



COMPETITION ISSUES IN THE MARKET ON FARM GOODS *From the rural poor to luxurious supermarkets: Who profits?*

Economic theory predicts and experience in the marketplace demonstrates that concentrated markets can and usually do impose serious economic harm on both producers and consumers. Moreover, dominant firms in such concentrated markets frequently engage in anticompetitive conduct to retain, entrench and expand their positions. This imposes significant economic and social costs on both suppliers and customers. Such conduct does not promote economic efficiency or positive dynamic change in the market. It serves only to distort the market and to advance the interests of the dominant firms.

Such a situation exists in various agri-markets. Increasingly, a handful of firms are seen dominating a large number of markets both upstream and downstream the farm gate.

This briefing paper highlights the impact of restricted competition in the global market for agricultural commodities vis-à-vis the poor producers in developing economies, and the consumers. Some recommendations on the application of competition law, as well as other viable alternatives, are suggested in this regard with a view to remedying the negative effects created by the rising trend of corporate concentration along the commodity chain to promote better welfare for both small producers and consumers.

The Problématique

The market's main role is the delivery of products from producers to consumers and provision of price signals for resource allocation. This requires taking the products from the producers and delivering them to the ultimate consumers in the form and quality acceptable and demanded by users. If the marketing system was perfectly competitive and efficient, consumers' preference would pass on to producers, and any reduction in costs at the producers' end would also be passed on to consumers as price reduction, while reasonable profits are retained by the producers.

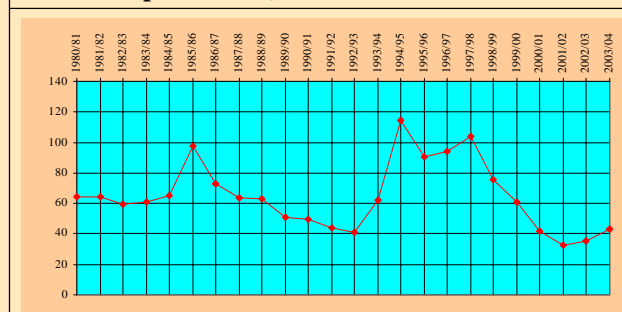
The market for agricultural products is often considered to be an example of such a perfectly competitive market. However, in fact, it is more than often not. One can notice that there is a huge gap between the retail prices that consumers pay and the prices producers receive at all geographical levels of the market: local, national, and global. Let's take coffee as an example.

The world coffee prices went through a severe crisis since 2000, which continued until the end of 2004. During these five years, a large number of coffee producers went bankrupt since they were unable to pay off the production costs. Earnings by coffee producing countries in terms of exports dropped from around US\$10-12bn per annum in the late 1980s and early 1990s to just over US\$5bn during the crisis years, according to the International Coffee Organisation data (<http://www.ico.org/>). Surprisingly, the coffee market in industrialised countries continued to be

relatively healthy with steadily rising retail sales, particularly in terms of value. Hence the question is: where have the billions of dollars gone?

If we look at the larger picture across the whole scenario, analysis of the farm commodity chain reveals that the presence and conduct of a small number of giant agribusinesses in both the upstream and downstream segments of the agriculture commodity chain such as farm input companies and intermediaries like traders, processors and retailers, is one of the reasons. This, despite hugely affecting the operations of the entire system, has not so far been fully and adequately reported. These giant agri-business companies, unfortunately, do

Figure 1: Prices Paid to Coffee Growers (weighted by exports levels) – 1980-81 to 2003-/04



Source: Néstor Osorio (2005), *The World Coffee Market: Lessons From The Crisis And Future Scenarios*, International Coffee Organisation

not always work in a competitive manner, particularly when the markets are concentrated enough for them to abuse their economic dominance and seek unjust rents.

The spread between the prices the consumers pay and the prices the primary producers receive is being pocketed by the intermediaries. These companies can afford to leverage their monopsony while dealing with small farmers (to get as low as possible purchasing price) and abuse their monopoly while dealing with the consumers (to push prices up). A World Bank report in 1997 estimated that the difference between producer and consumer prices might have cost commodity-exporting countries more than US\$100bn a year. It also suggested that imperfect competition at the intermediary level is the key factor.

