deals on national security grounds following the passage of a law that revamps the treasury-chaired vetting process. The Foreign Investment and National Security Act, signed into law by President George W Bush, requires the Committee on Foreign Investment in US (CFIUS) to conduct a full 90-day investigation of takeovers by government-owned companies. The new law also intensifies scrutiny of deals involving critical technologies and infrastructure. *(BS, 27.07.07)*

M&A hits speed-breaker in India

According to a study by international M&A deals tracking firm 'mergermarket', India has emerged as Asia-Pacific's second-biggest target after China in terms of official or unofficial intentions expressed for takeover deals from across the world in 2007. Mergermarket said that India has emerged as a key region for actual and potential M&A activities, but issues like restrictive foreign direct investment (FDI) policies were hindering the momentum. In India, the three biggest sectors for potential deals were industrials and chemicals space (118), telecom, media and technology (88) and financial services (76). *(FE, 27.08.07)*

Dow Jones in Tie Up

The board of Dow Jones has given its backing to a US$5bn offer from Rupert Murdoch's News Corp although directors representing the Bancroft family appeared divided over the proposal.



The board's decision clears a major hurdle for Murdoch in his quest to take over the publisher of the Wall Street Journal newspaper. However, Murdoch must still gain the support of members of the Bancroft family, which controls 64 percent of Dow Jones' voting power, in order to close a deal.

The Bancrofts have wavered since Murdoch first made his US$60-per-share offer three months ago, with some members saying they would not sell to the News Corp chief executive at any price.

Dow Jones said the board was "prepared to approve and recommend" the proposed deal to company stockholders "including the Bancroft family stockholders".

(BS, 18.07.07)

Asian Airlines

Hong Kong carrier Cathay Pacific will launch a US$4bn attempt to block Singapore Airlines' bid to gain a foothold in the booming Chinese aviation market.

Cathay would seek to buy a significant stake in China Eastern Airlines which would be worth US$4bn. It would use its alliance with Air China, China's largest airline which holds 11 percent of China Eastern, to block Singapore Airlines' plan.

Meanwhile, Singapore Airlines and Temasek Holdings had earlier said that they planned to buy a combined 24 percent stake in struggling China Eastern for US$923mn.

Analysts opined that the deal would offer Singapore Airlines, among the world's most profitable carriers, a foothold in the Chinese aviation market. The deal requires the support of two-thirds of minority shareholders.

(BL,22.09.07)

Unilever Colgate Merger

Shares of Anglo-Dutch fast moving consumer goods (FMCG) major Unilever climbed to their highest in more than eight years on speculation that the world's second-largest maker of food and detergent may combine with Colgate-Palmolive Co, the biggest maker of tooth paste.

Some analysts believe that the US$54bn Unilever would be the more likely acquirer. Unilever has a market value of US103bn, thrice that of New York-based Colgate. Unilever is looking at larger and newer markets like China and India.

In India, Colgate ia a 100 percent oral care Co; HUL generates 10-15 percent revenue from oral care. From the Indian perspective, if this consolidation happens, it will be a win-win situation for both the Companies with Colgate being the major beneficiary. *(FE, 11.07.07)*

Bid for Jaguar, Land Rover

The Tata Group is evaluating a bid to buy luxury British car brands Jaguar and Land Rover from struggling US car maker Ford.

According to sources, Tata Motors has appointed advisers to evaluate a bid and also signed a confidentiality agreement with ford to have access to the financials of the iconic marques. A successful bid for Jaguar and Land Rover, which are under performing ever since Ford acquired them seven years ago might cost over Rs 6,000 crore. This would mark a major step up in Tata Motors global ambition.

The latest move by the Tata Group comes six months after Tata Steel's big ticket acquisition of the Corus group. Tata Motors is planning to launch its new small car costing around Rs1 lakh in January 2008. *(BS, 18.07.07)*

StanChart to Acquire Amex Bank

Standard Chartered Plc had agreed to buy American Express Bank for around US$860mn in cash to boost its private banking and correspondent banking services. It would also give the British banking major additional branch licences in India.

Standard Chartered would buy the bank from American Express Co. for its net asset value at the time of completion, plus US$300mn.

In India, this will help StanChart gain seven valuable branches in Delhi, Mumbai, Chennai, Bangalore, Kolkata, Hyderabd and Pune, at a time when RBI has only been issuing licences for smaller cities. Once Reserve Bank of India (RBI) gives a green signal, StanChart will have 90 branches in India ahead of HSBC with 47.

According to the data released by RBI Standard Chartered is the largest foreign bank in India in terms of branches, with a total of 81 branches, against American Express Bank's seven branches as of September 2006, out of total 258 branches of 29 foreign banks.

(FE, 18.09.07)

Banks Agree to Merge in Dubai

Dubai's Emirates Bank International and the National Bank of Dubai (NBD) agreed to merge as the Government moves to create a regional champion with a combined market capitalisation of US$11bn that can compete on the international stage.

The new bank, Emirates NBD, will become the largest Gulf bank by assets, dominating the UAE with about a fifth of domestic assets, loans and deposits.

The Government of Dubai, which owns stakes in both banks, wants to create a Dubai operation to take on the largest lenders in the Gulf, as well as the international banks that have descended on the region to profit from the recycling of petrodollars flowing from a sustained oil boom.

The new bank, which will integrate operations over a period of 18-24 months, may also seek acquisitions. The deal announced in March 2007 has triggered smaller financial services consolidation.

The UAE is ripe for consolidation – it is an overbanked market of 50 local and foreign banks. *(FT, 13.07.07)*

Blackstone in Hilton buy-out

Blackstone bought Hilton Hotels Corporation for US$26bn, giving the private equity company the biggest hotel group in the world by number of properties.

The deal, at US$47.50 a share, represents a 31.7 percent premium on price of US$36.05 and a 40 percent premium on Hilton's price at the start of trading. It is the biggest deal in the hotel sector.

The acquisition gives Blackstone, whose 2,800 hotels include brands such as Hilton, Doubletree, Embassy Suites, Hampton Inn, Homewood Suites and The Waldorf-Astoria Collection, just under 500,000 hotel rooms.

Hotel deals have quickened even faster in 2007 compared with 2006's US$07bn-plus estimated by Jones Lang LaSalle Hotels. *(BS, 04.07.07)*

Tui-First Choice Merger Endorsed

The European Commission gave regulatory backing to the merger of Germany's Tui and First Choice, its UK rival, a deal that creates the biggest European tour operator and caps the recent consolidation wave in the travel industry.

The Brussels regulator waved through the tie-up between Thomas Cook and MyTravel, which, unlike the Tui-First Choice merger, was approved without conditions. To win the Commission's support for its deal, Tui promised to sell its Budget Travel brand of operations in Ireland, a market in which the merger had met some resistance from independent travel agents.

The unsusal proximity between the two mergers has led some observers wondering whether the commission might have been forced to block one of the deals, but in the end both were approved without much investigation.

Peter Long, First hoice chief executive, who will head the merger operation, said he was pleased with that the Commission has recognised the 'Sea change' in the travel industry.

