REGULETTER

A Quarterly Newsletter

25 years CUTS International 1983 2008

Volume 11, No. 3/2010

Inside this Issue

Special Articles

CUTS Centre for Competition, Investment & Economic Regulation

CUTS C-CIER

Fighting Poverty and Economic Stagnation in LDCs Through Competition Law & Policy

Poverty alleviation and rapid and sustained economic growth should be the principal economic objectives of Least Developed Countries (LDCs) as the income distribution reveals a massive concentration of people marginally above the US$1 poverty line. Ignoring a few outliers, 30-60 percent of the population lies below the World Bank's poverty line of US$1 a day and 40-90 percent below the line of US$2 a day. At the same time, economic growth, which is imperative for sustained poverty alleviation, has been both inadequate and unstable – only 14 out of 50 LDCs registered an annual average growth rate of real per capita GDP exceeding 2 percent in 1990-2000 as well as 2000-06.

It is therefore no surprise that The United Nations General Assembly in 2008 resolved to reaffirm the commitment to the mentioned objectives, review the progress made in regard to these objectives, and plan for their future attainment.

A powerful but not well recognised weapon for LDCs in this battle is competition policy and law. Their effectiveness is derived from the positive linkages between the extent of competition on the one hand and economic growth and poverty alleviation on the other.

These tools can be used to ensure that market shares are determined by competition among firms, rather than collusion, in the form of efforts to reduce costs through innovation or increase in efficiency. Higher outputs (i.e. economic growth) and therefore enhanced employment result which help to alleviate poverty, At the same time, more affordable prices help the poor increase their consumption and rise above the poverty line.

Evidence shows clear under provision of 'competition' as a national public good in LDCs and therefore the need to enhance its presence. In 2007, only 10 out of 50 LDCs had competition agencies for enforcing competition laws. There is, therefore, a high incidence of anti-competitive practices in LDCs – for instance, widespread incidence of cartelisation and other anti-competitive practices in the Nepalese economy; abuse of monopsony and dominance in the agricultural sector, such as grain and tobacco purchase in Laos and Malawi respectively; and price collusion among importers of food items in The Gambia. Moreover, although a few LDCs such as Malawi and Mozambique have adopted a competition policy, no LDC has fully implemented its national competition policy till date.

Given the immense potential for competition facilitated through policy and law to generate sustainable economic growth and through such growth or otherwise to alleviate poverty, LDCs should take immediate steps to enforce competition laws, if these are absent or dormant, and implement a competition policy.

UK's Competition Watchdogs Co-ordinate Mergers

The UK competition authorities – the Office of Fair Trading (OFT) and the Competition Commission (CC) revised their rules on how they decide whether a merger breaks competition law. The two bodies each published guidelines and have now revised and expanded that guidance and combined it into one joint set of merger assessment guidelines.

The guidelines set out the questions the CC and OFT will consider when reviewing mergers, how they define a 'relevant merger situation', what is meant by a 'substantial lessening of competition' and the criteria and methodology used when assessing mergers. The guidelines also deal with public interest cases and replaces OFT guidance on substantive assessment of mergers, on the acquisition of 'failing firms'; and CC guidance on merger references. *(OUT-LAW News, 17.09.10)*

Finland's New Competition Act

The Government of Finland has proposed a new Competition Act. The main changes concern merger control, competition infringement fines and damages. The proposal was brought before the Parliament and the law is expected to enter into force in 2011. A new 'significant impediment of effective competition' test be applied as part of the merger control process. The new test examines the likely impact of a merger on competition.

The rules governing leniency be brought into line with those of the European Commission (EC), in which subsequent applicants are granted partial leniency. Under existing legislation, only companies are entitled to claim damages for competition law infringements. The government proposes that consumers and public entities also be granted this right.

(ILO, 26.08.10)

New Competition Law in Malaysia

The Malaysian Competition Act 2010 is expected to be implemented in January 2012. The Malaysian Competition Act provides a legal framework for curtailing anti-competitive practices in Malaysia and applies to any commercial activity within Malaysia and outside of Malaysia insofar as the activity was transacted outside Malaysia but which has an effect on market competition in Malaysia.

The Act empowers the Competition Commission to conduct market reviews, and carry out investigations and enforcement duties. The new competition law is expected to have far-reaching implications on trade by encouraging efficiency, innovation and entrepreneurship and hopefully, on consumers through competitive pricing, improvement in the quality of products and services and the availability of wider choices.

(www.hg.org, 03.08.10)

Public Procurement Law in Effect

The Law on Public Procurement came into force in Ukraine, on July 30 2010, introducing new rules to make public procurement procedures non-discriminatory and more transparent. The law sets out new duties for the Anti-monopoly Committee, which is now authorised to review disputes arising out of public procurement procedures.

All natural and legal persons can approach the committee if they consider that their rights or interests were violated during a public procurement process. The committee predicts an increase in the number of such disputes in light of the wide range of interested parties with such a right. *(ILO, 05.08.10)*

Competition Regulation Amended

A series of amendments to one of the fundamental working instruments of Romania's competition regime has recently entered into force. The Organisation Functioning and Procedure Regulation, which has been in force since 2004, was amended by a regulation adopted by the Competition Council on March 17, 2010.

The amending regulation makes significant modifications to the council's working structure. The new body will be appointed by the chairperson of the council and comprise one of his or her deputies and two members of the council. This organisational measure is expected to make competition enforcement more coherent and efficient at national level.

(ILO, 15.07.10)

New Administrative Contraventions

The Albanian Parliament approved the Law on Administrative Contraventions (10,279), which repealed the 1993 Law on Administrative Contraventions (7,697). The new law defines the rules for investigating and ruling on administrative contraventions in order to establish procedures and deadlines for appealing penalties imposed by public administration bodies and establish procedures for the enforcement of administrative contraventions.

The new law applies to all acts of public administrative bodies that provide for the application of an administrative penalty in case of an administrative contravention that creates legal liability. *(ILO, 22.07.10)*

Hong Kong Unveils Competition Bill

The Hong Kong government submitted the long waited Competition Bill on July 02, 2010 to the Legislative Council for debate in the coming 2010-2011 session. The Bill is expected to be passed at the session as the Competition Ordinance. It will, however, only come into operation on a day to be appointed by the Secretary for Commerce and Economic Development.

The objective of the Bill is to prohibit and deter undertakings from adopting abusive or anti-competitive conducts in all sectors which will have the effect of preventing, restricting or distorting competition in Hong Kong.

(www.mondaq.com, 14.09.10)

To Thrive, EAC Needs Competition Policy

– Fredrick Njehu*

The East Africa common market is already up and running since its inauguration in July 2010. Though not much attention has been given to enactment of a functional competition policy, it would still be necessary for governments to adopt a competition policy if they are to promote the enjoyment of the four freedoms (labour, capital, goods and services) and prohibit restrictive trade practices within the East African Community (EAC) economies. Such a policy will basically encourage economic activity and maximise efficiency by enabling goods and resources to flow freely amongst partner states. Basically, the competition law will basically address three main situations; anti-competitive agreements, abuses of dominance or exclusionary behaviour and merger-control regulation

An EAC competition policy will be an effective tool in reducing corruption, ensuring that consumers gain from regional integration, limit the power of the largest companies nationally and in the region. Thus, it is no surprise that it might have many powerful enemies. Nevertheless, a diverse range of measures must be undertaken at EAC level to realise a competition regime.

First, a sound legal drafting of a competition law is vital and must adhere to basic legal principles. The EAC governments will have to endow the authority with powers of investigation, including search and seizure. Investigatory powers should extend to the EAC regional competition authority established by the intergovernmental agreements as well as provide for an appeal process. Leading the competition authority will require determination, independence, and a tireless facility for public engagement.

So, this requires the authority to increase its staff capacity, remunerate them well as well as offering them with trainings and this could only be realised through increased budgetary allocations to the authority from EAC governments.

Engaging stakeholders is essential in order to build alliances with the beneficiaries of a competition law. These coalitions will have to be built between the competition authority and those who will benefit from predictable and lasting implementation of competition rules. Such groups could include consumer organisations, farm associations, NGOs interested in good governance and economic justice, small business victimised by monopolists, and others.

Media should also be involved to publicise the harms resulting from anticompetitive abuse and the benefits of rigorously enforcing the competition law. This should be necessitated by providing regular briefings for media of all kind, from mass market newspapers and broadcasters to sector-specific journals and NGO newsletters.

Such alliances will have to be extended to relevant government departments and agencies. Intergovernmental cooperation against anti-competitive practices is imperative within the EAC via effective information sharing among competition authorities and facilitates investigative and prosecutorial cooperation.

Besides that, there are significant challenges to setting up the right institutions to handle competition law and policy. A major challenge to deal with would be to ensure political and societal support, enforcing the laws with limited resources, and dealing with limited resources, as well as dealing with cross-border enforcement problems.

* *Researcher, CUTS Africa Resource Centre, Nairobi. The article appeared in the* East African Business Week*, on September 21, 2010.*

ABUSE OF DOMINANCE

Football TV Rights Under Scrutiny

The Spanish antitrust authority, *the Comisión Nacional de la Competencia* (CNC), has opened an investigation into the television company Mediaproducción (MP). The CNC is concerned that MP could have breached Spanish competition law through bundling its football production and signal transmission services with the football broadcasting rights sold to third parties.

Mediapro owns the rights of Spanish football matches, which it broadcast through its company Gol TV, but it also resells these rights to other broadcasters. *(CNC, 21.09.10)*

Intel-FTC Reach Tentative Settlement

Intel Corp and the Federal Trade Commission (FTC) have reached a tentative settlement regarding the government agency's anti-competitive claims against the chip maker. The settlement resolves charges that the company illegally stifled competition in the market for PC chips.

According to the FTC, the settlement goes beyond the terms applied to Intel in previous actions against the company and will help restore competition that the agency claims was lost as a result of Intel's alleged past anti-competitive tactics. It was alleged that Intel had waged a systematic campaign to shut out rivals' competing chips by cutting off their access to the marketplace. Intel paid AMD US$1.25bn as part of the settlement and agreed to abide by a set of business practice provisions.