Recently, such distortions have prompted increasing concerns world over on how the expansion of international production and trade in agricultural produce is enriching only a few 'insiders' of the chain, whereas such growth is expected to benefit the poor more than any other economic activity does. Incidences have highlighted how the concentration of economic power by industries along the agri-commodity chain, as well as their anti-competitive behaviour, is adversely affecting the profitability and livelihoods of peasants and workers in developing countries.

The Commodity Chain and Its Weak Links

An estimated 1.3bn people work in the agriculture sector around the world and another 2.5bn depend on it. A majority of them are in the developing countries. There are, however, stark contrasts among different groups of stakeholders in the global agri-chain.

The first group comprises those companies, which supply agricultural inputs such as seeds and agro-chemicals to farmers. Among the 'producers', except for a small number of wealthy and industrialised farmers who have better access to resources and who use capital and input-intensive production methods and are well-connected to the markets through contracts with agri-businesses, the rest of the farming world mainly comprises small-scale and family farms, and landless labourers.

Except for cash crops, commodities produced on such small land holdings are partly meant for family use, and the remaining is exchanged. This surplus produce is disposed in two major ways: (a) direct supply through local wet markets to the local consumers, and (b) sales to traders. Sale in category (a) is the only marketing channel where primary producers and ultimate consumers have direct interactions. For the rest,

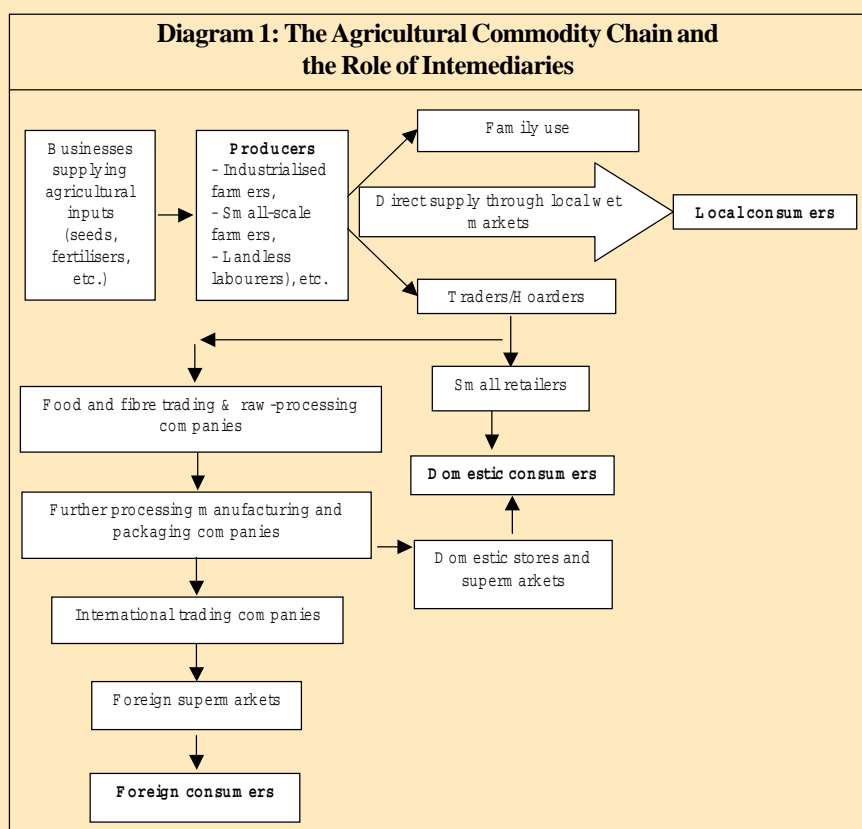
sale is along a chain, through various intermediaries, before reaching the final consumer.

The intermediaries have various functions, including physical transportation, storage, processing, packaging and marketing services etc., ranging from the local, to the national, and the global levels.

The imperfections and dysfunctions inherent in the chain are due to the asymmetry of power that exists among its various links. Power relates to direct or indirect control over various types of resources: finance, technology, skills, marketing channels, intellectual property rights (IPRs), information etc. The greater the asymmetry of power among different stakeholders in the chain, the more the stronger companies dominate the institutions (markets, regulations, standards) and impose their interests on the smaller and weaker economic units.