(FT, 05.06.07)

Bid for Food Firm

French food group Danone offered •12.3bn (US$16.8bn) for Dutch rival Numico to forge what it said will be the world's largest health and nutrition company.

Danone's all-cash offer worth •55 (US$81) a share for Europe's largest maker of baby food highlights whirlwind consolidation in the sector.

Analysts opined that the baby food business of Numico would fit well with Danone's dairy business and its Bledina baby food, which sells in France and Belgium.

The French company said that it expected the acquisition to boost its earnings per share by between 30 and 40 percent in the first year of Numico's ownership and said the deal would generate net debt of •7bn (US$10bn).

The deal, backed unanimously by both boards, is expected to result in a definitive agreement. Danone is entitled to a break fee of •50mn (US$74mn) if Numico withdraws its recommendation for the deal or an unsolicited offer from another group is accepted. *(ET, 11.07.07)*

Cemex Clinches Takeover

Cemex, the Mexican cement manufacturer, has concluded the biggest takeover in the global building materials sector after more than half the shareholders of Rinker, the Australian building materials supplier, accepted Cemex's offer of US$14.2bn.

The deal, which will turn Cemex into one of the world's top three building materials suppliers in terms of sales, is also by far the largest foreign purchase by a Mexican company.

The shareholders accounting for 52.7 percent of its shares had agreed to tender, making the takeover offer unconditional.

Rinker, which sells building supplies such as concrete block, pipe, gravel and asphalt, has annual sales of about US$5.1bn. More than 80 percent of that comes from the US market. The company reported a record profit of US$740m in 2007, up from US$493m in the previous year.

Following integration, the combined company will have pro-forma revenues of US$23.2bn and a presence in 50 countries. *(BS, 13.06.07)*

Russian Roulette

Rexam's plans for expansion in Russia were thrown into doubt when the consumer packaging group said the country's Federal Antimonopoly Service (FAS) had rejected its move to acquire Rostar, the can maker

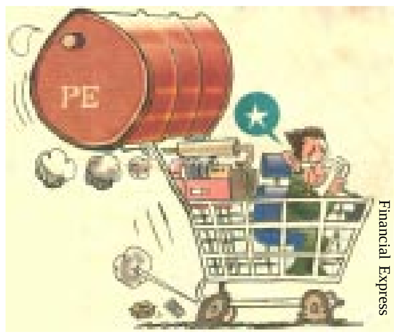
In July 2007, Rexam said it would pay Rusal, the Russian aluminium manufacturer, £149m(US$96.4m) for Rostar. Rexam, which is expanding one plant in Russia and building another, sees Russia as a prime market with beverage can use growing by 8-10 percent a year.

The company said it was looking at holding further talks with the FAS and might refile the application. Although the FAS has yet to make a public statement on the reasons for the refusal, it is likely that Russian sensitivities involve the interpretation and presentation of market share controlled by foreign companies.

(FT, 18.09.07)

HSBC to buy Korean Bank

HSBC has agreed to buy a 51 percent stake in Korea Exchange Bank (KEB) from US private equity firm Lone Star for about US$6.3bn boost its profile in Asia's third-largest banking market.



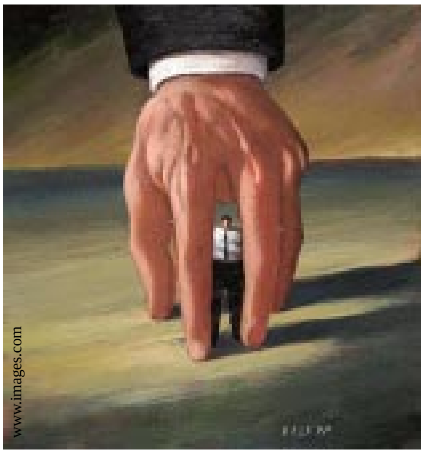
Financial Express

The deal if approved by the Government and the Regulatory Bodies will mark the exit of Lone Star from a controversial investment in South Korea and allow the private equity fund to more than quadruple its initial investment in KEB.

HSBC, Europe's biggest bank, said that it would not make an offer to the remaining KEB shareholders and that South Korea's Sixth-Biggest bank would retain a local listing.

The London based group said the deal would boost its earnings in the first full year of ownership. It said the purchase price would increase by US$133mn if the deal was completed after January 31, 2008. *(ET, 04.09.07)*

Italian Banks face a Governance Probe



Italy's competition authority has launched a wide-ranging investigation into corporate governance in Italy's banking and insurance sectors.

The probe will focus on whether intersecting cross-shareholdings among financial companies, as well as potential conflicts of roles held by individuals at institutions with competing interests, thwart market forces in many areas of sector activity, including financial intermediation and mergers and acquisitions (M&As).

The investigation comes as authorities and the business community are scrutinising how great an effect the fusion of Unicredit with Capitalia may have on institutions at the heart of Italian commerce.

The competitin authority has said its probe would not target any single institution or institutions, or lead to punitive inquiries, or create new corporate governance provisions. *(FT, 04.07.07)*

Amnesty in Action

Amnesty International in its annual report said that the UN must develop standards that hold big business accountable for its impact on human rights. There is evidence in many parts of the world that people are being tipped into poverty and trapped there by corrupt governments and greedy businesses.

Irene Khan, Amnesty's Secretary General said that weak, impoverished and often profoundly corrupt states have created a power vacuum into which corporations and the economic actors are moving. Africa had long been a victim of the greed of western governments and companies.

Barbara Lochbihler, head of Amnesty's German section, has strongly criticised the security measures put in place for the G-8 meeting in northern Germany, saying that it raised memories of the G-8 summit in Genoa in 2001. *(FT, 24.05.07)*

Spotlight on World Bank

"The World Bank should revamp its anti-corruption department to prevent abuse of US$20bn in loans each year", says a review by former Federal Reserve chairman Paul Volcker.

Volcker, along with five other members of a committee, set up by the Bank to review its Institutional Integrity Department (INT), said the department's "siege mentality" undermined its effectiveness. The INT is conducting a detailed implementation review of five health projects across the Bank's health portfolio in India.

The INT primarily investigates fraud and corruption in Bank-supported operations. It also investigates allegations of staff misconduct and administers the Bank's Voluntary Disclosure Programme, which encourages Companies to adopt healthy business practices.

The Bank's proposals have been posted on its website, along with the Volcker panel's report and recommendations for public comments. *(FE, 13.09.07)*

US Business on its Guard

The "long reach" of US regulation is making a significant number of businesses more cautious about doing business with the US. A survey of more then 500 top companies, done for the Eversheds Law firm, found about one in 10 had been subjected to US regulation or US regulatory intervention.

A third of those questioned thought this level of US regulations would encourage "forum shopping" – picking their jurisdiction carefully – as companies tried to avoid getting caught up in the US litigation system.

A fifth believed it would also reduce the volume of transatlantic trade, while two thirds thought over-regulation would lead to more complex trade agreements.