(AP, 22.07.10)

Japan Raids Toys R Us

The Japan Fair Trade Commission (JFTC) has carried out raids at the Japanese offices of US toy retailer Toys R Us, which it suspects of abusing its dominant market position in dealings with its suppliers. The JFTC alleges that Toys R Us has, since 2008, forced its suppliers to accept lower prices and take back returns of unsold goods.

This could amount to an abuse of a dominant bargaining position, which is illegal under the Anti-monopoly Law. It is the first time that the JFTC has raided a foreign-affiliated firm over such abuse claims. Toys R Us has confirmed the raids and said that it is cooperating with investigators. *(Kyodo News, 14.09.10)*

CCI Approached Against FKCCI

Reliance Big Pictures has moved to Competition Commission of India (CCI) alleging Karnataka Industry Chamber for abusing its dominant position by restraining it from exhibiting movies. It all began with the Federation of Karnataka Chambers of Commerce and Industry (FKCCI) banning the distribution of movie '*Raavan*'. Reliance Big Pictures has complained that the FKCCI is now asking producers and distributors to stop distributing prints to Big Cinemas.

Reliance Big Pictures stated that FKCCI being a leading industry chamber in the Bangalore and Mangalore region is using its dominant position to dictate terms to distributors and moviemakers. They have asked distributors to stop giving not only Kannada films, but also non-kannada films to Big Cinemas. The complaint has been filed under Section 4 of the Act, which pertains to abuse of dominant position by market leaders. *(BS, 31.08.10)*

Gazprom Files Law Suit against FAS

The Russian gas giant Gazprom filed a law suit against the Federal Anti-Monopoly Service (FAS) asking the court to deem illegal an FAS ruling that Gazprom violated the competition law. The FAS said Gazprom had abused its dominant position by breaching the application processing period of GazEnergo-Alliance Ltd. for access to Gazprom's gas transportation system.

The FAS found that Gazprom granted permission retrospectively in August 2009 and had never denied access to its gas transportation system in April-June. The FAS decided that GazEnergo-Alliance Ltd. had incurred no losses from the delay, but ordered the gas monopoly to stop violating anti-monopoly legislation.

(http://en.rian.ru, 23.07.10)

Telcos. Sued for Margin Squeeze

In a decision that is in line with the recommendations of the Finnish Competition Authority, the Finnish Market Court has fined *Oulun Puhelin Holding Oyj, Aina Group Oyj, Kymen Puhelin Oy*, and *TeliaSonera Finland Oyj* for abusing their dominant market position in setting prices for subscriber connections. The companies were found guilty of abusing their respective dominant market positions by charging lower rates for subscriber connections to their own service providers.

This price bias made it difficult for competitors to gain access to the market in consumer services provided over subscriber connections, such as broadband and business-to-business services. The Court's decision stressed the importance of competition in subscriber connections which remain a significant bottleneck for all services provided over the fixed network.

(FCA, 08.07.10)

EU Opens Antitrust Probe into IBM

The EC has decided to initiate formal antitrust investigations against IBM Corporation in two separate cases of alleged infringements of EU antitrust rules related to the abuse of a dominant market position (Article 102 TFEU). Both cases are related to IBM's conduct on the market for mainframe computers.

The Economic Times

The first case follows complaints by emulator software vendors T3 and Turbo Hercules, and focuses on IBM's alleged tying of mainframe hardware to its mainframe operating system. The second investigation began on the Commission's own initiative of IBM's alleged discriminatory behavior towards competing suppliers of mainframe maintenance services.

The initiation of proceedings does not imply that the Commission has proof of infringements. It only signifies that the Commission will further investigate the cases as a matter of priority. *(EC & FT, 26.07.10)*

EU Drops Apple Antitrust Probe

EU antitrust regulators will scrap two investigations into Apple Inc's iPhone after the company allowed cross-border repair services and eased restrictions on applications for its popular smartphone. The EC announced its decision, saying the changes by Apple would allow consumers to choose between different alternatives.

It said then that it was concerned about Apple's policy which specified repair services for the smartphone only in the country of purchase and the requirement that applications developers could only use Apple's programming tools to write iPhone apps.

The EC said Apple's policy changes had removed such concerns. It said the company had announced cross-border iPhone warranty services. Apple said that it was easing restrictions for building iPhone and iPad applications. *(Reuters, 25.09.10)*

CARTELS

Bread Price Increase Unjustified

The Competition and Tariff Commission (CTC) of Zimbabwe is investigating the Zimbabwean bread industry for possible price collusion, following the implementation of a 10 percent increase in the price of bread in August 2010. The CTC has already interacted with representatives of the local Zimbabwean millers as well as the Bakers Association of Zimbabwe.

The CTC investigation is ongoing and remains to be seen what will transpire. Interestingly, price fixing is not *per se* illegal in Zimbabwe and will be permitted if the practice is "*bona fide* intended solely to improve standards of quality or service in regard to the production or distribution of the commodity or service concerned". *(www.allafrica.com, 13.09.10)*

Tyre Cos. to Answer Cartel Charges

The South Africa Competition Commission has referred a price fixing complaint against the South African Tyre Manufacturers Conference (Pty) Ltd (SATMC) and four tyre manufactures and suppliers to the Competition Tribunal for adjudication. Following a complaint alleging that the tyre manufacturers adjusted their prices around the same time, the Commission raided certain tyre manufacturers' premises in April 2008.

The cartel concerned the manufacture and supply of passenger tyres, light truck/commercial tyres, truck and bus tyres, off the road tyres, agricultural tyres and earthmover tyres in South Africa. The Commission has requested that the Tribunal impose an administrative penalty amounting to ten percent of the total turnover of each of the SATMC and four tyre manufactures/ suppliers. *(SACC, 06.09.10)*

CADE Slaps Penalty on Gas Cos.

The Brazilian Antitrust Authority, the *Conselho Administrativo de Defesa Econômica* (CADE), has fined five industrial gas manufacturers and seven executives for a cartel in the gas supplied for industrial and medical purposes. The manufacturers were accused of customer allocation and bid rigging.

The undertakings include AGA, Linde Gas, Air Liquide Brazil, Air Products Brazil, Indústria Brasileira de Gases and White Martins Gases Industriais. The investigation started in 2003 following an anonymous complaint sent to the Secretariat of Economic Law. The fine is the highest ever imposed by the CADE. *(CADE, 01.09.10)*

Vehicle Makers in Cartel Probe

The Office of Fair Trading (OFT) in the UK has launched a price fixing probe focusing on a number of commercial vehicle makers. The OFT launched both criminal and civil investigations into suspected price-fixing by major lorry manufacturers in the UK. The companies include: Mercedes-Benz, Scania, MAN, Iveco, Renault Trucks and Volvo Trucks.

The OFT was looking into suspected cartel activity and investigations are at an early stage. Proven price-fixing carries big fines for companies and criminal prosecutions against executives. The regulator has the power to impose financial penalties of up to 10 percent of a firm's revenue. *(Reuters, 16.09.10)*

EU Hits Animal Feed Firms

The EC fined producers of animal feed phosphates a total of US$228.3m for price-fixing in its first "hybrid" cartel case. The Commission was informed about the cartel, which existed from 1969 to 2004 and covered most of the EU, by Finnish chemicals producer Kemira in 2003.

The company, which divested its animal feed phosphates business in 2004, had cooperated with the European Commission during the investigations and that as a result had not been fined. The companies involved operated a market-sharing and price-fixing cartel, whereby they allocated market shares, feed phosphates sales quotas and customers among themselves, and coordinated prices and sales conditions when necessary. *(www.icis.com, 20.07.10)*

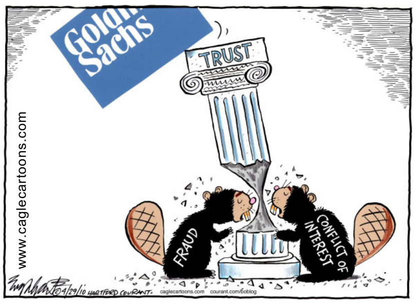
Tree Grower Cartel

The Netherlands Competition Authority fined a number of tree growers for their participation in a cartel during the period between 1998 and 2004. The authority's decision was appealed by two tree growers.

The Rotterdam District Court ruled that, having regard to the five-year limitation period and the fact that the authority's decision dated from November 13, 2007, turnover achieved before November 13, 2002 related to the time-barred part of this single and continuous infringement.

Consequently, the limitation period prevented the authority from taking account of turnover achieved before November 13, 2002 in calculating the fine. The court subsequently reduced the fine by US$612,760 for the first plaintiff and by US$307,767 for the second plaintiff. *(ILO, 05.08.10)*

Goldman Sachs Fraud



Britain's financial watchdog slapped a US$27mn fine on Goldman Sachs for inadequate disclosure of a US probe into the Wall Street powerhouse. The fine – one of the biggest ever imposed in Britain – was related to Goldman's troubled Abacus mortgage-security product, which resulted in the investment bank being investigated by the US Securities & Exchange Commission (SEC).

In July, Goldman agreed to pay US$550mn to settle civil fraud charges over how it marketed the Abacus subprime mortgage product, ending months of negotiations that rattled the bank's clients and investors.

The Abacus product was marketed by French banker Fabrice Tourre. Tourre, who had dubbed himself as "Fabulous Fab", denied allegations that he or the bank had misled investors over the high-risk Abacus product. *(Reuters, 10.09.10)*

FINES & PENALTIES

Highest Ever Fine on Railways

The Hungary Competition Office has imposed an aggregate fine of nearly US$35.36mn on five companies for participating in a series of bid rigging arrangements on railway construction. This is the highest aggregate fine imposed by the Competition Office.

The participant companies had entered into a market sharing agreement in a secret meeting whereby, they intended to allocate the forthcoming railway projects on pro-rata basis. A fine of around US$88,740 was imposed on MÁV-MTM Kft, a company formerly owned by the Hungarian railways which is undergoing liquidation and has conducted virtually no business in the past year. *(ILO, 08.07.10)*

French Banks Fined Over Collusion

The French Competition Authority had fined 11 big French banks US$503mn for colluding to fix a commission they charged for handling cheques. The banks in 2002 introduced a 4.3 euro cents commission per cheque, arguing that it was necessary to compensate for a loss of revenue which came after the cheque processing system was speeded up.