Concentrated Markets

What really drives the aforementioned power asymmetry between various links of the farm chain? Market concentration, say the critics. Several reasons can be quoted to explain this situation. Lax supervision of the privatisation process in developing economies, which allows public monopolies to turn into private ones, is one. Tolerance of strategic mergers and acquisitions, or past failures to enforce competition law rigorously can also be mentioned in this regard. Be that as it may, the result is such that a handful number of firms are now controlling the lion share of the global markets for various farm products. Examples include, though are not restricted to, the following:



Box 1: The Sugar Sector in Pakistan

In the whole chain, sugarcane growers constitute a diverse group of large and small farmers. They are large in numbers but poorly organised. They have limited bargaining capacity and hence are unable to exercise any significant influence on decision making in or in relation to the sugar sector. Sugarcane growers generally receive very little assistance from the sugar industry in terms of credit, inputs or technical support. It is particularly so in the case of smallholders.

Sugar mills are the most important actors in the value chain. These mills exercise bargaining power in a number of ways, including decisions relating to: (a) date of crushing; (b) determination of the quality of sugarcane and related (premium) price over the minimum price; (c) schedule of payments; (d) supply of credit, inputs or technical expertise to sugarcane growers; (e) establishment of purchasing points; (f) rules governing purchase and supply of sugarcane by middlemen; and (g) closure date of crushing. Farmers, especially smallholders, are generally on the receiving end, as they have to be content with whatever is offered to them.

Wholesale dealers are significant market players in the context of purchasing sugar from the sugar mills and supplying it to the retail sector for onward sale to consumers. Very little research is available about the organisation and governance of this sector. It is, however, generally believed that this sector operates hand in glove with the sugar industry, and is often found involved in unfair trade practices like hoarding and price-fixing through restrictive supplies. It could be partly because of restrictions on entry into wholesale sector, which needs to be thoroughly researched.

Source: Mukhtar Ahmad Ali (2005), Competition in the Sugar Sector in Pakistan, CUTS

- Cotton growers in Zambia reportedly face a market in which two trading companies, Dunavant and Clark Cotton (which hold 66 and 24 percent of the domestic merchant market respectively), account for 74 percent of the total ginning capacity.
- Similarly, two companies, Limbe Leaf and Dimon-StanCom, hold around 95 percent share of the buyer market for tobacco in Malawi.
- Archer Daniels Midland (ADM), Barry Callebaut and Cargill dominate Cote d'Ivoire's cocoa processing industry, with a three-firm concentration ratio of 95 percent (ActionAid International, 2005).
- At the global level, six transnational corporations (TNCs): BASF, Bayer, Dow, DuPont, Monsanto and Syngenta now control 75-80 percent of the pesticide market (Dinham, 2005); while many of these are also listed among the 10 companies, which together control 49 percent of the global seed market, as observed by the ETC Group.
- Four companies, viz. Cargill, ADM, Barry Callebaut, and Hosta, control 40 percent of world cocoa grinding, while in soybean and livestock, the first three have the biggest share of crushing and feed production along the entire chain from South Africa to Europe.
- Most significantly, producers and processors face a global supermarket sector where the top 30 companies account for around one third of total grocery sales (Vorley, 2003).
- The global coffee market, mentioned above, is well known to be a roaster-driven chain, 45 percent of which are controlled by four big roasting companies. This, according to a United Nations Conference on Trade and Development (UNCTAD) report, has led to a large divergence between export earnings of coffee producing countries and global retail sales.