Concerns about the long arm of US regulations were matched with worries about which the new Extradition Act. This legislation reduces the amount of evidence that prosecutors must submit when seeking extradition.

Of those questioned, 12 percent were opposed to the new Act, and a fifth thought it should be only used in "exceptional circumstances".

More than one in five businesses thought this would have an impact on international business relations with the US, while one in eight said it had made them more cautious about getting involved in transatlantic business. *(BS, 24.07.07)*

'Suspect Payment' Investigations

ABB, the Swiss-Swedish company is collaborating with criminal authorities in several countries in Europe, Latin America and Asia over the possibility that its employees might have offered bribes to potential customers in return for giving orders. ABB said the 'suspect payments', which it refused to quantify – had been found as a result of internal investigations started about three years ago.

ABB identified Italy as being one country in which suspect payments had been made by company employees.

ABB has disclosed details of the cases to the US Department of Justice and the Securities and Exchange Commission.

The development comes after the bribery scandal that led to a management crisis in recent months at Siemens.

Siemens' chairman and chief executive both quit after findings that its employees could have paid out at least •426mn (US$625mn) in bribes. *(FT, 27.07.07)*

Tata Steel Heads East

The Vietnamese Government will make conditions favourable for Tata Steel to execute a 4.5 million tonne joint venture project in that country ‘smoothly and speedily’.

Tata Steel and Vietnam Steel Corporation (VSC), after negotiations for over a year, signed a memorandum of understanding in Hanoi, on May 29, 2007 for this plant. The steel complex is to come up in Vietnam’s Ha Tinh province, in phases over a 10-year period.

Tata Steel will also have a 30 percent stake in the Thach Khe Iron Ore Joint Stock Company, which will undertake mining operations in the Thach Khe iron ore mine.

Vietnamese Prime Minister Nguyen Tan Dung said that he admired the steel major for producing ‘high quality steel’ together with its strong commitment to ‘social responsibility’ towards the citizens of Jamshedpur (the town where the company operates from).

He wished the JV between Tata Steel and Vietnam Steel Corp ‘a great success’’ and promised to extend support and make favourable conditions for the same. *(FT, 04.07.07)*

Fate of Tata’s B’Desh Project

The Tata group proposes to set up plants in Bangladesh to produce steel, power and fertiliser using natural gas. The company has signed a memorandum of understanding in 2004 and is expected to invest around US$3bn in the venture.

However, even after a series of discussions between the Government and the Tata’s on gas price and other related issues, the proposal is yet to receive a Government nod (US$1.11 bn).

Also, the political instability in Bangladesh has contributed in this inordinate delay. The immediate past Government could not reach any decision in this regard and the present dispensation has also given contradicting signals on many occasions.

If the project gets the nod, it will give the company much relief as it has been waiting for the approval since 2004. *(FE, 20.06.07)*

Dubai bid Opposed

Dubai’s attempt to buy a controlling stake in New Zealand’s largest airport has sparked a political dispute after the ruling Labour Government voiced opposition to the deal.

Helen Clark, New Zealand’s prime minister, backed comments made by Phil Goff, trade minister, who had said the Government agreed with local opposition to the deal for Auckland International Airport (AIA).

Goff said that shares in the airport and the Ports of Auckland ought to remain in the public sector and their policy is not to sell public shareholdings in key infrastructure utilities”.

In July 2007, state-backed Dubai Aerospace Enterprise agreed to buy 51 percent of AIA for NZ$2.6bn (•1.4bn), in a deal placing an enterprise value on the entire company at NZ$5.6bn (US$2.06bn). *(FT, 07.08.07)*

Thai Law Retracts

Thailand’s army-appointed Government withdrew its draft Foreign Business Act after Parliament inserted a clause preventing foreign investors from having majority management control of everything from telecom firms to supermarkets.

The law, which already tightened restrictions on new foreign investment by defining ownership in terms of voting rights instead of shareholding, would trigger deliberations at the World Trade Organisation (WTO). *(FT, 09.08.07)*

Screening FDI in India

The National Security Council (NSC) under the Prime Minister’s Office (PMO), after months of formal interaction with various government departments, has concluded that a ‘catch-all’ umbrella legislation should be enacted to check security threats from certain categories of FDI.

The NSC has recommended that the law be modelled on the Exon-Florio Act of the US, which armed the US Government with powers to block acquisition of any American company by a foreign investor.

NSC wants the proposed law to function in a similar way and has suggested that it should be called the National Security Exception Act (NSEA).

The Act would be implemented within the context of an open investment policy, where the intent is not to discourage FDI but to provide a mechanism to review and restrict FDI that threatens national security.

The proposed legislation would have the powers to block the takeover of an Indian company by foreign investors if there is credible evidence that the investor concerned is likely to pose a threat to national security. *(ET, 23.07.07)*

FDI Flow Doubles in Pakistan

Foreign direct investment (FDI) into Pakistan has doubled to more than US$7bn. Zahid Hamid, privatisation and investment minister said that the growth in FDI, which includes portfolio investment, showed that foreign investors were unperturbed by political agitation since March 2007 when the opposition parties began protesting against the suspension of the country’s top judge.

Hamid said that despite what people may have called the political noise, foreigners are continuing to come to Pakistan.

The Ministry received €1.48bn (US$2bn) in 2006-07, compared with a target of US$1.25bn to US$1.5bn. Most FDI has been in sectors such as banking, telecommunications, oil and gas.

Economists said foreign investors appeared to be setting aside concerns that the political turmoil might slow the recovering economy. *(FT, 30.06.07)*

● FINANCIAL SECTOR

Unfair Competition in Taiwan

The Taiwan Fair Trade Commission (FTC), is preparing to look into the existence of unfair competition in the financial sector, according to Tang Chin-chuan, FTC chairman.

During a FTC-sponsored seminar on competition of financial services held on June 12, 2007, Tang noted that unfair competition initiated by large financial institutions, capitalising on their information advantages *vis-à-vis* consumers, runs counter to the financial industry's critical role in the economy, as it accounts for one eighth of the output value of the service industry, which in turn, boasts 70 percent share in the nation's gross domestic product (GDP).

Hsu Teh-nan, chairman of Bankers' Association and Taiwan Cooperative Bank, though, discounted the concern, quashing the allegation of the existence of unfair competition in the country's financial industry. *(CENS.com, 13.06.07)*

Korean Regulation Criticised

South Korea's top financial regulator said excessive antitrust regulation is preventing mergers in the financial services market.

Yoon Jeung-hyun, chairman of the Financial Supervisory Committee believe regulations in heavy doses pose a problem in creating big financial firms through mergers and acquisitions, and called for a serious examination of state policy in this regard.

The chairman followed his criticism of the antitrust rules with criticisms of the capital requirements that prohibit conglomerates from owning financial houses. *(GCR, 13.07.07)*

● POSTS

Protest at EU Deregulation Plan

Postal workers across the European Union (EU) downed their mailbags in protest at plans to open the region's postal market to unfettered competition from 2009.