The banks argued that they were losing out on interest payments because they had to release the funds for the cheques sooner than under the previous processing system. But the authority said that after conducting an inquiry it had concluded the commission charged was unjustified.

It noted that the banks stopped charging the commission in 2007 because of the "pressure of the inquiry." *(www.france24.com, 20.09.10)*

Greece Sanctions Carrefour

The Hellenic Competition Commission (HCC) has found that the retailer Carrefour Marinopoulos infringed competition law by imposing resale price maintenance and restricting cross-supplies between members of its franchise network (coupled with exclusive supply obligations). The HCC has imposed fines totalling US$17.3m on the retailer. It has also asked Carrefour Marinopoulos to amend or withdraw the restrictive contractual terms.

A further fine of US$13,867 may be imposed in the case of non-compliance. Complaints by franchisees prompted the Directorate General for Competition to launch the investigation, and a statement of objections was issued in January 2010. *(HCC, 15.07.10)*

Telecom Wins Appeal against Fine

The Lisbon Commercial Court recently ruled in favour of Portugal Telecom in its appeal against a US$53mn fine imposed in 2007. The Competition Authority fined Portugal Telecom for refusing to grant two competing cable operators access to its underground ducts. This decision and the fine in question have subsequently been reversed by a ruling issued in March 2010.

In several respects, the court's conclusions on the facts of the case supported the authority's decision. Among other facts, the court concluded that Portugal Telecom knowingly refused access to ducts in which there was sufficient physical space for its competitors' cables to be deployed and that its refusals were not justified on technical grounds or for cost-related reasons. *(ILO, 15.07.10)*

Airline Sued for Violating Laws

Germany's Antitrust Agency has fined a subsidiary of Thomas Cook AG US$1.7mn for illegally coordinating prices of flights between Germany and Turkey. The Federal Cartel Office said airline Condor GmbH was fined for price coordination with its counterpart SunExpress in 2009 on routes simultaneously operated by the two companies.

It says the two airlines agreed that SunExpress would not offer flights from Germany to Turkey for less than US$138, and tickets were meant not to be more than US$14 cheaper than Condor's. The investigation was triggered by SunExpress, a joint venture of Deutsche Lufthansa AG and Turkish Airlines, which was not fined according to the agency's leniency programme. *(www.businessweek.com, 28.09.10)*

Novartis to Pay Over Marketing

Novartis Pharmaceuticals Corp. will pay US$422.5mn in penalties for marketing an epilepsy medicine for unapproved uses and for paying kickbacks to doctors to prescribe it and five other drugs.

The company agreed to plead guilty to distribution of a misbranded drug and pay a criminal fine and forfeiture totaling US$185mn in the case involving Trileptal. The drug maker illegally marketed Trileptal as a treatment for bipolar disorder and nerve pain, sending its sales force to the offices of neurologists, psychiatrists, and pain specialists.

While doctors are permitted to prescribe medications for off-label uses, pharmaceutical companies are not allowed to market or promote drugs for uses not approved by the Food and Drug Administration. *(AP, 30.09.10)*

PRICE FIXING

Oracle Sues DRAM Chipmaker

Oracle Corp has sued Micron Technology Inc for fixing prices of computer memory chips, in a continuance of litigation it inherited from Sun Microsystems. Oracle, the world's No. 3 maker of software, accused the US memory chip maker of colluding with other manufacturers to artificially inflate the price of DRAM (dynamic random access memory). Between 1998 and 2002, Sun bought more than US$2bn worth of DRAM.

Five of the world's top DRAM manufacturers pleaded guilty between 2004 and 2006 to a criminal price-fixing, including two Samsung corporate entities. But Micron received amnesty from the US Department of Justice for being the first to admit its role in the cartel, according to the lawsuit. Oracle bought Sun in 2010 for about US$7bn.

(Reuters, 28.09.10)

Calif Court OKs Suit against Pfizer

Pfizer Inc., the world's largest drugmaker, and other drug companies must face a price-fixing suit claiming they conspired to keep cheaper medicines from Canada out of the US market. The California Supreme Court reversed a lower court, which two years ago granted dismissal of the suit by allowing the companies to use a "pass-on" defense.

The companies argued they could not be held liable for illegal drug overcharges – and that the pharmacies were not harmed – because any overcharge was passed on to consumers. The ruling means that in California "no price-fixer is going to get off on the basis that the victim might have passed on to its customers the amount of the price fix".

(Bloomberg, 12.07.10)

Commission Reaches Deal with Sasol

The South Africa Competition Commission had settled a price-fixing case with South Africa's Sasol at its chemical unit and that Sasol will now divest in five of its fertiliser blending facilities. Under the agreement, Sasol would cease within 25 months all importation of ammonia, other than for use in South Africa.

The agreement would remain binding for a period of 10 years, after the disposal of Sasol's affected assets. The Commission said Sasol would sell ammonium nitrate based fertilisers on an ex-works basis from its plants at Sasolburg, Secunda and that an application for confirmation of the agreement would be heard on July 14, 2010.

(Reuters, 05.07.10)

Panasonic, Whirlpool to Plead Guilty

Japanese electronics giant Panasonic Corp. and a subsidiary of Michigan-based appliance maker Whirlpool Corp. have agreed to plead guilty and pay more than US$140mn in criminal fines for their roles in an international price-fixing scheme. The companies conspired to fix the prices of refrigerant compressors.

Refrigerant compressors are placed into refrigerators and freezers, take in low-pressure refrigerant, compress it and pump out a high-pressure vapor that condenses and subsequently cools the devices. The Justice Department said Embraco would pay US$91.8mn and Panasonic US$49.1mn in criminal fines as part of plea agreements that are subject to court approval.

(AP, 30.09.10)

NZ Acts Against Air Freight

New Zealand's anti-competition watchdog Commerce Commission had filed High Court proceedings against a number of companies accused of colluding to fix international air freight prices. The case follows a three-year investigation that began after one of the companies involved made a confidential application for leniency.

The Commission alleged that the companies involved in the conduct had colluded since 2001 to apply surcharges and other fees on freight forwarding services to and from New Zealand, in breach of the Commerce Act. This not only harms downstream businesses but also consumers who may pay higher prices as a result.

(M&C, 02.09.10)

OFT Investigates Hotels over Booking

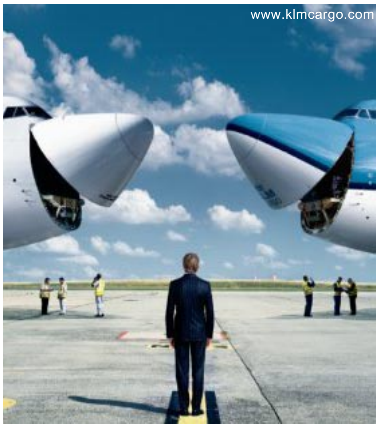
Some hotels are to be investigated by the Office of Fair Trading after it was claimed that they were fixing hotel rates. If hotels have requested that prices are changed then they may face competition law charges because it would be price fixing. As a result, OFT could impose penalties of up to 10 percent of a company's turnover.

The OFT is conducting a formal investigation into suspected breaches of competition law in the hotel online booking sector and has written to a number of parties in the industry to request information.

(TD, 09.17.10)

Air France-KLM Agrees Air Cargo Fine

Air France-KLM and its Dutch subsidiary Martinair have agreed to pay US$87m to settle claims for civil damages relating to price fixing in their air cargo businesses between 2000 and 2006. The settlement is the latest in a series of fines and charges paid by international airlines in the wake of investigations by regulators that uncovered a global air freight conspiracy.



According to US officials the airlines involved created a series of global cargo cartels, discussing prices on specific cargo routes and then monitoring rates to ensure that the agreed-upon cargo rates were enforced. Air France-KLM was one of the worst hit, agreeing in 2008 to plead guilty to charges in the US and pay a fine of US$350m, at the time the second-largest criminal fine obtained by the DoJ's antitrust division.

(FT, 12.07.10)

Jenny's Critique of Hostile Bid Triggers Discussions of Export Cartels

– Barbara Casassus*

The controversy surrounding the hostile takeover bid of Potash Corporation of Saskatchewan Inc. by BHP Billiton shows that developed countries "do not always practice what they preach" in fighting international hard core cartels, according to Frederic Jenny, former Chairman of the WTO's Working Group on Trade and Competition and Professor at the ESSEC Business School, France.

Jenny in an article published in the Financial Times *on August 31, alerted the local authorities in Saskatchewan to the dangers of blocking the deal simply to ensure the survival of the Canadian potash export cartel. If the deal goes through, BHP Billiton might decide to bypass the Canadian potash export cartel Canpotex and sell its potash products separately. The cartel is exempt from Canadian competition law, and foreign investors must show that their transactions bring net benefits to Canada.*

The 40-year-old cartel is composed of Agrium Inc.; the Mosaic Company, of the US; and Potash Corp. The cartel handles more than 30 percent of world potash exports and has striven to maintain artificially high world prices by restricting competition among suppliers and output when demand is weak.

He noted that Canada had actively supported the failed European proposal to "consider negotiating" a competition pact through the WTO working group on trade and competition and that failure to address the issue of export cartels had helped torpedo these discussions in the Doha Round of trade talks. If the discussions had succeeded, they would have strengthened developing countries' efforts to combat international cartels.

Reactions

Commenting on Jenny's article, **Eleanor M. Fox** of New York University School of Law stated it "exposes a very soft underbelly of antitrust – exemptions and non-coverage. The same nations that publicly deplore cartels allow them when they hurt only foreigners". It is easy to argue that the victim nations should sue under their own laws to protect themselves, but the victim nations – as in the case of potash – are often the poorest nations in the world and do not have the resources to protect themselves. There are only three choices: nations take the initiative of restraining themselves from harming others; an international rule bans export and world cartels; or keep the hypocritical *status quo*.

David Lewis, former Chairman, South African Competition Tribunal, stated that as to Canpotex, BHP Billiton's suggestion that it might pull out of the cartel if it gains control of Potash Corp. is not predicated on "some in-principle objection to cartelisation" but is grounded on the belief that "it could outcompete its fellow cartel members and ultimately achieve market power in the global potash market". The Canadian Competition Bureau should make it clear that it considers "the existence of the cartel an affront to the spirit of Canadian competition law".