Areas of Concern

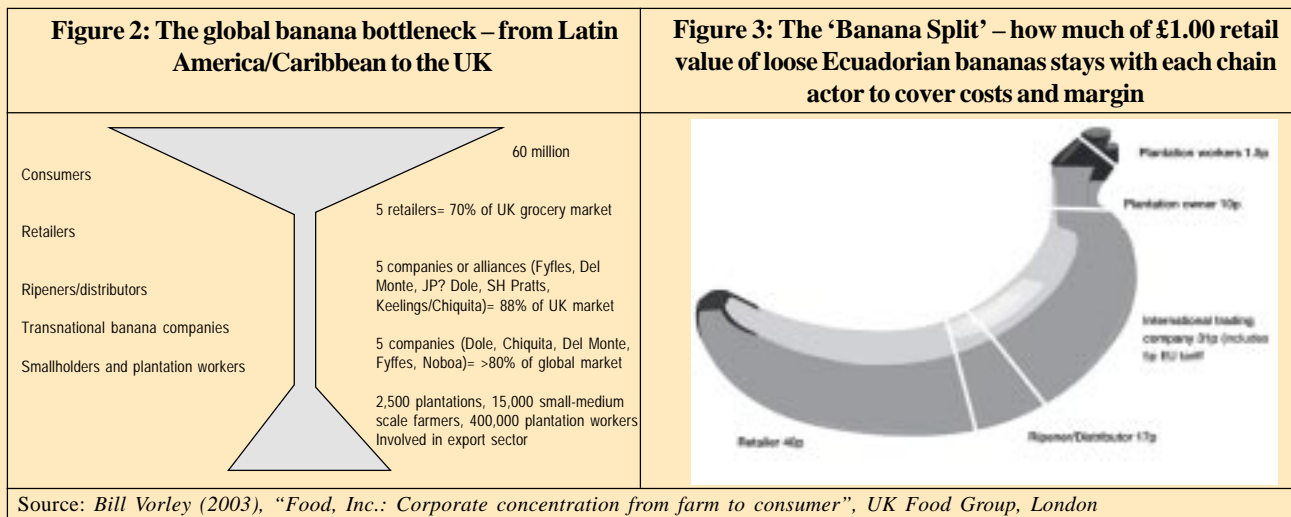
This increasing concentration level of various markets around the farm gate by itself is a serious cause for competition concerns. Besides, it also induces firms to

engage in anticompetitive practices. Some profound concerns in this regard include:

- Concentrated market structure prone to abuses of dominance:
 - dominant trading/processing businesses pushing down producer prices;
 - dominant agri-input businesses pushing up input prices;
- Anticompetitive practices:
 - unfair buying practices; and
 - price-fixing cartels.

The potential and existing abusive effects of such concentrated market structure deserve some attention. In West Africa, for example, it has been found recently that corporate concentration has enabled TNCs to push down the prices paid to small cocoa farmers. Wilcox and Abbott (2004) demonstrate by econometric evidence, that corporate buyers are exploiting their market power to push down the prices paid to cocoa farmers in Cote d'Ivoire. The study found that traders are also abusing market power to overcharge chocolate manufacturers for cocoa, which has increased the spread between farm-gate and retail prices for cocoa products.

Farmers also face highly concentrated markets when they buy agricultural seeds and agro-chemicals, such as pesticides and herbicides. The prices of agricultural inputs have been on the rise, pushed up by the new power acquired by TNCs through adoption of tough global rules granting and protecting IPRs over plant varieties and new seed technologies. The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), sadly enough, allows companies to charge royalty payments and issue restrictive contracts on farmers for protected crops. Qayum and Kiran (2003), for instance, found that Indian farmers using Monsanto's genetically modified (GM) Bt cottonseeds paid between 200 and 300 percent more than the traditional non-GM varieties. The poor farmers are, therefore, caught in a 'cost-price squeeze': higher prices for inputs and lower prices for produce.



Another concern is that the surpluses accrued as a result of the depressed producer prices are never passed onto the consumers, but retained as corporate profits by the intermediaries. According to the UK National Farmers Union, as quoted by Tulip & Michaels (2004), there is no evidence that declining farm-gate prices in the UK leads to reduced retail prices for consumers. From 1991-1992, the food retail price index in the UK rose by 15 percent, while farm-gate prices went down by 9.6 percent.

Big agri-businesses also engage in unfair trading practices with the vulnerable small farmers, which increase the level of exploitation imposed on the latter, aggravating their plight. ActionAid International (2005) listed out several such practices, which are commonly used by transnational buyers:

- delaying payment for produce;
- weighing and grading of produce in a non-transparent manner, or buying less than the amount agreed to;
- making excessive and non-transparent deductions from producer prices, and lowering prices at the last minute;
- removing farmers from supply lists without justified reason;
- changing quality standards without adequate notice.