The proposal, to be discussed by EU ministers in Luxembourg would abolish the last remaining monopolies in the •90bn (US$121bn, £61bn) mail market, and allow Deutsche Post, Royal Mail and other operators to compete in 27 national markets.

The work stoppages and demonstrations has affected Germany, France, Greece, Italy, Portugal and a raft of other member states. Though the protests were limited in scope and not designed to disrupt services, they served as a fresh reminder of the broad hostility against the liberalisation drive, which also faces stiff opposition in many EU capitals.

(FT, 07.06.07)

Post of Concern in China

Financial Express

China should improve transparency of a new law governing the country's US$6bn-a-year express delivery market, say executives at the UPS, the package delivery group.

An updated version of China's Postal Law, which was promulgated in 1986, is in its ninth version and has been a source of concern for foreign and domestic courier companies pitted against China Post, the incumbent.

US-based UPS, its international peers and upstart Chinese express companies are in the awkward position of having to 'compete with our regulator', Mike Eskew, UPS chairman and chief executive, said.

According to an earlier draft of the law, only China Post's express delivery arm would be allowed to deliver parcels weighing less than 150g – a restriction of particular concern to the incumbent's domestic competitors. UPS currently does not accept packages of less than 2kg for delivery in China.

UPS was the first of the "big four" international couriers to wholly own its China operations, as allowed under the terms of the country's accession agreement to the World Trade Organisation (WTO). *(FT, 06.08.07)*

● TELECOMMUNICATIONS

Telecoms Duopoly Challenged

Mexico's Federal Competition Commission (FCC) shows no sign of backing down in its campaign to increase competition in the telecommunications sector.

According to the Commission president Eduardo Perez Motta, *Telefonos de Mexico* and America Movil should expect a fresh investigation, given their significant market shares.

Telmex owns 91 percent of the country's fixed telephone lines, while American Movil controls 77 percent of the wireless subscribers.

According to Perez Motta, the Authority will launch an antitrust probe by the end of 2007. Mexico's Supreme Court has overturned every antitrust decision against *Telmex*, including a 1997 decision that declared the company dominant. One local competition specialist praised the authority's intentions, but warned that any new decisions will inevitably be challenged.

Telmex is the largest telecommunications company in Latin America, which last reported annual sales of over US$15bn. *(GCR, 10.07.07)*

Hutchison's 3 Challenges Regulator

Hutchison Whampoa's mobile operator, 3, is challenging plans by the UK telecom regulators to force it to charge substantially less for connecting phone calls to its network because of concerns that the changes threaten its path to profitability.

The mobile operator 3 lodged an appeal with the UK Competition Appeal Tribunal against the decision by Ofcom that would require 3 to cut its charges by 45 percent.

Kevin Russell, chief executive of 3 UK, accused Ofcom of making an "absurd" and anticompetitive decision that would result in it subsidising Britain's established big four mobile operators: O2 , Vodafone, Orange and T-Mobile.

He also called on Ofcom to help consumers by improving their ability to move mobile phone numbers when switching to a new operator. *(FT, 28.05.07)*

Swedish Regulator calls sell-off

TeliaSonera, the largest Nordic telecommunications group, should be forced to hive off its fixed-line network to allow greater competition in the broadband internet market, the Swedish telecoms regulator recommended.

The proposal of local loop unbundling, which now goes out for consultation before the government makes a final decision, could affect the cabinet's plan to sell the state's remaining 37 percent stake by 2010.

The regulator recommended that TeliaSonera set up an independent subsidiary with its own financial targets, which would ensure equal treatment for TeliaSonera's retail operations and alternative operators.

TeliaSonera reacted with disappointment to the regulator's advice, particularly the proposal to entrench the separation through new legislation. *(FT, 15.06.07)*

Fibre Optics Monopoly in Nepal

Internet Service Providers of Nepal have accused the Nepal Telecommunication (NT) of attempting to monopolise the distribution of internet lines and fibre optic connections.

NT had awarded the Nepal Telecom Authority (NTA), which acts as a regulatory body, a free hand in distributing internet lines and fibre optic connections. Internet Services Providers Association of Nepal (ISPAN) alleges that NTA was fleecing private ISPs.

ISPAN feels that there is 'no level-playing field' for the players representing the private sector, who have not been able to offer service at a reasonable rate.

Fibre optics has brought in revolution in internet distribution. A single hair-thin fibre is capable of transmitting trillions of bits per second. In addition to their huge transmission capacity, optical fibres offer a slew of advantages over electricity and copper wire.

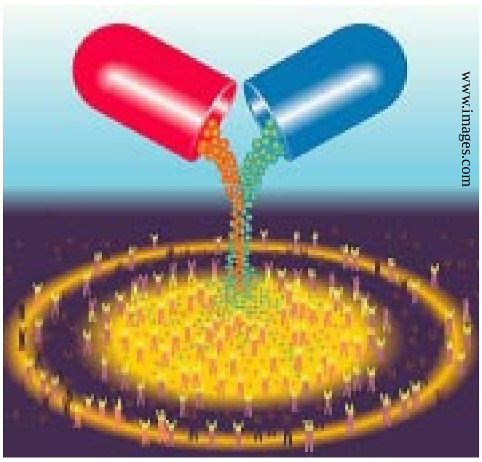
www.bbc.co.uk

Fibres allow longer distances to be spanned before the signal has to be regenerated by expensive "repeaters". Fibre installation is streamlined due to its dramatically lower weight and smaller size compared to copper cables. *(The Himalaya, Kathmandu, 29.08.07)*

Thailand under Pressure

Thailand has been warned by the European Commission (EC) against moves to force drugmakers to drop prices for poor patients or lose sales, adding to US pressure over patent protection.

Peter Mandelson, the trade commissioner, has asked Bangkok to protest against its consideration of a broad use of compulsory licences, allowing it to import cheaper generic versions of branded medicines produced by western companies.



www.images.com

Thailand was the first middle-income country to break the patent on a medicine to treat a non-infectious disease and to threaten compulsory licences for an array of other such drugs.

Mandelson said that it would infringe WTO regulations, which allow countries to waive intellectual property rules to fight emergency health epidemics once all other avenues have been explored. He encouraged Bangkok to negotiate with Sanofi-Aventis, the Franco-German maker of Plavix, a drug for heart disease that has been supplanted by cheap Indian imports. *(FT, 10.08.07)*

EU Phone Companies Freed

The EU competition authorities closed long-running investigations into three phone companies that allegedly charged excessive international call fees.

It comes amid heightened tensions between the EC and mobile phone companies, many of which are enraged by a new EU law that forces them to cap lucrative international call tariffs.

The EC had in 2004 and 2005 issued formal charges against Vodafone UK and Germany, O_2 UK and T-Mobile Germany, accusing them of abusing their dominant market position by demanding 'unfair and excessive' roaming fees.

In particular, the regulator was concerned about the level of wholesale rates that they charged in the UK and Germany. However, the regulator said that the new law addressed the same issues as those raised in the competition proceedings and that it would close the cases as a result. *(FT, 19.07.07)*

How to Make Europe More Competitive and Innovative?