Pradeep S Mehta, Secretary General, CUTS is also pessimistic about the prospect of developed countries taking action. He expressed hope that Jenny's article would "move the powers to do away with export cartels." But "if one looks at the current US trade policy, if there is one, it reads in a simplistic manner: 'exports are good and imports are bad'. Protecting export cartels or allowing them to operate is not new. On the other hand, after the recent financial crisis, protectionism has been rising overall, and, so, to expect the US or other rich economies to curb export cartels would be naive".

John Connor, Professor, Purdue University finds Jenny's arguments to be "consistent and logical". As to policy issues, "the idea that giving an antitrust exemption for export cartels is justified because somehow prices in domestic markets of the exporting nation would not be affected by prices in international trade markets is purely wishful thinking".

Simon Evenett, Professor, University of St. Gallen, Switzerland and an International Trade & Economic Development Expert declared that Jenny "reminds us that while commerce is global, cartel law remains national". Moreover, the export cartel loopholes in many national laws induce the worst kind of mercantilistic impulses on the part of policymakers. The recent proposed takeover in the Canadian potash sector reminds of the inherent weaknesses in national cartel enforcement.

Officials of the US Federal Trade Commission and the Canadian Competition Bureau declined to comment on Jenny's article. However, it is understood that the bureau has been lobbying for § 45 of the Canadian Competition Act that sanctions Canpotex to be overhauled in order to ban all hard core cartels in Canada whatever their *raison d'eˆtre.*

---

* *Freelance Writer in Paris. Abridged from an article that appeared in the* Antitrust & Trade Regulation *on September 17, 2010.*

EU Clears Oneworld Alliance

The EC has smoothed out the path for British Airways, American Airlines and Iberia to join together under the Oneworld alliance. The Commission has made legally binding the commitments which had been offered by the three airlines to meet its competition concerns.

Under the commitments, the airlines offered to make landing and take-off slots available at London Heathrow airport to facilitate the entry or expansion of competitors on routes between London and New York, Boston, Dallas and Miami. The EC concluded that commitments offered were suitable to remedy any competition concerns it had.

The Oneworld alliance would see British Airways, American Airlines and Iberia jointly managing schedules, capacity and pricing, as well as sharing revenues on transatlantic routes between North America and Europe.

(http://businessandleadership.com, 14.07.10)

RCOM Acquires Digicable

Anil Ambani group firm Reliance Communications (RCOM) announced acquisition of Digicable, the country's largest cable TV service provider, in an all-stock deal. The new entity named 'Reliance DigiCom' will integrate RCOM's DTH, IPTV and Retail broadband operations, with Digicable.

The deal would create Asia's largest and the world's fifth largest entity offering full-suite of Digital TV, ultra high-speed broadband and voice services. Established in August 2007, Digicable is one of the largest Cable TV service providers in the country. Reliance Digicom will have combined subscriber base of 11 million homes. *(TH, 02.07.10)*

Aon to Buy Hewitt for US$4.9bn

Aon Corp, the world's largest insurance broker, agreed to buy Hewitt Associates Inc for US$4.9bn in cash and stock to expand its division advising companies on employee pay and benefits. Hewitt shareholders will receive US$25.61 in cash and 0.6362 of an Aon share, valuing the offer at US$50 a share. The purchase is Aon's biggest, surpassing its US$1.4bn acquisition of reinsurance broker Benfield Group in 2008.

The company is seeking to boost revenue with the purchase of Hewitt, which provides payroll and consulting services to 3,000 clients. Aon will merge Hewitt with its Aon Consulting unit and rename the division Aon Hewitt. The company expects to reap US$355mn in annual cost saving by cutting back-office costs and overlapping managers.

(FE, 12.07.10)

HSBC Acquires RBS Retail

Hong Kong and Shanghai Banking Corporation has agreed to acquire the Indian retail and commercial banking business of Royal Bank of Scotland (RBS) for a premium of US$95mn over the net asset value of the business.

Any credit losses from RBS' unsecured loan portfolio would be deducted from the final valuation, the statement said. The deal is subject to regulatory approvals and is likely to be completed in the first half of 2011. HSBC will now have to apply for branch licences to the Reserve Bank of India to bring the assets under its control. It has been expanding its business in India.

(TH, 03.07.10)

Intel to Buy Infineon's Mobile

Intel will buy German chipmaker Infineon's wireless unit for US$1.4bn, enabling the US chipmaker to boost its presence in the smartphone market. The cash transaction is expected to close in 2011 and the mobile unit will remain as a standalone business.

This is the second major deal for Intel after the company announced its US$7.7bn offer for McAfee Inc, its largest acquisition, bolstering the appeal of its chips as it tries to expand further into the mobile market.

Intel's Atom mobile chips took the low-cost, no-frills netbook market by storm but are rarely found in smartphones where other chipmakers dominate. But analysts also caution that while an acquisition such as Infineon's mobile chip unit is a step in the right direction it will take time to produce results. *(BS & FE, 31.08.10)*

LatAm Airlines Agree to Join Forces

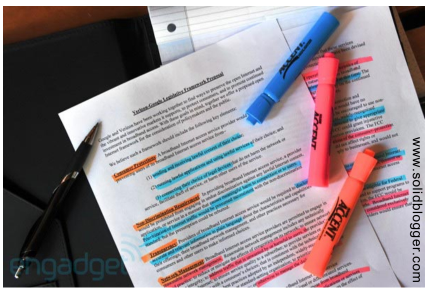
An alliance between Latin American airline groups Lan of Chile and Tam of Brazil is more than a marriage of convenience but neither could risk being left on the shelf in the fast-consolidating global industry. The all-share deal, expected to be approved in early 2011, will give Lan 70 percent of the new holding after the offer of 0.9 Lan shares for every Tam share.

The two airlines will continue to fly under their own brands and achieve synergies of US$400m a year; cash in on the lure of Brazil as it prepares to host the 2014 soccer World Cup and 2016 Olympic Games; grow new routes to Europe, the US and Mexico; establish new hubs to connect to Europe and the US; and boost their cargo business.

(FT, 15.08.10)

Google-Verizon Eye Web Access

Google and Verizon have agreed on the outline of a plan covering key aspects of how internet services are carried over communications networks, establishing what could become a financial and operational blueprint for the next phase of the web's development.



The arrangement between Google and Verizon would put some restrictions on the US carrier's ability to block or degrade specific internet services, but still leave it free to charge more to give some services priority on its network, according to people familiar with the plan. It would also leave Verizon completely free to block services on its mobile network, though it would have to disclose any such moves.

A mutual arrangement between Google and Verizon risks undermining the search for an industry-wide agreement and could instead establish an arrangement that is beneficial mainly to the two big companies. *(FT, 05.08.10)*

Wal-Mart to Enter Africa

Wal-Mart Stores Inc., the world's largest retailer, plans to buy Massmart Holdings Ltd. in a transaction worth about US$4.6bn, entering Africa in its biggest deal in more than a decade. Wal-Mart's proposed offer of US$21.10 a share would value South Africa's second-largest listed retailer at about US$4.6bn including share options. The offer price is 9.8 percent higher than Massmart's last closing price and 66 percent above the share price at the end of 2009.

Wal-Mart is ramping up international expansion as it attempts to make up for slowing growth in the US, where same store sales have fallen for five consecutive quarters. Massmart operates 290 stores, mostly in South Africa. The retailer has 24 stores in 12 other African countries including Botswana, Zimbabwe, Tanzania, Nigeria and Ghana. The purchase would be Wal-Mart's largest since it bought UK supermarket chain Asda for about US$11bn in 1999. *(BL, 27.09.10 & ET, 28.09.10)*

Telefónica Wins OK for Vivo Stake

Telefónica of Spain has agreed to buy Portugal Telecom's (PT) stake in Vivo, their Brazilian mobile phone joint venture, for US$9.7bn, after increasing its original offer by US$2.5bn over three months of incident-rich negotiations.

PT will use US$2.5bn of the proceeds to buy 22 percent of Oi, Brazil's largest telecoms group. Telefónica has obtained its objective of gaining control over Vivo, which it plans to merge with Telesp, its underperforming fixed-line operator in Brazil.

Telefónica, which increased its offer three times from an initial bid of US$8bn in May, paid 10.6 times earnings before interest, tax, depreciation and amortisation for PT's 50 percent of Brasilcel, the jointly owned holding company that controls Vivo.

(FT, 28.07.10)

Vedanta in Talks to Buy Cairn

Vedanta is in talks to buy a controlling stake in Cairn Energy's Indian-listed subsidiary, in a deal that would mark the first foray into the oil industry by India's biggest mining company. If the deal goes ahead, Vedanta would become only the second diversified mining company in the world after BHP Billiton to move into oil production.

Cairn's biggest asset is a 62.4 percent stake in Cairn India, the country's largest foreign oil producer. The sale of a substantial stake would allow Cairn to use the resources to fund its exploration programme. The acquisition would not necessarily signal that Vedanta was abandoning its global mining aspirations, but would affirm the primacy of India in the company's plans.

Both companies confirmed that talks were taking place "in respect of the disposal of an interest in Cairn India Limited", but cautioned that there was "no certainty" that they would be successful. *(FT, 12.08.10)*

UAL Gets Nod to Buy Continental

The US Justice Department approved a merger between United Airlines and its rival Continental Airlines – a deal that would create the world's largest carrier. The proposed merger would combine the airlines' largely complementary networks, which would result in overlap on a limited number of routes where United and Continental offer competing nonstop service.

Under the agreement, the holding company for the new entity will be named United Continental Holdings, Inc. and the name of the airline will be United Airlines with the marketing brand of a combination of the brands of both companies.

Together, Continental and United serve more than 144 million passengers per year as they fly to 370 destinations in 59 countries. *(BS, 28.08.10)*

IBM to Buy Analytics Co. Netezza

IBM announced an agreement to buy Massachusetts-based Netezza Corporation for US$1.7bn in cash, in a deal which adds to recent deal-making momentum in business software and services.

IBM said the Netezza deal would help it expand its business information and analytics offerings. Netezza's 500-strong workforce would supplement 6,000 IBM consultants in this area. IBM's analytics business grew 14 percent year-on-year in the second quarter and it has spent US$12bn in 23 analytics-related acquisitions over the past four years.