Besides, anticompetitive practices are also common, especially where the markets are disorganised and unregulated as in the developing world. Legal action and penalties, however, are almost non-existent since contracts are mostly informal, and farmers are ignorant of the injustice being meted out to them. In addition, laws and regulations are inadequate. Chand (2005) points out that in a regulated market in Panipat, in the agriculturally advanced state of Haryana, India, evidence of collusion in purchase of *basmati* paddy/rice from producers existed, while in various markets in Coimbatore district of the state of Tamil Nadu, India, entry barriers range from low (millets) to considerable (cotton), and price information is either a secret, imperfectly available or open. Research studies in India also indicate the common occurrence of excessive charges deducted from producers and the undercover methods of sale in some markets.

A cartel is suspected to exist among businessmen in the sugar industry in Nepal. Strong correlation is seen among the auctioning prices of a few tobacco buyers in Malawi. Moreover, at the international level, over the last several years, 85 percent of all fines imposed on global price-fixing operations were paid by food and agricultural cartels.

How Competition Law Fails?

Detection and punishment of international cartels

Among successful attempts to punish various international price-fixing cartels mentioned above, only some negligible action was taken by developing country competition authorities. Sadly, most of the Southern countries have not been able to discipline these powerful ‘liaisons,’ between developed country producers, due to a lack of an appropriate legal regime, or the required capacity for intensive investigation. As a matter of fact, in the various cases where international cartels were uncovered and prosecuted in the developed world, developing country purchasers have not benefited from any of the enormous fines imposed on those cartels, despite the huge losses they suffered. To date, amongst the developing countries, only Brazil made an attempt, in vain, to investigate and prosecute the companies involved in the infamous ‘vitamins cartel’. In India, repeated requests by CUTS to the competition authority and the relevant government department, as well raising the issue in the national parliament, did not yield any results.

New Approach on Buyer Power

Competition law usually seeks to protect the interests of consumers. Competition authority tends to avoid intervening when companies exercise buying power as long as price discounts extracted from producers are passed on to consumers in the form of lower prices. However, competition rules need to adopt a new approach *vis-à-vis* buyer’s power, if a ‘level playing field’ is to be created to bring about equity and fairness in trading relationships across the world.

Increased Consideration of ‘Public Interest’ Issues

Competition law can be used to serve both economic and non-economic objectives. One of the first countries in the world, the US, got its first competition law from deep populist roots, albeit this has become less apparent in the contemporary doctrine. The motive of adopting a competition law emerged from demands *inter alia*, by agrarian interests to combat the collusive behaviour of merchants. In fact, these collusive alliances were called ‘trusts’, hence the term anti-trust or trust busting.

The collusion would cover not only prices of commodities brought to the market but other anti-free market tactics as to what and how much each farmer will produce, who he can sell to, and what the terms of payments will be, etc.

The emergence of ‘competition’ as the dominant goal of competition law, and the interpretation of competition in strictly economic rather than social terms, are relatively recent phenomena. Competition law is increasingly shaped by the drive for economic efficiency, while consideration of ‘public interest’ is pushed down to the second grade. This trend should be re-considered otherwise the extreme pursuit of scale and economic efficiency would dilute the goals of reducing poverty and protecting people’s rights. It is only then that competition problems in the farm goods markets as mentioned above can be resolved satisfactorily.

Regulation of Overseas Corporations’ Conduct

The current ambit of many countries’ competition law does not extend to regulate the conduct of businesses based overseas. There are also issues of enforcement capacity and resources of the competition authorities in many cases, which render the task of dealing with cross-border abuses difficult. Finally, the power balance also adds up to the problem. Why should a business like

Nestle, whose profits in 2002 was greater than Ghana’s gross domestic product (GDP), attach any importance to a decision over its conduct in this country’s national market, if it has a whole set of more important customers?

On the other hand, it is not rare that developed country governments would be hesitant in disciplining powerful TNCs based in their jurisdictions, cutting out even the remote chance of developing country regulators to seek international cooperation from them. Governments, anyway, have been ‘famous’ for policies, which promote ‘national champions’ (which in turn are expected to contribute to promoting the economy’s international competitiveness), or permit cartels, which raise the prices only in jurisdictions other than their own.

Development of Regional and Multilateral Competition Frameworks

This hapless situation has been captured well by the International Federation of Agricultural Producers (IFAP), which said in a statement:

“Much attention has rightly been drawn to the distortions caused by certain types of government policies. However, relatively little attention has been paid to the market distortions caused by the high level of concentration in the input and distribution side of the agri-food system. Yet it is clear that the domination of a few large firms in both the upstream and downstream of the farming sector can significantly affect market conditions”.