– Andrea Canino

Things should be brought to a rapid conclusion, or competitors will profit from Europe's inability to introduce reforms

The European Union's (EU's) 50-year old commitment to "undistorted competition" has been scrapped from a list of the bloc's objectives in a French coup that lawyers agree could undermine Brussels' fight against protectionism and illegal state aid. Council of government heads, at its recent summit, decided to withdraw the reference to anti-trust policy from the draft constitutional treaty, a clear indication of the unease over this vital aspect of EU policy. It is not surprising that this issue was also at the heart of discussions during the meeting of the Council of Economic Co-operation convened by France's President Nicolas Sarkozy.

The new text would update the EU's rules and create a new EU president and foreign minister. With regard to key principles, the new European framework must obviously continue to ensure that consumers are scrupulously protected and that competitive markets are maintained. There is absolute consensus on these points. But more must also be done to ensure that greater emphasis is placed on business competitiveness. It is clear, in fact, that if European economic effectiveness is to improve, any damaging regulatory or administrative impediment has to be removed.

Mario Monti, the former EU Competition Commissioner who clashed with Sarkozy over the French bail-out of the engineering giant Alstom, said the change would undermine the Commission's role as an anti-trust watchdog, including taking on multinational giants, including ones based in the US.

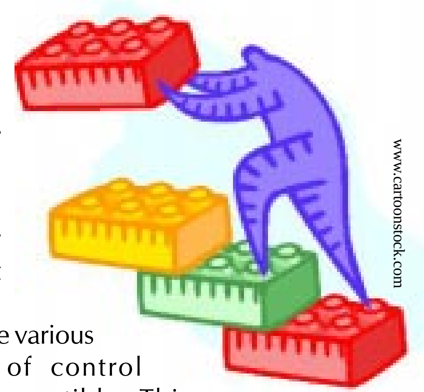
The updating of competition policy must be guided by three further criteria. First, a keen sense of balance. One must not wreck the building we want to restore: EU competition policy is respected, feared even, by international partners. It is an asset that needs protecting. Next, one must not be seen to be weak, since the changes that are necessary will come up against powerful lobbies. Finally, one must determine to bring things to a rapid conclusion, because the competitors will be the ones to profit from Europe's inability to introduce reforms.

On the competition issue, some would believe witnessing a battle of wills between free traders and protectionists. From Sarkozy to Kroes, all have the same objective: to protect consumers and promote world trade, while at the same time facilitating the expansion of the greatest possible number of European companies capable of becoming world leaders. There are different opinions on how this can be achieved. The French president has echoed some concerns. Let the things be sort out. The future of European jobs is at stake.

Four Steps to Enhance Competition

First, shorten the time taken to examine merger dossiers. It goes without saying that the time currently taken - from six months to a year - has a damaging effect on companies, be it their finances, key personnel or interest in the venture.

Second, to avoid causing irreversible and unnecessary harm to companies, decisions by the EU competition authorities should not be implemented until every last avenue of legal action has been explored. This whole process will have to be speeded up (as Germany is doing with its Cartel Office fines). Cases such as the BMG-Sony and Schneider-Legrand mergers, in which European Commission decisions were subsequently overturned by the European Court of Justice, have done too much harm to the system for reforms to be put off any longer.



Third, make the various current levels of control tolerable and compatible. This means ironing out the powers of local and national authorities. It is appalling, for example, that retail companies in Spain are subject to 22 separate definitions of floor space and 700 rules governing competition - a sure recipe for confusion; or that a carmaker has to produce a different version of the same model for each region in Italy.

Fourth, adopt a "foreign policy" on competition that is worthy of its name. We should impose on our foreign partners a strict policy of reciprocity when opening up our respective markets. Some countries, such as Japan, have too many protectionist regulations; others, such as the US, permit practices we have banned; others still, such as Chinese companies, employ anti-competitive practices. We can no longer open up to competition without fully taking into account uncompetitive behaviour on the part of foreign administrations and businesses. Our task is to get European rules on competition adopted at international level.

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* *Chairman of the Council of Economic Co-operation, a European organisation under the patronage of the French, Italian, Portuguese and Spanish governments and of MC Partners.*
Abridged from an article that appeared in the Financial Times, on July 03, 2007.

'Competitiveness' Rears its Ugly Head

– Samuel Brittan

There are limits to how far this conventional wisdom of US and European industry continually moving upmarket, developing new products and processes can go.

There are many specialist terms that have descended into common speech and are used pretty indiscriminately. "Competitiveness" originally had a clear meaning but has now been taken up by politicians and business leaders as an all-purpose slogan. It is a relative concept. All cannot be competitive against each other. Emil van Lennep, a former secretary-general of the OECD, asked: "Against whom should the world be competitive? Against the moon?" If one needed a quick critical reaction to John Redwood's economic report to the Conservative shadow cabinet, it could have been provided by its title, "Freeing Britain to Compete" and its frequently asserted stress on competitiveness.

Unfortunately this debatable concept is now too generally accepted in the political world for such repudiation to be feasible. Originally some economists and officials mentally substituted the word "performance", but now themselves talk of competitiveness.

What is misleading is the transfer to whole economies of concepts relevant to individual businesses or regions. Pepsi has to be competitive with Coca-Cola. Liverpool can try to be more competitive than Manchester in a bid to be the commercial centre of the English north-west. German business has become more competitive than Italian business in terms of reducing its costs so that it can secure more orders.

The competitiveness analysis applies where there is a single currency. The exchange rate is a safety valve which allows a country employing it to make up its own mind on its inflation goals and level of business support without worrying about the balance of payments.

The vogue for competitiveness arose in a fixed exchange world. Then if UK products were too expensive, or in other ways unattractive, jobs would be cut and foreign exchange reserves might be lost by the British Government, which would then have to embark on one of its notorious stop-go episodes. Edward Heath's decision in 1972 to float sterling, however reluctantly he made it, should have changed all that. Yet even the British Treasury found it difficult to adapt.

Plus ça change . . . John Redwood, in the foreword to his report, emphatically repudiates any attempt by the UK to adopt the • or to follow any kind of exchange rate target. He can see how the balance of payments can take care of itself among the different western currency blocks. But he comes back to competitiveness when dealing with the supposed threat from China and other developing countries.

There is a slightly more sophisticated consideration which is sometimes advanced. Now-a-days, direct trade and payments across the exchanges are dwarfed by vastly greater capital flows. So one cannot rely on the exchange rate moving to offset the cost of extra imports. As a matter of fact the disproportion is frequently exaggerated. For a large part of the movements across the exchanges are extremely short-term ones reversed within days or even hours and therefore not on all fours with trade or long-term capital movements. But one do not need to rely on this aspect. Suppose that sterling does not dip in the way required to balance trade flows, possibly because of positive confidence effects or because China and members of the Organisation of the Petroleum Exporting Countries are accumulating reserves. So much the better. For then one come near to enjoying the proverbial free lunch: increased absorption of foreign goods and services without having to sacrifice more British products to pay for them. Of course this bonus may not last, but at least time will have been gained for British producers to adjust.