Netezza offers products that integrate databases, servers and storage into a single appliance that is easy to install and requires little administration. *(FT, 20.09.10)*

AWB Accepts Agrium's Offer

AWB, the Australian wheat exporter, has abandoned a deal to merge with domestic rival GrainCorp, formally backing a more lucrative US$1.1bn takeover offer from Agrium, the Canadian fertiliser group.

AWB's board, which initially had supported a deal with GrainCorp, said that Agrium had offered "better value". It said that the Canadian bid would be recommended in the absence of any higher proposal. Analysts opined it was unlikely that any other rivals would emerge given the premium Agrium had offered AWB. *(FT, 24.08.10)*

Sperian-Honeywell Merger Gets Nod

The EC has cleared under the EU Merger Regulation the proposed acquisition of Sperian, a French producer of personal protective equipment (PPE), by the US Company Honeywell. The Commission concluded that the transaction would not significantly impede effective competition in the EEA or any substantial part of it.

Honeywell is a US-based diversified technology company active in a number of areas, including the manufacture and supply of protective equipment solutions. Sperian is a global producer of PPE which focuses on head protection and body protection. *(EC, 03.08.10)*

Apple Suppliers in Bribery Charges

The two Apple suppliers named as having benefited from bribery allegedly received by its procurement executive Paul Devine have responded to charges. Devine has been accused by the company of having received more than US$1m from Asian suppliers in return for confidential market information. Taiwan firm Pegatron said that it has now suspended a manager that had been involved in the practices pending its own investigations.

South Korea's Cresyn has denied any wrongdoing, saying that it had signed a legal consultancy agreement with Paul Devine providing legal information about US market trends. However, Apple has said that the consultancy agreement included confidential information such as Apple product roadmaps and sales forecasts. Devine is currently held in prison pending trial. *(BR, 18.08.10)*

Nestle Drops 'Deceptive' Claims

Nestle will drop adverts that were described by the US Federal Trade Commission (FTC) as deceptive. The company's drink Boost Kid Essentials was sold in some ads on its ability to stop children catching colds and missing school. The FTC said that its action was part of a general move on food companies that were making health-related marketing claims.

There has been a growth in such claims in recent years, particularly in relation to foods with added nutrients – so-called 'functional foods'. Boost Kid Essentials contains probiotic bacteria, which is held to aid digestion. However, it falls short of being able to guarantee freedom from colds and other illnesses. Nestle agreed to withdraw the ads, but did not admit wrongdoing. No fine has been levied against the company. *(BR, 15.07.10)*

China Launches Corporate Index

Hang Seng Indexes has become the latest to launch a series of sustainability indices, covering Hong Kong and Chinese companies. The aim of the index series is to "further raise awareness about corporate sustainability" as well as to meet international demand for socially responsible investment in Chinese companies.

Ratings of companies will be carried out against their performance on environmental impact, social impact, corporate governance and workplace practices. The rating will be carried out by RepuTex (Hong Kong), an independent organisation dealing with a range of risk analytics. The new series would provide benchmarks that would be objective and highly visible, and will be used by the investment community to develop socially responsible investment products. *(BR, 12.07.10)*

Trafigura Guilty of Exporting Toxic

Trafigura illegally exported toxic waste from Amsterdam. The company transported the waste to the Ivory Coast where it injured thousands of local people in 2006. The company was fined US$1.4m, half the amount requested by the prosecution. A Trafigura employee was also convicted for his role in the affair, as well as the Ukrainian captain of the ship, the Probo Koala, which transported the waste.

The company denied any wrongdoing, and has already paid millions to the Ivory Coast government and to people that were sickened by the toxic waste. *(BR, 23.07.10)*

Business Warned on Carbon Deadline

Companies that fail to register for the UK's new Carbon Reduction Commitment Energy Efficiency Scheme (CRC) will face fines and publication of their names on a register. About 5000 companies and organisations will be required to participate in the scheme, under which they must record and monitor their carbon dioxide emissions, then purchase allowances equivalent to their emissions every year.

Those missing the deadline will be fined US$7895 and US$790 for every subsequent working day they fail to register, together with the publication. Government figures showed that only about a quarter of the organisations required to register with the Environment Agency had done so by late August, even though registration opened in April 2010. *(EP, 10.09.10)*

Wal-Mart Increases Food Aid to Poor

Wal-Mart has pledged to double its donations to US national food banks in response to growing poverty in America. The retail giant will donate US$2bn over the next five years through a mixture of grants to buy refrigeration equipment, programmes to feed poorer children in the summer out of school, and more than a billion pounds of food.

Walmart says the food will provide one billion meals, increasing the poundage of food donated by the company by 72 percent on the 2009 total. *(EP, 10.08.10)*

Bribery Act Implementation in Delay

The government has announced that the revised UK Bribery Act will come into force in April 2011. There had been hopes that the Act would be implemented in October 2010, but Justice Secretary Kenneth Clarke said he wants to carry out another consultation on how companies should make sure they do not fall foul of the law.

The legislation will include a corporate offence of failures to prevent bribery unless 'adequate procedures' are in place. Businesses will also be liable for the corrupt activities of relevant third parties as well as their own staff. *(EP, 01.09.10)*

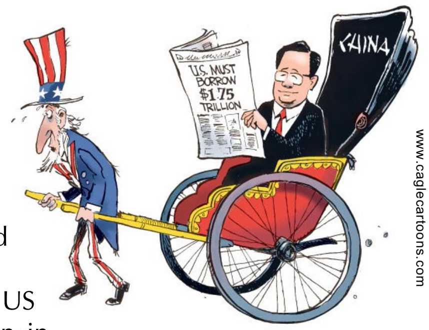
Foreign Investment in China Soars

China drew 29 percent more foreign direct investment (FDI) in July 2010 with global firms still flocking to the country to build factories and set up research centres despite a bout of labour unrest. FDI inflows, which surged after the country joined the WTO 2001, have recovered steadily in 2010 after being hit hard by the global economic slowdown.

Although China has recently been hit by a series of high-profile labour disputes it continues to exercise a magnetic pull on foreign businesses setting up production facilities. In July 2010 alone, China attracted US$6.9bn in FDI, up 29.2 percent from July 2009. It drew US$58.35bn in FDI in the first seven months of 2010, up 20.7 percent in July 2009. *(FE, 18.08.10)*

China Cuts US Investment

China's direct investment in the US plunged in the first half even as its overall foreign acquisitions rose to a record, underscoring the nation's efforts to diversify its portfolio. China's non-bond investments in the US slumped 47 percent to US$1.6bn, while those in the rest of the world surged 34 percent to US$29bn.



Slumping direct investment in the US mirrors China's US$51bn reduction in purchases of Treasuries in the first half as it shifted part of the world's largest foreign-exchange reserves out of dollars. The US risks being "marginalised" in China's non-bond investment plans because of opposition to its buying from lawmakers based on "China in our backyard hysteria. *(BS, 27.08.10)*

UK to Safeguard Foreign Interest

The UK government assured foreign investors that the proposed caps on immigration for economic migrants will not hurt companies seeking to do business in the country, and any changes to the takeover laws will not single out foreign investors.

The new government has committed to cut non-EU economic migration to 'thousands,' but a mechanism to implement this policy has yet to be worked out. UK's takeover laws are currently being tightened, after widespread criticism of the Kraft-Cadbury takeover, which resulted in massive job losses in the UK. In 2009-10, jobs created by foreign investors in UK rose 20 percent to 94,000, despite a fall in the number of projects to 1619. *(ET, 15.07.10)*

India Tops Asia in Luring FII Inflows

India has emerged as the star performer in terms of attracting foreign inflows into the domestic equity market. India registered net inflows of US$2.07bn in July 2010. This is much higher than the net inflow of US$1.35bn into the rest of Asia. Japan is the only other leading Asian economy that witnessed significant inflows, of US$1.27bn.

Some of the other Asian economies that reported net inflows in July 2010 include Indonesia (US$269mn), the Philippines (US$172mn) and Thailand (US$390.7mn). Vietnam and Pakistan registered marginal inflows. South Korea and Taiwan reported net outflows of US$294mn and US$519mn, respectively.

While FIIs have been pouring ample liquidity into the Indian market, which boasts one of the best growth rates across the globe, foreign investors have also been talking about only modest earnings upgrade, going forward, apart from the low probability of high long-term returns. *(BS, 26.08.10)*

Zimbabwe Mulls new Investment Bill

Zimbabwe is enacting a new Investment Bill to do a legislative make-over of its investment profile, but the provisions being proposed fall too short of what the country requires to effectively regulate foreign and domestic investments.

The proposed legislation adds to the inclusive government's string of investment promotion measures engendered since its formation in February 2009, including agreeing bilateral investment treaties with potential sources of FDI.

Zimbabwe bases its recovery on an autonomous inflow of and targets raising its contribution to gross domestic product (GDP) to about 30 percent by 2013 from under 10 percent in 2009. *(ND, 13.07.10)*

Turkey's Economy on the Rise

Turkey is expected to experience strong economic growth in 2010, boosting financial stability, international investor confidence and creating a dynamic business sector. Its recovery is a chance to reinforce long term economic growth and it is likely to be among the strongest of the Organisation for Economic Co-operation and Development countries in 2010.

After falling nearly five percent in 2009 in the wake of the global crisis, Turkey's gross domestic product is expected to expand by more than six percent in 2010. Turkey's largest export markets, notably in Europe, remain fragile. Strong, sustained growth will depend on Turkey reducing further its economic vulnerabilities and stimulating labour productivity.

(www.investmentinternational.com, 20.09.10)

Uganda Leads East Africa in FDI

Uganda leads other countries in the East African region in attracting FDI, according to the United Nations World Investment Report 2010. The report states that despite the global economic crisis that created unease in world economies for the better part of 2009, Uganda continued to witness growth in FDI from US$787m in 2008 to US$799m in 2009.

