



COMPETITION POLICY IN INDIA - DURING AND AFTER COVID-19 PANDEMIC

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ABSTRACT:

The objectives of competition policy in India are the creation of an active competitive environment and to aid and abet the process of creating globally competitive firms with enhanced investment and technological capabilities. To achieve these objectives, the government will need to play a proactive role. Rather than restricting themselves to issues conventionally covered by competition law, the authors consider, as part of competition policy, all those policy instruments that impinge on the promotion of competition in markets. Consequently, policies relating to trade, investment and technology development also come under the purview of competition policy insofar as they impinge on the process of competition. The formulation and implementation of an effective competition policy in the current context is a difficult task as it needs to be consistent with other policies which are transforming India into a liberal open economy.

The corona virus (COVID-19) pandemic has provoked a public health crisis without precedent in living memory. In addition to causing large-scale loss of life and severe human suffering, the pandemic has also set in motion a major economic crisis that will burden our societies for years to come. The OECD is contributing to a co-ordinate policy response across countries and competition policy is one dimension of that response. History has shown that the same basic principles of competition economics apply during times of economic recession as during times of economic expansion. Sound competition policy is all the more important in moments of crisis to ensure that the crisis is solved and the subsequent economic recovery, as fast and sustained as possible. This requires competition authorities to act today to help the overall policy response of governments to deal with this crisis in a sustainable way. Governments need to be receptive to advice from competition authorities to make sure that competition principles can be respected and help pave the way to recovery.

This paper concludes the competition-related responses that can help guide the actions of governments and competition authorities in today's challenging times.

KEYWORDS:

COMPETITIVE ENVIRONMENT, ECONOMIC RECOVERY, POLICY RESPONSE, PANDEMIC, COMPETITION AUTHORITIES.

INTRODUCTION

Competition refers to a situation in a marketplace in which firms/ entities or sellers independently enter and compete for attracting a potential group or population of buyers in order to achieve a particular business objective, such as profits, sales, or market share. Competition is not an end unto itself, rather it is a means to achieve economic incentives and welfare objectives. A market can only flourish if there exists free and fair competition. Therefore, competition has become a driving force globally as well for international trade and commerce.

The Indian economy is on a developing path which has helped it in attracting a lot of investments from foreign nations as well. . Recently, the Indian economy has been one of the strongest competitors in the world. However, it has not benefited from its fullest potential which means it could develop further in the coming future. Maintaining an equal level of competition acts as a catalyst in unlocking the potential in many areas of the economy as well as circumstances, which has been held back by certain restrictions, on competition and collaboration in various forms. This pandemic is one such situation that has

accelerated the process of Atma Nirbhar Bharat or self-reliant India.

However, due to the pandemic, businesses have been disrupted globally. While the companies which suffered major setbacks and losses had to shut down, the others may look for a way of combinations or mergers to survive this time but they needed to be within the guidelines or relaxations given by the CCI. Companies selling essentials tend to make a profit out of this situation by increasing prices or resorting to unfair trade practices. Due to this, the CCI and other global bodies are closely keeping tabs on the market. Companies need to be aware that the Competition Act, 2002, is applicable to all irrespective of the pandemic.

Many relaxations have been provided in various sectors of the Indian economy ranging from the Reserve Bank of India to the Securities Exchange Board of India in view of the downfall of the economy which resulted in unemployment, an increase in loans, financial crisis, etc. Many countries like the United Kingdom, Sweden, etc had already provided relaxations and were keeping a close eye

on the competitive activities by them in order to protect the consumers.

MATERIAL AND METHODS

COVID-19 emergency government support and ensuring a level playing field on the road to recovery. This brief considers ways to ensure that short-term COVID-19 crisis responses do not result in unintended negative implications for competition and trade in the medium- and long-term. It highlights the competition and trade policy tools governments can use to effectively balance the needs of pandemic responses while ensuring that they do not undermine efforts to maintain a level playing field, domestically and globally.

COMPETITION POLICY RESPONSES TO COVID-19

This policy brief discusses how competition policy can help address the immediate challenges raised by the COVID crisis while preparing for the post-pandemic future. In this short outline actions that governments and competition authorities can consider to help address the immediate challenges raised by the crisis whilst looking to the post-pandemic future.