The world is not yet one single economy, but it is moving in that direction. The integration of nations such as China and India into it is the equivalent of multiplying several-fold the amount of unskilled labour relative to the supply of skilled labour and capital. The conventional response is to say that US and European industry needs to move continually upmarket, developing new products and processes, to maintain its position.

Moreover, is it really desirable that everyone all the time should be engaged in non-stop reskilling (misleadingly called "lifelong education"). "What is this life if, full of care, we have no time to stand and stare"? The western response should surely be to keep its own frontiers open to gain the benefits of trade but redistribute income to those who would otherwise lose out. Author's longtime slogan, coined before the word "globalisation" was invented, has been: "Redistribution yes, equality no".

* *Columnist, Financial Times.*
Abridged from nn article appeared in the Financial Times, on September 02, 2007.

Searching New Laws to Promote Competition

– Pradeep S Mehta

After setting in motion the process of adopting a new and modern Competition Act in 1999, a new law was adopted in 2002. In 2007, Parliament passed a revised version of the Act which has taken eight years to do so. Despite the delay, the economy continued to grow at 8-9 percent. An effective competition law, along with other market regulatory laws, ensures that markets are orderly and economic democracy prevails.

Recently, Microsoft lost a judicial appeal against the European Commission's charge of abuse of dominance in bundling its operating software with other add-ons, such as media player.

Earlier, the US and UK competition authorities slapped British Airways with record fines of over half a billion dollars for running a trans-Atlantic cartel on passenger and goods fares in partnership with its arch rival Virgin. What do these two incidents have to do with India? Quite a lot!

Firstly, whatever happens in Europe or in the US has a spillover effect on markets and consumers all over the world, including India, where these two businesses operate. In India too, they indulge in the same type of anti-competitive practice.

The Monopolies & Restrictive Trade Practices Commission (MRTPC) has tried to deal with Microsoft's exclusionary behaviour in India, and against several cartels, but did not succeed as the MRTP Act is quite weak.

Therefore, after setting in motion the process of adopting a new and modern Competition Act in 1999, India adopted a law in 2002. In 2007, Parliament passed a revised version of the Act. It has taken eight years to do so. Despite the delay, the economy continued to grow at 8-9 percent.

Cartels and abuse of dominance in the goods and services sectors will be the two major areas for the new competition authority to engage in, with determination and skills.

The 2002 Act was put on hold by the Supreme Court, because the person being appointed as chairman of the Competition Commission was not a judge.

The apex court reminded the government that it must respect the doctrine of separation of powers between the judiciary and the executive. So, the government agreed to a trade-off with the court, by amending the Act to create two bodies: a regulatory commission headed by an expert, and an appellate tribunal headed by a judge.

It is not sufficient to have the law, which is only as good as the people who implement it. In order to have an effective competition regime, there is a need to appoint capable persons as chairmen and members of the two new authorities.

A new selection committee has been spelt out under the law to hunt for such persons. It will comprise a Supreme Court judge as its head and the secretaries in the ministries of corporate affairs and law & justice, thus reducing the manoeuvring capability of retirees to smuggle themselves in.

The new competition authorities will need to hire a large number of investigative and prosecutorial staff and that will require a large budget. Assuming a gradual implementation of the new law, the annual outlay of the new authority should be at least 0.010 percent of the total plan expenditure of the government or Rs 20.51 crore in 2007-08.

Of course, there will be some tension between the competition authority and sector regulators, and even forum shopping, due to the overlapping nature of their jurisdiction in competition matters in the regulated sectors.

To remedy this, the competition agency can advocate on specific cases before the sector regulators and also build up a consensus on some type of *ex ante* resolution of conflicts. There are other ways to avoid friction, such as forming a co-ordinating body that can decide on the authority best suited to handle a particular case.

There will be problems in implementation, due to legal infirmities and attitudes, *vis-à-vis* independence, appointments and removal of commission members. Such problems will have to be documented and brought to the attention of the people and policymakers, so that the Competition Act, 2007 is amended to enable the independence of the commission.

The competition agency will need to be proactive in its advocacy role, by generating awareness among all stakeholders, imparting training to build capacity in its staff and other actors, providing political education to policy makers, and building alliances with stakeholders in India and outside.

These activities will have to be carried out scientifically, and some of it is already being performed quite well. These activities can be spread out extensively through alliances with educational and research institutions, media, civil society groups and business chambers. Another important advocacy function covers policy advice to government, whenever asked.

Finally, the most important role of the new competition agency will be enforcement. It will need to deal with myriad anti-competitive practices, such as the formation of cartels and abuse of dominance pointed out in the beginning.

* *Secretary General, CUTS International. Abridged from an article that appeared in The Economic Times, on October 20, 2007*

Competition Advocacy as Active Addressal

– Vinod Dhall*

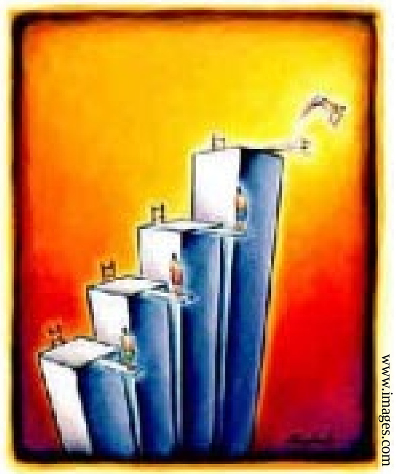
The harm caused by anticompetitive practices of enterprises is so severe, both for the consumer and the economy, that competition law vests the competition authority with enforcement powers to investigate and penalise such practices. Through deterrent use of enforcement powers, the authority hopes to maintain and promote healthy market competition. However, enforcement alone is not enough. Thus, the authority is usually given a more proactive mandate of competition advocacy.

The aim is to strengthen competition awareness amongst market players, thereby encouraging self-compliance and reducing the need for direct action against erring enterprises. Advocacy is often referred to as compliance without enforcement.

The other part of competition advocacy relates to government and regulatory policies. The effect of these policies on market structure and business behaviour can be even more pervasive than the activities of individual enterprises. Government policies that affect competition include sector regulation, trade policy, industrial policy, disinvestment and privatisation, labour policies, procurement and so on. A suitable framework of policies is, therefore, a prerequisite for effective competition in the economy.

Competition advocacy and enforcement are thus mutually complementary. In many countries, the advocacy function is backed by suitable provisions in the competition law. This gives an added edge to advocacy efforts. In their chapter on 'Competition Advocacy and Interface with Governmnt' in Competition Law Today, Philip Lowe and Geraldine Emberger have neatly summarised the advocacy role and activities of competition authorities in several countries.