Uganda attracted US$799m, while Tanzania got US$645m, Kenya had US$149m and Rwanda had US$119m. The report stated that developing economies absorbed half of the global foreign direct investment inflows in 2009 and accounted for a quarter of the global outflows. It added that Uganda's foreign investment over the last 10 years had increased. *(NV, 26.07.10)*

Liberalisation in Postal Sector

There was only one participant in the Portuguese postal sector until the end of the 1990s: the public postal service operator. Since then, following the entry into force of EU Directives 97/67/EC, 2002/39/EC and 2008/6/EC and their implementing legislation, a gradual and controlled liberalisation process has been underway.

The incumbent still holds a legal monopoly on specific universal postal services for postal items; registered mail with a declared value; the issue and sale of stamps and other postal instruments; and the installation of post boxes. However, the incumbent's monopoly expires at the end of 2010. As a guide to the final stage of sector liberalisation, the Competition Authority has published a report which highlights the potential competition law issues that may arise in the sector.

(ILO, 12.08.10)

Brazil Reviews Telecom Regulations

An executive order was published with the objective of creating an inter-ministerial commission that will study the review of the regulatory framework for the organisation and exploitation of telecommunications and broadcasting services. The commission's main objective is to review the prevailing legislation considering the technological convergence process. This may unify the telecommunications and broadcasting service regulations.

The regulation of these services is currently divided between the Brazilian Telecommunications Agency and the Communications Ministry, which are responsible for telecommunications and broadcasting services, respectively. *(ILO, 18.08.10)*

Revision of Aircraft Noise Law

An amendment to the Law on Air Navigation entered into force on March 19, 2010 in order to create greater legal certainty regarding those Spanish airports which are under the jurisdiction of the state, and pursuant to international regulations and applicable EU laws.

The new Article 4 of the law expressly recognises the rights of owners of premises in the vicinity of such airports to be indemnified for any damages arising from aircraft noise. The new wording of the law obliges the state to guarantee that noise quality standards are respected in the areas surrounding the airports, and to implement any necessary action plans whenever a noise easement is approved that allows an increase in those standards. *(ILO, 25.08.10)*

Nigeria Plans to Privatise Power

Nigeria's President invited foreign investors to join what could be one of Africa's biggest privatisations as the country seeks to sell its power generation and distribution companies. The privatisation is aimed at spurring the US$10bn of investment needed to revive the country's power system. The president said: "The private sector will be responsible for generation and distribution companies, while the government will continue to own the transmission system but under private sector management".

Private generators have become the main source of power in the absence of a functioning national grid. However, the electricity reforms could allow the gas price paid to energy groups to increase dramatically by 2013.

(FT, 26.08.10)

Ukraine's Energy Sector Privatisation

The President of Ukraine announced a programme of economic reform for 2010-2014 which includes the privatisation of Ukraine's regional power grid companies. The Cabinet of Ministers is preparing a regulatory framework for the privatisation plan, which will also include thermal power generation companies. Thus, the government has clearly announced a policy of putting Ukraine's energy supply into private hands.

Article 15 of the Law on Electrical Power Industry states that the purchase and wholesale of all electrical power produced at power stations, where wattage or supply volume exceeds certain thresholds, is to be undertaken by the state-owned company Energorynok, acting as sole operator. Energorynok sells the supply to regional power grid companies, which in turn sell electricity to end users at regulated tariffs. *(ILO, 14.07.10)*

UK to Give More Teeth to Ofcom

The government said that the UK already complies with many of the new or changed rules, but that it will give telecoms regulator Ofcom new powers to demand more sharing of telecoms infrastructure and to impose minimum quality of service standards on telecoms operators.

Implementing these changes would bring about better investment opportunities and encourage greater competition and innovation amongst electronic communications providers. Consumers would benefit from improved choice of supplier and contract terms, strengthened rights on privacy and confidentiality, faster switching processes and improved accessibility. *(OUT-LAW News, 16.09.10)*

Legislation for Oil Sector Reform

Nigeria's Parliament is poised to adopt legislation aimed at transforming the country's troubled oil and gas industry.

The petroleum industries bill is designed to reverse the mismanagement and underinvestment that has left Nigeria pumping only half its target of 4 million barrels a day.

Among an array of changes, it would see the graft-riddled Nigeria National Petroleum Corporation broken up into commercially driven entities, and introduce a steep rise in royalties and taxes payable by the oil majors in deep offshore waters. The bill also seeks to promote the growth of indigenous oil and services companies and give local communities a direct stake in production. *(FT, 30.07.10)*

New Measures for Non-bank Lenders

The Latvian government approved amendments to the Consumer Rights Protection Law which were designed in order to implement the provisions of the EU Consumer Credit Directive (2008/48/EC) – which should have been done by May 12, 2010 – and to establish a licensing system for non-bank consumer lenders.

According to the amendments, only companies which have obtained a special licence will be permitted to provide lending services. The amendments also give the consumer specific rights to resign from a loan agreement and are yet to be adopted by the *Saeima* (Parliament). *(ILO, 27.08.10)*

Crimes to Affect Banking Sector

The new Criminal Code, which introduced long-awaited changes to Czech criminal law, became effective on January 01, 2010. Previously, the Criminal Code 1961 was in effect; but despite over 40 amendments, this was inadequate and did not regulate modern society effectively.

This newly defined crime should be of particular interest to banks, where data management is a daily job for a significant number of employees. Another change affecting the banking sector relates to the long-term effort to prevent money laundering as a result of international conventions and EU directives which are now binding in the Czech Republic. The new Criminal Code goes one step further by criminalising such offences, even if committed through negligence. *(ILO, 23.07.10)*

HFSF Provide Safety Net for Banks

A memorandum of agreement signed by the government, the EC, the European Central Bank and the International Monetary Fund (IMF) provides for the foundation of a monetary and financial stability fund – the Hellenic Financial Stability Fund (HFSF). This fund is aimed at maintaining the stability of the national banking system by supporting the capital adequacy of banks operating in Greece and creating a safety net for this purpose.

The HFSF is not meant to replace the liquidity support for banks under the existing mechanisms of the European Central Bank and Law 3723/2008, which remain in force. The HFSF mechanism aims to encourage banks to make little or no use of its facility, instead merging to form larger viable units. *(ILO, 23.07.10)*

Capital Directive II to be Implemented

In response to the financial markets crisis, the Basel Committee on Banking Supervision formulated various new banking regulatory rules, which the EU compiled in the EU Capital Requirements Directive II. Germany is determined to implement the directive by December 31, 2010, despite recent signals from the committee that member states will be allowed more time.

The new rules primarily relate to regulatory capital and will introduce changes to the Banking Act with regard to standardised principles for the acceptance of hybrid capital as core capital; regulations on securitisations and stricter rules on disclosure requirements; revision of large credit regulations and risk mitigation; consolidation of cooperation between regulatory authorities within the EU; and remuneration policies.

(ILO, 13.08.10)

Swiss Bank Revises Guidelines

The Swiss bankers' association adopted a revised version of its Portfolio Management Guidelines which were previously approved by the Financial Market Supervisory Authority (FINMA). The guidelines constitute self-regulatory rules, but are considered to be minimum standards that apply to all entities regulated by FINMA and are active in asset management.

The guidelines have no immediate impact on underlying contractual relationships between banks and their clients, since such relationships are governed by the legal provisions and the relevant agreements between banks and clients. The revision introduced major amendments to the guidelines regarding conflicts of interest and remuneration.

(ILO, 30.07.10)

Basel Tightens Banking Rules

The Basel Committee on Banking Supervision has agreed to substantially strengthen the existing capital requirements of banks, almost doubling capital requirements. The committee announced that the total capital banks need to hold will remain at around 8 percent of their risk-weighted assets but it will be strengthened by an additional capital buffer of 2.5 percent of risk-weighted assets, bringing it to 10.5 percent.

The reforms also include increasing common equity, the highest form of loss-absorbing capital, requirements from 2 to 4.5 percent, which will be phased in over the next few years. Banks will also be required to hold a capital conservation buffer of 2.5 percent, taking the total common equity requirements to 7 percent. These capital reforms coupled with the introduction of global liquidity standards have been delivered to enable banks to withstand future periods of stress.

(www.abc.net.au, 13.09.10)

Will New Bank Tax Kill the Recovery?

The Hungarian Parliament passed a new law that imposes a heavy additional tax on the financial sector – a move that has been sharply criticised by economists and legal experts. The bill proposed that all financial institutions should pay an additional tax; however, it set a different basis and a different rate for various types of financial institution. The tax will be payable in two equal installments.

The main legal problem is that although the new tax will be introduced in 2010, it is based on the targeted institutions' total assets, premiums and revenues for 2009. This contradicts the fundamental requirement that new legislation may not have retroactive effect, particularly if it creates a new burden for private individuals or businesses. *(ILO, 30.07.10)*

Basel: The Mouse That Did Not Roar

– Martin Wolf*

To celebrate the second anniversary of the fall of Lehman, the mountain of Basel has laboured mightily and brought forth a mouse. Needless to say, the banking industry will insist the mouse is a tiger about to gobble up the world economy. Such special pleading – of which this pampered industry is a master – should be ignored: withdrawing incentives for reckless behaviour is not a cost to society; it is costly to the beneficiaries. The latter must not be confused with the former. The world needs a smaller and safer banking industry. The defect of the new rules is that they will fail to deliver this

"Global banking regulators ... sealed a deal to ... triple the size of the capital reserves that the world's banks must hold against losses". This sounds tough, but only if one fails to realise that tripling almost nothing does not give one very much.

The new package sets a risk-weighted capital ratio of 4.5 percent, more than double the current 2 percent level, plus a new buffer of 2.5 percent. Banks whose capital falls within the buffer zone will face restrictions on paying dividends and discretionary bonuses. The new standards are also to be implemented fully by 2019, by when the world will probably have seen another financial crisis or two.

This amount of equity is far below levels markets would impose if investors did not continue to expect governments to bail out creditors in a crisis, as historical experience shows. It would not take much of a disaster to bring such leveraged entities close enough to insolvency to panic uninsured creditors.

It is necessary to go back to first principles in assessing the alleged costs of higher capital (and liquidity) requirements.

- First, it is untrue that equity is expensive, as another excellent paper by Anat R Admati of Stanford University and others argues, once we allow for the fact that more equity reduces the risk to creditors and to taxpayers, as we should. Less equity means higher returns, but also higher risk.

