

THE ROLE OF COMPETITION POLICY IN A GLOBAL ECONOMY

A QUESTION FOR INDIA

by

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The role of competition policy in a global economy was the fundamental question addressed last March at a three day multi-jurisdictional conference in New Delhi. Sponsored by the IBA's Global Forum on Competition and Trade Policy, the World Bank, the Confederation of Indian Industry and India's National Council for Applied Economic Research, the conference brought into sharp focus the role of competition law as a tool of deregulation.

That India and 15 other OECD and South Asian countries sent such high level representatives points to the recognition of the potential importance of good competition laws to economic growth and development for industrializing and emerging market economies.

India's post-independence, socio-political approach to industrial policy provided a dramatic backdrop against which to debate the use of state enterprises, regulatory controls, promotional instruments and trade restrictions to spur industrial development.

India's Historic Dirigisme

In the drive to independence, Jawaharlal Nehru, later to become India's first prime minister, spoke of unleashing the energy, creativity and talent of India; characteristics which he felt had been suppressed under colonial rule. However, once independence was achieved Nehru and India chose an economic path which, many would say, has had the opposite affect.

With a set of socialist goals, a distrust of the private sector, and a wariness of foreigners, Nehru and later his daughter, Indira Gandhi, entrusted the task of industrialization to the state. Bureaucrats were given virtually complete control over economic decisions and market direction.

Private industries, banks and insurance companies were nationalized. Internal competition was discouraged, huge tariff walls kept out foreign goods and in turn isolated and insulated domestic industry. Foreign investment was discouraged and existing foreign investors were driven from the market.

Making matters worse was a repressive system of domestic planning and regulation. Under a capacity - licensing regime, the so-called Licence raj, companies were required to seek permission from bureaucratic planners to invest or make new products. Licenses and quotas tended to go to those with the right connections and the deepest pockets and to those who were willing to respond to the political needs of the government. Larger enterprises, and the influential families which controlled them, were able to work the licensing system to secure a disproportionate share of newly licensed capacity and to hoard licences.

The Modern Maharajahs

The results were predictable; a few dozen families - the modern maharajahs - came to dominate the Indian economy. Shortages, high prices for uncompetitive products and slow economic growth were the order of the day, and sheltered, inefficient Indian industries reaped huge profits from captive Indian consumers.

By the late eighties the health of the Indian economy stood in stark contrast with its neighbours. Other Asian economies had raced ahead, fuelled by market forces and export-oriented development. India's growth rate was anaemic by comparison, with its most significant export being talented people in search of opportunity.

1991 Reforms - Better Late Than Never

In 1991, rocked by a balance of payments crisis, the government of India began to come to grips with an unsustainable system. Driven by the crisis, the country embarked on a market-oriented reform program aimed at dismantling the industrial licensing system, giving businesses the freedom to make investment decisions and the gradual opening of key infrastructure sectors to private investors. Since 1991, the government has also begun to lift many import controls, reduce tariffs, liberalize capital markets, reform the tax system and woo direct foreign investment.

India must be complimented on the economic restructuring/liberalization program which began in 1991 and on its continued commitment to these reforms. Certainly its economic performance since then indicates the success of these policy measures.

The question now is whether India has the will to stay the course. Since the rejection of the Congress Party in the spring of 1996 (the Congress Party dominated Indian politics for five decades and presided over the first stage of the current reforms) India has had three prime ministers. The country is currently governed by a fragile, ideologically disparate and unwieldy coalition of reformers, regional parties and Marxists. A volatile mixture from which to shape the next round of politically sensitive reforms.

Competition Policy as an Instrument for Development

Fostering competition and economic efficiency has not been a priority in post-independence India. The government's willingness to trade-off competition and economic efficiency against other socio-economic goals is well illustrated by its competition law regime - *The Monopolies and Restrictive Trade Practices Act* (MRPT Act) of 1969. While the purposes of the MRPT Act were to prevent the concentration of economic power as well as monopolistic, restrictive or unfair trade practices, its administration is now seen to have deterred competition and economic efficiency in Indian industry.

Perversely, the Act's provisions regulating new entry have been applied so as to entrench the market positions (often concentrated) of existing enterprises. In the result, the Act has become synonymous with the now maligned government's licensing and regulatory control policies. Worse, as enforced, the Act has raised rather than lowered barriers to entry and insulated inefficient incumbent firms from the disciplines of new entrants.

Priority of Competition Law Reform An Open Question

Competition policy is increasingly recognized as complementing deregulation, liberal trade and investment policies. There is no longer any doubt that modern and effectively enforced competition regimes are pivotal in enhancing productivity and competitiveness. Since 1990 more than 35 countries have adopted or updated their competition laws.

From either a total or consumer welfare perspective there can be little doubt that an effective competition policy could play an important role in facilitating India's structural adjustment and economic growth. Experience across a large number of countries and industries suggests that inter-firm rivalry and competition results in lower prices, improved product quality and variety, increased productivity, innovation and diffusion of new technology. These are crucial elements for fostering international competitiveness of Indian industry. The evidence also tells us that a liberalized trade and investment environment cannot alone bring about the necessary structural adjustment to reverse the fortunes and direction of a non competitive economy.

India today is at an economic cross-roads. Whether its political leaders can make the tough decisions to deepen the reform process by strengthening market incentives and fostering efficiencies by upgrading the MRTP Act is an open question. The political resolve required to follow this course should not be underestimated. Earlier this autumn corporate India renewed its calls for protection from foreign competition with a demand for a two year freeze on customs duties at current levels - hardly an endorsement of industry's willingness to adapt to competitive and increasingly non-national markets.

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