In Denmark, the competition authority regularly screens markets to identify dysfunctional ones. It publishes detailed recommendations on how regulation could be better designed to enhance competition. In the UK, all government offices are obliged to assess the impact of proposed laws on competition. Along with the Office for Fair Trading, the Cabinet Office provides regulators and ministries with advice on how to avoid restrictions of competition. The process of regulatory impact analysis (RIA) includes a 'competition filter'.



www.images.com

Competition advocacy, in one part, aims to strengthen competition awareness amongst market players, thereby encouraging self-compliance and reducing the need for direct action against erring enterprises

In the US, the Federal Trade Commission (FTC), intervenes in several regulated sectors such as aviation, railway, telecom, electricity and financial services.

In Australia, under its National Competition Policy introduced in 1995, it is mandatory for government departments and other authorities to prepare a regulatory impact statement for existing and proposed regulations, which *inter alia* seeks to move towards 'best practice' regulatory design.

In Turkey, under the competition law, the competition authority is empowered to offer opinions on competition-related aspects of law and regulation.

The Organisation for Economic Cooperation and Development (OECD) and International Competition Network (ICN) have both done considerable work on advocacy undertaken by competition authorities. The OECD's 'guiding principles on regulatory policy and performance' recommend that new and existing regulation be reviewed with reference to competition, and RIA be used. United Nations Conference on Trade and Development (UNCTAD's) 'model law on competition' also recommends that proposed economic legislation and regulation be subject to *ex-ante* screening by the competition authority.

In India, section 49 of the Competition Act, 2002 gives an advocacy role to the Competition Commission (CC). Under this section, in its present form, the government may make a reference to the Commission for its opinion on the possible effect on competition of a policy or law, and the Commission is required to give its opinion. It also states that the Commission shall take suitable measures, for the promotion of competition advocacy, creating awareness and imparting training on related issues.

While the Commission has not received any reference so far from a ministry under section 49, it has on its own offered its opinion on certain cases to the concerned authorities in the hope that this will help in designing more market-oriented policies that, if these happen to restrict competition, will do so only to the extent necessary for meeting the policy objectives.

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* *Member and Acting Chairman, Competition Commission of India.*
Abridged from an article that appeared in the Financial Express, on May 15, 2007.

Getting a Piece of the Chinese Economic Pie

– Hiren Doshi*

By the passing of this law, China has demonstrated its confidence and maturity in adopting international policies and regulatory framework. It shows its confidence in being able to attract foreign investment in spite of a level-playing field with domestic industry

After being in the works for the past 13 years, the Standing Committee of National People's Congress finally passed the new anti-monopoly law, which would be effective from August 01, 2008. This is one of the many important policy changes such as uniform taxation system and the new labour law, which the Government has undertaken in line with its strategy to promote China as a market economy on the world stage.

Prima facie the law reads, "as well as anti-monopoly checks stipulated by this law, foreign mergers with, or acquisitions of, domestic companies or foreign capital investing in domestic companies' operations in other forms should go through national security checks according to the relevant laws and regulations".

The new law intends to subject foreign acquisitions of Chinese companies to protect national 'economic' security and creation of monopolies detrimental to consumers and market. It defines monopoly in three situations: when an undertaking reaches a monopolistic agreement; when an undertaking abuses a dominant market position; and when an undertaking forms an undertaking cartel.

It goes on to define seven types of agreement as monopoly agreement allowing seven exceptions that are basically to encourage agreements concerning improvement of technology, research and development (R&D) of new products, improvement of product quality, protecting the environment and increasing efficiency.

The initial reaction by representatives of EU and American chambers of commerce in China were quite euphoric that the new law will create a level-playing field between foreign and domestic companies ultimately benefiting Chinese consumers. But that quickly followed with concerns and questions about how will the law be implemented and if the law will impede their ability to bring more money into the country to gain a bigger share of the market.

A closer look at the law reveals that this may actually be beneficial to foreign enterprises opening up strategic markets that are currently under the tight grip of the monopolistic, state-owned enterprises (SoEs).

The most interesting dimension of the new law is that it brings the 'administrative monopolies' under its grasp along with 'commercial monopolies'. That means the SoEs supported by local provincial government that exercises unfair trade practices due to their monopolistic market condition will come under increased scrutiny by the anti-monopoly commission that is being set up under the state council to be the regulating body governing this law. It is a known fact that the most damaging monopolistic behaviour comes from government abuse of administrative power in the economy but there was no political will to deal with it in the last two decades and hence the delay of 13 years in passing of this new law.

The new law will no doubt be used to block unpopular foreign acquisition of domestic brands or companies, which is detrimental to growth of domestic industry or creates unfair market monopolies. But at the same time, the new law also has an entire chapter that protects the foreign enterprise from local protectionism in China, specifically prohibiting administrative agencies and public organisations from abusing their power.

The law does not state that a foreign enterprise will be treated any differently that the domestic enterprises except for the strategic industries falling under national security list or circumstances where national security is concerned.

Until the new law is fully understood, large deals involving purchase of state asset would be kept under tight wrap until the deal has the blessings from the top and the M&A activities will be mostly concentrated in the mid-market avoiding the radar of the new law.

China is not the first country to implement such a law and it already had basic security check system for foreign M&A such as Carlyle's bid for Xugong, but the previous law was only to regulate deals exceeding US$100mn. The EU has had this for quite sometime and uses it effectively to prevent monopolistic behaviour-Microsoft's anti-trust case.

Recently, EU referred China's International Marine Container's bid to acquire Berg Industries for review and as a result the bid was pulled out by the Chinese.

China has also increasingly started to take a more assertive stance in global arena, be it trade dispute with the US or the recent spate of mass recalls of substandard Chinese manufactured goods.

* *Head, Beijing branch for Infosys in China and is also a fellow of India China Institute.*
Abridged from an article that appeared in the Financial Express, on September 26, 2007.

About a Competition Law – Tajikistan*

The Republic of Tajikistan became an independent State in 1991 after the break up of the Soviet Union. After gaining independence, the level of economic development in the Republic deteriorated significantly due to prolonged civil war, natural disasters, and the disruption of the traditional trade and economic links with the Russian Federation. However, the war in Afghanistan brought increased economic development assistance to Tajikistan from the international community. Tajikistan is seeking the WTO membership, and has joined the NATO's Partnership for Peace.

Economy

Tajikistan has the lowest per capita GDP amongst the 15 former Soviet Republics. Only five to six percent of the land area is arable. Cotton is the most important crop. Mineral resources varied but limited in amount, which include silver, gold, uranium, and tungsten. Industry consists only of a large aluminium plant, hydropower facilities, and small obsolete factories, mostly in light industry and food processing.

The Civil War (1992-97) severely damaged the already weak economic infrastructure and caused a sharp decline in Tajikistan's industrial and agricultural production. Economic recovery began in the second half of 1997 as macroeconomic stabilisation became more evident and GDP expanded by 24.5 percent in 1997-2002. However, the level of GDP in

2002 was still only equal to 56.9 percent of its level in 1991. Ssixty (60) percent of Tajik people continue to live in poverty.