- Second, to the extent that creditors bear the costs of failure, more equity means cheaper debt. Thus, if debt were truly unsubsidised, changing the ratio of equity to debt should not affect the costs of funding the balance sheet.

- Third, to the extent that taxpayers bear the risk, more equity offsets this implicit subsidy. The public at large has zero interest – in fact, a negative interest – in subsidising risk-taking by banks, in general. For this reason, the subsidy it offers by providing free insurance must be offset by imposing higher capital requirements.

- Fourth, the public has an interest in imposing higher equity requirements than any individual bank would, in its own interest, wish to bear. Banks create systemic risk endogenously. That cost must be internalised by the decision makers. More risk-bearing capacity is one way of doing so.

- Finally, to the extent that the public wants a specific form of risk-taking subsidised – lending to small and medium-sized enterprise, for example – it should do so directly. To subsidise the banking system as a whole, to persuade it to undertake what is but a small part of its activity, is grotesquely inefficient.

The conclusion, then, is that equity requirements need to be very much higher. It would then be possible to dispense with the various forms of contingent capital that are far more likely to exacerbate panic in a crisis than assuage it.

This is not to deny two huge problems. One is the simplest way to minimise the costs would be for governments to underwrite the additional capital and then, over time, sell what they take up into the market. The other is that there is tremendous potential for regulatory arbitrage, with risks shifted elsewhere in the system. Higher capital requirements for banks will only work if regulators are able to identify the emergence of systemic risks elsewhere.

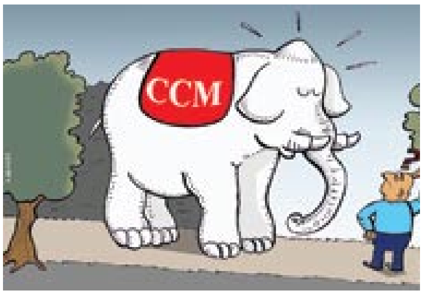
The regulators are trying to make the existing financial system less unsafe, incrementally. That is better than nothing. But it will not create a safe system. The world cannot afford another such crisis for at least a generation. By these standards what is emerging is simply insufficient. This mouse will never roar loudly enough.

* *Financial Times Chief Economics Commentator. Abridged from an article that appeared in* The Financial Times*, on September 14, 2010.*

Competition Law: Doing Business Differently

– Kiran N Meetarbhan*

www.lexpress.mu



The Competition Commission of Mauritius (CCM), a result of the adoption by the National Assembly in 2007 of the Competition Act, is intended to improve economic efficiency, thus offering a better deal to consumers. Business people, however, – and their lawyers! – may not always find it easy to cope with…

Objectives of Competition Law & Competition Act 2007

There has been, in recent years, a 'quiet revolution' in the adoption of competition law by countries around the world. Over half of countries now have a competition law, or are in an advanced stage of preparing to introduce one, and the number continues to increase. Competition law is intended to protect the process of competition in order to maximise consumer welfare.

Markets very often fail to work well, thereby depriving society of the benefits that are possible in a competitive market. Markets may fail for a number of reasons, with anti-competitive practices, including collusion and the abuse of market dominance being common and important causes.

The broad objective of competition policy is to make markets work better. 'Working better' involves two important subsidiary objectives: efficiency and fairness. While "efficiency" is a concept that can be measured objectively, the idea of what is 'fair' reflects, to a considerable extent, the cultural values of the society concerned. Countries have chosen to reflect either of these objectives, or both to a different degree. However, the goal of efficiency appears to be given increasing importance in a number of countries. Mauritius is one of the many countries where emphasis has been laid more on efficiency rather than fairness.

Unfair competition, commonly known as "concurrence déloyale" falls under the limb of tort of civil liability. The law governing unfair competition in Mauritius is to be found in the Civil Code- Article 1382 applies mainly. It has been characterised by our Courts as a faute/fait dommageable which is one of the three *sine qua nons* to enter an action seeking a remedy to stop the tort caused by bad faith of a trader.

Unfair competition can arise when a new business deliberately and fraudulently opens under a name which closely resembles one already established thereby passing off or falsely representing his business as that of the other one for instance.

Reducing the Scope for Corruption

The Competition Act 2007, on the other hand is concerned with enhancing competition. The Competition Commission has a specific mandate to enforce the Competition Act. Its jurisdiction lies only in respect of the restrictive business practices which have been clearly defined by the Act.

The Act sets out very clearly the parameters of what can constitute restrictive business practices, thereby harming competition in the relevant market. They are: collusive agreements, non-collusive horizontal agreements, other vertical agreements, abuse of monopoly and a merger resulting into a substantial lessening of competition in a relevant market.

Collusion can result in prices being fixed at levels that are higher than are needed to continue the provision of adequate supplies, and in the division of markets geographically or by customer type. Bid rigging is a fairly common problem, and one that can significantly increase the cost of public procurement. Dominance of a domestic market is not by itself a cause for concern, especially if it has been gained by innovative and efficient production and distribution, or if it reflects the existence of a natural monopoly.

However, the abuse of dominance is a constant danger. The existence of competitive markets reduces the scope for corruption, because impersonal market forces replace other types of decision making. Having a competition law extends this benefit, because of the increased transparency that is provided by having a process for receiving and investigating complaints and assessing them against the balanced criteria provided in the competition law.

Competition law should be used appropriately for anti-competitive practices to be identified, for their effects to be analysed, and for any necessary remedial action to be taken. It is not an instrument to protect competitors but competition. It is a lengthy process which involves sophisticated economic and legal analysis. But the end result, inevitably brings greater benefits for consumers.

* *Acting Executive Director, Competition Commission of Mauritius. Abridged from an article that appeared on* www.lexpress.mu*, on August 13, 2010.*

A President under Business Attack

– Clive Crook*

Heads of US businesses who once thought well of President Barack Obama have turned to grumbling. These days they come not to praise, but to accuse him of over-reaching and indecision. The outlook for taxes and regulation worries them, they say. There is too much uncertainty. This is holding back investment and growth

These themes came to prominence after Ivan Seidenberg, boss of **Verizon**, gave a speech "By reaching into virtually every sector of economic life, government is injecting uncertainty into the marketplace and making it harder to raise capital and create new businesses". Jeffrey Immelt, head of **General Electric** said the US "has to become an industrial powerhouse again but you don't do this when government and entrepreneurs are not in synch".

It is hard to find a chief executive with a good word for the president. Do their complaints make sense? Is Obama an anti-business President?

The idea is not groundless. Like most liberals Obama is suspicious of the profit motive, and wants the government to play a bigger role; the need for stronger regulation is a constant theme. But what did the CEOs expect of a Democratic president? Measured against what might have happened, their charges seem unfair and even absurd. They should be thanking Obama for his restraint.

As he came into office, the country stood on the brink of a new Great Depression. The primary causes were private-sector incompetence and irresponsibility, compounded by lax regulation. Even if Obama had been so inclined, this was no time to laud private enterprise.

Massive assistance to the financial system was necessary and Obama delivered – despite the unpopularity of these measures with voters. Many would have liked to see the heads of big financial firms on pikes, yet the administration came through with enormous support. This is anti-business?

The financial regulation bill now before Congress, similar to an earlier White House design, is hardly draconian. Despite flaws and omissions, the reforms are a step forward – but no fair-minded observer could call them punitive, though punishment is what public opinion still demands. So far as finance is concerned Obama has worked to moderate anti-business sentiment, not inflame it.

Of course, financial reform is just one issue. Other things are going on, too. Perhaps CEOs thought that the oil spill in the Gulf was a good moment for Obama to praise private enterprise and defend light-touch regulation.

The president has been roundly criticised in the US for being too soft on **BP**. As with the financial collapse, and relative to the political demands placed upon him, the president has been restrained. He has done enough – and barely enough, at that – to assuage public anger. Had he done less, the populist backlash might have been worse. The truth is, in these emergencies, Obama has been a friend to business.

A third major challenge has been healthcare reform. The healthcare law he signed maintains a mostly private system. Yet he invariably speaks disdainfully about insurance companies and their selfish motives, as if agreeing with many Democrats that healthcare is too important to leave to the market or taint with profit.

Obama would doubtless prefer a government-run system but saw that the country would not go there. He was wise to accept this and settle for what was possible. Yet he cannot bring himself to champion the advantages that private insurance companies, if properly regulated, can bring to the provision of healthcare. His remarks on the issue have indeed had an anti-business tinge. This was a political error, because it made Obama an ineffective advocate for his own reform – which, as a result, half of all voters continue to oppose.

In the end Congress – not the president – makes these decisions. Congress – not the president – is the main cause of the delays and uncertainties. In domestic policy, Obama can advocate but he cannot decree. Judge him against what he can do.

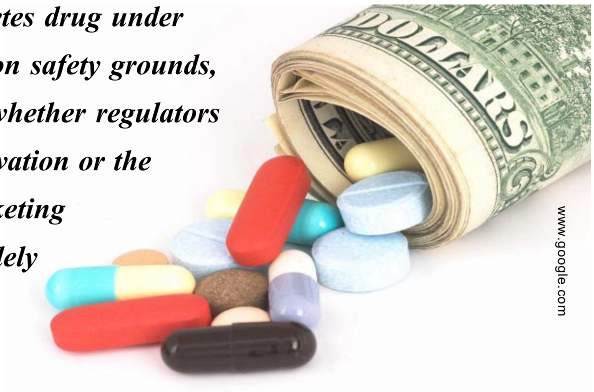
One wish the president was a more forceful advocate for medium-term fiscal control, for a carbon tax, for liberal trade and for his own healthcare reform. But under the circumstances, Obama has not been unkind to business, rather the opposite.

* *Financial Times Chief Washington Commentator. Abridged from an article that appeared in* The Financial Times*, on July 11, 2010.*

Pharmaceuticals: Perils for Pill Pushers

– Andrew Jack*

With a top diabetes drug under threat of curbs on safety grounds, the question is whether regulators are stifling innovation or the industry is marketing products too widely



www.google.com

When the US Food and Drug Administration presented an award to honour the 96-year-old Frances Kelsey, a former employee who helped save America from thalidomide, the mood in the agency's corridors was not purely one of celebration.