The trans-border economic power of companies, as well as the increasing incidence of anticompetitive practice with international dimensions, such as in the case of the agricultural produce markets, have pointed to the relevance of developing effective regional and multilateral competition frameworks to regulate corporate activity.

Box 2: Indian Amul Dairy - A Farmers’ Success Story

Amul is the brand name of an Indian co-operative of small milk producers in Gujarat. Formed in 1946, it is now one of the biggest dairy producers worldwide. With 2.36 million of producers and 11,333 village societies being involved, AMUL has successfully replaced the old system where private milk producers dominated the market that shut out small producers and local farmers.

The core of the project is the village milk co-operative, which works as follows: A village co-operative society of primary producers is formed under the guidance of the Co-operative Dairy Union (district level co-operative owning the processing plant). A milk producer becomes a member by paying a nominal entrance fee. S/he must then agree to sell milk only to the society. The members elect a managing committee headed by a chairperson. This committee is responsible for the recruitment of staff that are in charge of the day-to-day operations of the society. Each society has a milk collection centre to which the farmers take their milk in the morning and evening.

The main network of organisation and logistics begin when the raw milk is collected from villagers and village societies. Then the milk is tested according to established standards and sent to the dairy for further processing. The milk is tested again in a dairy lab, then pasteurised, clarified and standardised with the latest technological machinery and equipment. After pasteurisation and clarification, the milk is distributed to the market for sale.

Co-operatives like Amul illustrates how the decentralisation of management has promoted empowerment and the participation of the poor. Rural communities can be engaged optimally through skill development and providing employment opportunities in their villages, thereby restricting urban migration, preventing urban slum and reducing poverty conditions.

Now, other than milk, Amul also produces high quality chocolates, cheese, butter and other milk products giving tough competition to TNCs operating in India.

Source: <http://youthxchange.e-meta.net/main/amulmilkcoop.asp>

The WTO TRIPs agreement does flag the issue, but the Agreement on Agriculture (AoA) has overlooked such important aspects of the agri-trade, whereas the need for addressing competition concerns is becoming increasingly urgent. Perhaps an independent international institution 'with full representation from developing countries and the involvement of relevant civil society organisations' (CSOs), which could 'build technical capacity in developing countries, foster cooperation between established and inexperienced national competition agencies, and deal directly with anti-competitive behaviour from companies', should be established and promoted (Singh & Dhumale, 1999).

Role of the State: Searching for Alternatives

In the current context, both at the national and international levels, competition law is bound to fall short of its regulatory functions *vis-à-vis* competition issues in the agriculture sector. Reforms are needed urgently. However, it is not an easy task. Instead a lot of resources and efforts are required. In the meantime, the poor farmers in developing countries, as well as consumers all over the world, continue to be exploited. The role of the State to search for and facilitate alternatives should be highlighted in this regard. A success story from the dairy sector in India can be quoted as an example to illustrate how the farmers can come together and empower themselves to compete against the mighty TNCs (See Box 2).

Conclusion

In conclusion, one can see that the present structure of the markets for agricultural produce and its powerful

actors' conduct impose substantial but avoidable costs on the small farmers as well as consumers all over the world. Moreover, any potential gain in terms of innovation or efficiency is also not uniquely associated with the present system. Indeed, it seems likely that a different system that reduces concentration and opens up alternative routes would be more beneficial for all.

Three elements are important to a new approach for competition rules in light of the present structure and conduct of agriculture related businesses.

First, a merger control law should be more strictly enforced to challenge those acquisitions that increase market as well as sector concentration, weaken potential competition, or create excessive vertical integration. Such a policy should also look more closely at buyer's power and their competitive behaviour as potentially competition-restricting factors.

Second, a fresh look should be undertaken on the way the competition law is treating issues related to 'public interest', especially when examining corporate combinations, which increase dominance and/or concentration.

Third, extra-territorial, regional and multilateral approaches should be examined more seriously, especially *vis-à-vis* the capacity of developing country regulators to discipline the 'too-big-to-rule' TNCs.

Finally, robust and competitive markets have been and should remain the centre of any economy. The failure to preserve and protect them will result in serious economic and social costs, and similarly the failure to look for more rights-based and fair alternatives. This is true in general and especially in agriculture.

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