The inadequate economic growth in Tajikistan is connected, to a great extent, to the insufficient development of market institution in the economy. Restructuring aimed at adjusting to changing domestic and foreign demand patterns has been slow, hampering economic growth in Tajikistan. The main reasons for this are the lack of financial resources available to the incipient private sector, in part owing to the low credit ratings of the country, and the lack of post-privatisation restructuring support.

Competition Law and Policy

Tajikistan adopted its first competition law, 'Law on Curtailing of Monopolistic Activity and Development of Competition' (hereinafter referred to as the Anti-Monopoly Law), on December 27, 1993. This law was essentially modelled after Russia's then competition law and was adopted through the CIS Inter-Parliamentary Committee process. It was amended on November 29, 2000, after the creation of a new State body dedicated to implementing the state anti-monopoly policy and supporting competition – the State Agency on Anti-monopoly Policy and Support of Entrepreneurship of Tajikistan (the Anti-Monopoly Agency).

The Law determines the legal and administrative basis for the prevention, reduction and restriction of monopolistic activity and unfair competition, and outlines the conditions for the creation and efficient functioning of commodity markets in Tajikistan.

The Law prohibits monopolists from reducing or closing production, and from stockpiling commodities with the intention of creating or supporting a deficit in the market. For effective implementation of the Law, the Government has adopted and enacted a number of regulatory laws thereby creating a supportive legislative environment for the implementation of the Competition Law.

Another relevant law is the Law on Natural Monopolies 1997 (amended in 2001), which prohibits competition in the production and transmission of electricity; purchasing, transportation and supply of natural gas by pipelines; railroad and air transportation; services at airport terminals, services of public post and telecommunications; and military production.

The anti-monopolistic and competition-oriented policy, along with traditional measures for prevention and curtailing of monopolistic activity, should in the near future encourage fair competition between enterprises within the economy, and the organisation of State regulation and control over the activity of monopolistic enterprises, including natural monopolies. Implementation of these tasks pre-supposes:

- formulating a programme of de-monopolisation of the economy and the development of competition;
- executing state anti-monopoly control with the purpose of preventing the abuse of their dominant position by economic entities within commodity markets, control over mergers and buy-outs;
- drafting a law on natural monopolies; and
- formulating a balanced export-import policy, including the policy of moderate protection in relation to domestic producers.

Also considered a priority is the creation of legislation for regulating the process of de-monopolisation and the promotion of fair competition in the financial sector.

Future Scenario

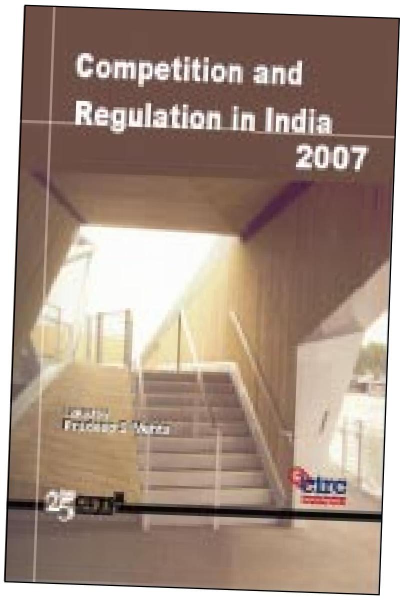
Competition policy is a central element in the economic reform programmes of the CIS countries, including Tajikistan. The change of regime, in the early 1990s, had required the disengagement of the State from the production and distribution processes, as well as the establishment of the legal and institutional frameworks appropriate to the functioning of a market economy.

In Tajikistan, the challenge remains to make competition legislation fully effective, particularly through building and strengthening institutions to plan, monitor and assess the implementation of this legislation. This could be the court systems; the state offices for competition; independent standards or testing agencies; a Better Business Bureau; and public consumer associations.

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

Publications

Competition and Regulation in India, 2007



This Report is the result of a series of trade and regulatory projects that CUTS has undertaken since mid-1990s, especially those on competition regimes in India and elsewhere, as a natural progression in the quest for an orderly market, which could add to economic growth and create more jobs for the people.

Two catalysts for this Report are worth highlighting: first, the analysis of the competition scenario in India through the 7Up Project (2000-02), which did a comparative study of the competition law regimes in seven developing countries, supported by the Department for International Development (DFID), UK. This gave us an insight into how the regime functions (or not) under a variety of political economy constraints.

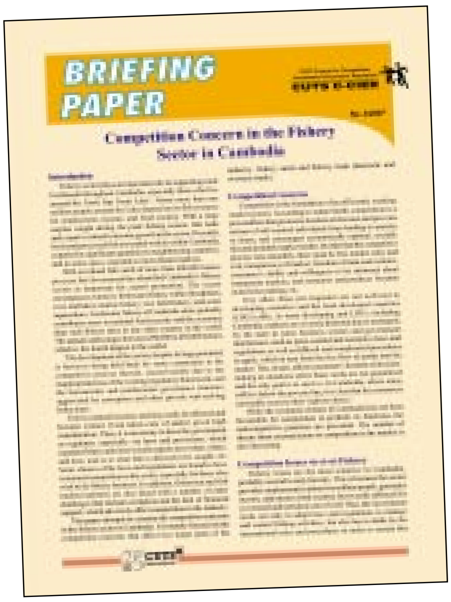
The second catalyst is the present Government's resolution to promote competition as a means of economic development, which was articulated in the National Common Minimum Programme (NCMP), and the President's address to the first sitting of the Parliament in 2004.

This Report contains research-based analyses that will certainly stimulate a healthy debate on how the issues of competition and regulation policy are perceived. It also examines the present and future scenario in the context of competition and regulation in India. Sectoral studies of telecommunications, electricity and two social sectors, i.e. education and health, help to show the need for methodological flexibility not just in analysis but also in implementation.

One unique feature of the Report is India Competition Perception Index that measures the state of affairs in competition and regulation in India.

Report
Suggested Contribution: Rs 285/US$20

Competition Concerns in the Fishery Sector in Cambodia



Fishery sector plays an important role in supporting rural livelihoods throughout Cambodia, especially those who live around the Tonle Sap Great Lake. About more than one million people around the Lake depend on its fish resource for employment, income, and food security. With an inland fish catch of more than 400,000 tonnes per year, the Government has identified Cambodia's fishery sector as important for export promotion. The sector encompasses extensive freshwater fishery within floodplains, river and lakes; marine fishery; rice field fishery; and some aquaculture.

The development of the sector, despite its huge potential, is however being held back by some constraints in the competitive process therein, caused mainly due to the inappropriateness of the existing regulatory framework, and the bureaucratic and cumbersome governance structure, aggravated by corruption and other private rent-seeking behaviours. Thus, it is necessary to have the government as regulator in this case, especially via laws and provisions, which regulate fishery activities in such aspects as to when, where, and how, and as to what fish is allowed to be caught, etc.

This paper attempts to examine the competition concerns in the fishery sector in Cambodia. It is mainly focused on the competition concerns that affect two major parts of the industry: fishery catch and fishery trade (domestic and overseas trade).

This briefing paper can be accessed at:
http://www.cuts-international.org/pdf/c-cier-no-2-2007.pdf

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