COVID-19: MANAGING OPERATIONAL CHALLENGES AND ENFORCEMENT RISKS FOR COMPETITION AUTHORITIES

This note looks at the operational challenges and enforcement risks for competition authorities arising from the crisis and the confinement measures and provides some guidance to authorities.

COVID-19: COMPETITION AND EMERGENCY PROCUREMENT

This is also make examines the conditions when direct awards may be necessary for emergency reasons and provides guidance for procurement and competition authorities for when departing from competitive tenders may be justified.

MERGER CONTROL IN THE TIME OF COVID-19

In the context of COVID-19, this note analyses some key challenges related to merger control that competition authorities will face in the following months and presents open issues that require further discussion to ensure consistency across jurisdictions.

EXPLOITATIVE PRICING IN THE TIME OF COVID-19

This analyses the role of competition agencies facing high prices caused by the Covid-19 crisis. It discusses the circumstances under which competition enforcement may be justified, how to overcome the difficulties that competition authorities pursuing such a course are likely to face, and available regulatory alternatives to address high prices during a pandemic.

CO-OPERATION BETWEEN COMPETITORS IN THE TIME OF COVID-19

This note identifies some of the criteria that competition

authorities may consider when assessing co-operation between competitors in the context of the Covid-19 pandemic, and presents solutions to some of the challenges raised by their analysis. Some potential issues are highlighted to prompt further discussion.

ECONOMIC RESILIENCE AND COMPETITION POLICY IN THE TIME OF COVID-19

In this section, OECD Competition Committee on global scenario, shares his views on the impact of COVID-19 on global economies and how markets have responded to the social and economic challenges raised by the health and economic crisis that follows it. He also explores, in particular, the challenges faced by competition policy and authorities.

ECONOMIC RESILIENCE, GLOBALISATION AND MARKET GOVERNANCE: FACING THE COVID-19 TEST

This opinion piece by reflects on economic, competition and social policy issues in the time of COVID-19. As the COVID-19 crisis develops and moves through different stages including soon towards economic recovery, governments, policymakers and regulators, including competition authorities, face different challenges in order to support a swift and robust recovery.

In this context, the question therefore arises: how can competition policy and more specifically competition authorities contribute to a faster and more sustained economic recovery?

WE CAN MAKE BRIEF DISCUSSION POINTWISE AS BELOW:

- Is there a role for competition authorities in the recovery phase and what might it be?
- What is the role of competition advocacy in the design and implementation of state interventions?
- What is the role for competition enforcement in the recovery?

The key findings of this discussion will be again explored the Covid-19 crises, economic problems and outcomes during and after this pandemic.

CONCLUSION

This paper explains the changes brought by finance department of India in the given pandemic situation, new hurdles in the market, anti-trust acts, exploitation of the consumers, whether prices could be increased at the whims of the companies, pharmaceutical industries, and steps taken by the Competition Commission of India (CCI).

In a world hard hit by a pandemic on an unprecedented scale, where entire sectors are being subject to change, expecting market forces to provide all the incentives to adapt to the new world within the timeframes that minimises deep economic crisis with all its implications on social cohesion, is probably not enough. Therefore, in most jurisdictions, the state has been playing a role in minimising the direct hit from the crisis and can be

expected to continue to play a role in the shaping of the recovery.

Similarly, governments, central banks, and regulators used various policy tools to assist financial institutions and prevent risks from spilling over from the financial sector to other parts of the economy. Central banks lowered interest rates and eased liquidity conditions, making it easier for commercial banks and nonbank financial institutions such as microfinance lenders to refinance themselves, thereby allowing them to continue to supply credit to households and businesses.

As far as steps and actions taken by countries worst affected from this crises and in light of the given situation, it is possible that the businesses and enterprises may take or adapt steps to overcome their losses which are against the law and which would directly or indirectly affect the market and overall the consumers due to which CCI and other such bodies are on their toes globally. In several countries like European Union, the United Kingdom the

United States of America, Spain, France, and South Africa an announcement was already made that they are keeping a close tab on the functioning of companies during these tough times so as to equalise competition in the market and protect consumers interests.

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