Back in the 1960s, her actions blocked US approval of the morning sickness pill that caused thousands of children in Europe to be born with birth defects. Yet 50 years later, in the agency in Washington and at its counterpart in London, the European Medicines Agency, officials still fret over such life-and-death decisions.

In the coming days, they must choose whether to withdraw from the market **GlaxoSmithKline**'s top-selling Avandia diabetes drug, just one of a number of recent "blockbuster" medicines that have been subject to intensifying – and fiercely divergent – opinions over safety.

The regulators have done an increasingly effective job over the years in protecting patients, but are coming under growing pressure to gather and release ever greater amounts of data. Squeezed in the middle is the pharmaceutical industry, the engine of drug development, which is seeing its business model put under severe strain by costly new requirements, pressures on pricing and the limitations of scientific progress.

GlaxoSmithKline's handling of Avandia – also known by the generic name rosiglitazone – has many of the same elements. Launched in 2000 as a drug designed to help control diabetes, by 2006 was generating more than US$3bn in annual sales. But data began emerging suggesting that it could also be contributing to cardiovascular problems including heart attacks.

A second problem is the uncertainty of rapidly evolving scientific understanding. Today, with more knowledge of the risk that Avandia and similar drugs may cause cardiovascular problems, there is greater – though still far from unanimous – agreement on what clinical studies should measure. A decade ago, that consensus was less well established. Even if longer and more detailed studies could have provided clearer answers then, they would also have required more time.

In fact, since the initial approval of Avandia, much has changed. Harder end-points have been agreed, systems to identify side effects have improved and regulators much more frequently demand – and companies implement – "post-marketing studies" to identify problems.

Yet further evolution is still thought necessary in the shifting relationship among regulators, patients, healthcare systems and drug companies. The first aspect is redoubled research to identify clearer genetic markers and other signals to understand which patients respond best to new drugs and which would suffer and should avoid them. Combined with new diagnostics, that would help to identify safer, more effectively targeted treatments.

In response, companies will have to shift further from the intensive selling of drugs to as many patients as possible, towards more "evidence-driven marketing" justified by data showing greater efficacy in smaller sub-groups of patients. The problem is that such markers are still difficult to identify and costly to implement.

Also badly needed is the creation, in combination with governments and health services, of more detailed electronic systems to supplement the information from clinical trials, which study small numbers of "ideal" patients. Monitoring risks and benefits of medicines once they are widely prescribed shows how they behave in ordinary patients, often with multiple diseases and taking a range of drugs.

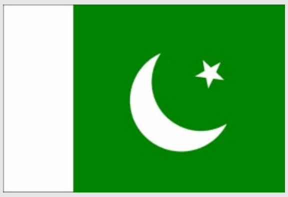
Finally, greater transparency will be needed, if only to counter suspicions of excessive industry influence. That involves removing inconsistencies in the extent and speed of information provided by companies on their trials; and circulating information as side effects are identified.

Greater information will also need to be interpreted carefully by doctors, the public and politicians alike. There is still a lot of uncertainty about the risks and benefits of drugs, which will not go away any time soon. If people want certainty, very soon there will not be any new drugs".

* *Pharmaceuticals Correspondent, Financial Times. Abridged from an article that appeared in* The Financial Times*, on September 21, 2010.*

About a Competition Law – Pakistan

On August 14, 1947 the existing State of Pakistan was separated from India and made a new nation, following the independence gained from England and a struggle for a separate state for India's Muslims lead by Mohd. Ali Jinnah. Ever since birth, Pakistan has witnessed political turmoil, wars with neighbouring India, and now recent spates of terrorist violence; leaving the country politically and economically dilapidated.



Economy

Pakistan is a developing country and its economy is the World's 27th largest economy, based on its purchasing power. Economic review of Pakistan shows that there has been a growth rate of 7 percent per year for four successive years till 2007. Though Pakistan is a poor country, yet its growth rate has been better than global average growth rate[1].

With the help of IMF and as a result of foreign investment and renewed access to global markets, Pakistan has witnessed visible economic progress. Substantial macroeconomic reforms since 2000, most notably at privatising the banking sector have helped the economy. The growth of the economy was affected during 2008 global economic recession. Inflation remains the top concern among the public, jumping from 7.7 percent in 2007 to 20.8 percent in 2008, and 14.2 percent in 2009. In addition, the Pakistani rupee has depreciated since 2007 as a result of political and economic instability.

Competition Environment

The Competition Commission of Pakistan (CCP) was established on October 02, 2007 under the Competition Ordinance, 2007. The main aim of this Ordinance was to provide for a legal framework to create business environment based on healthy competition towards improving economic efficiency, developing competitiveness and protecting consumers from anti-competitive practices.

Prior to Competition Ordinance, 2007, Pakistan had an anti-monopoly law namely 'Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance' (MRTPO) 1970. The Monopoly Control Authority (MCA) was the organisation to administer this Law. In the fast changing global and national economic environment, the MRTPO, 1970 was inadequate to address competition issues effectively because:

i) the 1970's law was out of date for a modernising and rapidly transforming market economy;
ii) the MCA was not able to meet the expectations of businesses and the consumers at large; and
iii) the first generation reforms required a competition policy framework to promote and protect competition and innovation.

Considering the above, Government of Pakistan launched a programme to develop Competition Policy as a key "second generation reform" initiative. As a result of these efforts, Competition Ordinance, 2007 replaced the MRTPO and institutional capacity building of the newly formed Competition Commission is in place.

Competition Law and Policy

The Competition Bill 2010, passed in May 2010, received assent by President Asif Ali Zardari on October 06, 2010 to forestall anti-competitive behaviour and other unethical business practices. The Bill seeks to ensure free competition for commercial and economic activities and aims at protecting consumers from monopoly, cartelisation etc.

The Bill seeks to empower CCP; among other things, to prohibit commercial enterprises from unfairly using dominant position in market through such unethical practices as limiting production and price discrimination etc. The law will promote competitive and (relatively) fair markets in the country.

The CCP is a statutory body, its ordinance was promulgated three times between November 2009 and August 2010. However, it had been a defunct entity since August 14, 2010 as the Competition Ordinance, 2009, had lapsed after completion of three months.

Consumer Protection Environment

Legislation and statues for adequate consumer protection is missing in Pakistan, hence consumers do not have recourse to redressal of their grievances, complaints *vis-a-vis* the supply of specific goods and services. The Consumer Rights Commission of Pakistan, an NGO, had initiated a campaign and came up with a draft of the Model Consumer Protection Act, 2000. The draft law was submitted to the Federal Law Minister, Chief Justice of Pakistan, provincial governors and Pakistan Law Commission.

Conclusion

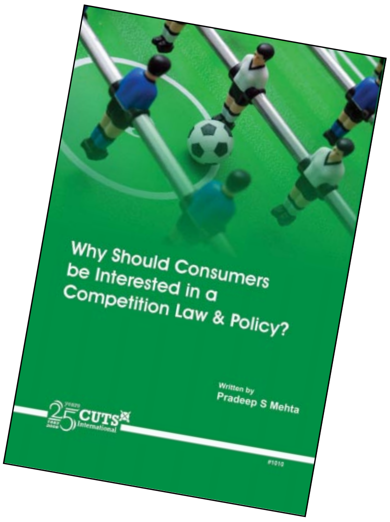
The passage of the competition law must clear the doubts over the future of Pakistan's anti-trust law and boost the confidence of those fighting against unfair market practices. The law has drawn vast opposition from corporations since its promulgation as a presidential ordinance almost three years ago.

The government must therefore ensure that the bill would provide consumers legal cover against the corporations' anti-competitive activities.

1. *www.economywatch.com/economic-review/pakistan.html*

Publications

Why Should Consumers be Interested in a Competition Law & Policy?



Competition is a process of economic rivalry between market players to attract customers. Fair competition benefits consumers and the economy. Consumers' purchasing power increases as a result of lower prices. Therefore, to ensure that consumers and businesses enjoy maximum benefits, competition must be maintained in the market. More so, consumers and their representatives themselves have to be alert in order to keep the government as well as the competition authority of their country active in implementing competition rules.

This paper aims at generating awareness that could be helpful for a common person to identify anti-competitive practices in the market place and seek action to rectify the same. It describes various facets of competition, deals with certain common myths about competition in the market and describes various types of hurdles to competition. The paper also carries several examples of competition action on commonly consumed goods and services in the form of real cases from across the world.

This Research Paper can be viewed at: http://www.cuts-ccier.org/pdf/Why_should_consumers_be_interested_in_a_competition_law_and_policy.pdf

Forthcoming

A Time for Action

A Time for Action is the research report that summarises the findings of the two year competition policy and law project entitled, *'Strengthening Constituencies for Effective Competition Regimes in Select West African Countries'* implemented by CUTS in seven countries of West Africa: Burkina Faso, The Gambia, Ghana, Mali, Nigeria, Senegal and Togo, Ghana and Nigeria.

This document is a unique source of information on the situation in each country and the comparative inter-country analysis leads to very useful observations relating to the sequencing of policies in the process of economic liberalisation, the institutional design of competition law systems at the national and regional levels, and the prerequisites for a successful transition to a market economy. A must read for scholars, experts and international development partners with an interest in the region.

This publication is also available in French as: Un Temps pour Agir

Sources

AP: Associated Press; BL: The Hindu Business Line; BR: Business Respect; BS: Business Standard; CADE: Brazilian Antitrust Authority; CNC: Spanish Competition Authority; EC: European Commission; EP: Ethical Performance; ET: Economic Times; FCA: Finnish Competition Authority; FE: Financial Express; FT: Financial Times; HCC: Hellenic Competition Commission; ILO: International Law Office; M&C: Monsters & Critics; ND: News Day; NV: New Vision; SACC: South Africa Competition Commission; TD: Travel Daily; TH: The Hindu

Published by **CUTS Centre for Competition, Investment & Economic Regulation (CUTS CCIER)**
D-217, Bhaskar Marg, Bani Park, Jaipur 302016, India
Ph: +91.141.2282821, Fax: +91.141.2282485, Email: c-cier@cuts.org, Website: www.cuts-ccier.org
Printed by: Jaipur Printers P. Ltd., M.I. Road, Jaipur 302001, India.

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