IMPROVING THE CLIMATE FOR PRIVATE SECTOR IN SOUTH ASIA

Presentation by

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1. INTRODUCTION

1.1 Background

South Asia comprises of Afghanistan, Bangladesh, Bhutan, India, Iran, Maldives, Nepal, Pakistan, Sri Lanka and by some definitions Burma and Tibet. But, topographically it is dominated by the Indian Plate. A major potential for globalization lies with the private sector which catalyses integration, promotes production, enhances institutionalization and above all fosters healthy competition in turn nurturing a larger picture of Asia to emerge in the world. A number of initiatives have been taken particularly by group associations such as ASEAN and SAARC which are playing a crucial role in promoting integration and aiding growth of private sector in South Asia by formulating conductive and reformatory policies. It has been witnessed over the years that countries which have private sector participation are more economically successful than those which do not have imminent presence of private sector. Talking of Asia, East Asia is the best example of high performance economies (Leipziger and Thomas (1993).

Most studies of public private relationships tend to concentrate on the functional nature of these relationships or more specifically on the obstacles mainly defined in terms of policies and actions taken by the government in doing business in a country (Brunetti, Kisunko and Weder (1998). But the major obstacles in the South Asian countries is the attitude of the government and its hostility towards the private sector therefore discouraging business enterprises to function in such non-cooperative, non-supportive and unfriendly atmosphere.

It is often seen that in the backdrop of this lies insecurity amongst the private sector players to gamble in the South Asian markets. So, formulating policies is only one side of the story, its sustainability in a free, open, competitive and healthy economy is the other, relatively more important.

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1.2 Competition Policy and Other Policies

It is not denied that those governing and the ones governed are not aware of the efficacies of having competition laws in place and the benefits which can be derived from them. But, what often gets in way of their smooth implementation are the political economy challenges of those who bear the brunt as a result of honest regulatory policies.

The main objective of competition policy and law is to preserve and promote competition as a means to ensure efficient allocation of resources in an economy, resulting in the best possible choice of quality, the lowest prices and adequate supplies to consumers. To put it differently, ensuring competition is just a means to achieve the above-stated objectives. There are complex inter-relationships between competition and other public policies. This factor has a direct bearing on the extent to which competition policy objectives can be pursued without being constrained by or conflicting with other public policy objectives. Accordingly, even in the absence of a competition law or a stated competition policy, many of the related concerns can be addressed, at least partially, if there are other policies, which are favourable to competition.

1.3 Promoting Competitiveness through Competition

Competition policy has a significant role to play in promoting competitiveness and growth. The term competitiveness appears to have aroused considerable controversy in recent years. On the one hand, the word has become a kind of umbrella term for a wide ranging set of policies. On the other hand, the term evokes an analogy, which suggests that nation states compete in the same way that firms compete. It may be true that the nations do not compete but firms do. Nonetheless, it is equally true that while nations may not compete, they may help the firms compete more effectively by following a set of macro policies, which can create an enabling environment. For example the issue of clearances to set up a business and how long does it take.

Empirical evidence, though focusing mainly on the experience of developed countries, has confirmed that barriers to competition within an economy, whether due to governmental or private restraints, lead to losses in income and welfare. In the context of developing countries, including India, there is a shortage of systematic analyses, regarding the benefits of adopting a competition policy and law.

1.4 Promoting Effective Markets Through Competition

Competition, though seen as a means of attaining efficiency and fairness, may not necessarily promote these objectives. A perfectly competitive market with many small firms may achieve equality of opportunity (fairness) but may not achieve efficiency, as too many firms will mean that they will not be able to enjoy economies of scale. Obviously, competition policy must deal with trade-offs in its objectives and instruments. This concern has led to a shift from a structural approach to behavioural approach in enforcing competition in market.

2. ANTI-COMPETITIVE BUSINESS ENVIRONMENT IN DEVELOPING COUNTRIES

2.1 Today growth in most of the developing countries is thriving on the private sector which has become an indispensable tool for reduction of poverty, unemployment, promotion of agricultural methods with technological innovations, research and development and infrastructure, by supporting governments to build large scale infrastructure projects. So we have witnessed a wave of growth in the private sector in South Asia in the recent past. Though we are still far away from being called "developed" but our approach is correct and we seem to be on the right path for development.

The Indian success story (if we may call it) is a testimony to this fact, but still cannot be referred to as a "benchmark". South Asia has seen a recent surge of private sector investments particularly in the infrastructure sector. But we are still clutched by policy and trust deficits, suboptimal regulatory mechanisms and poor implementation methodologies. The growth not only needs to be sustainable but also mutually beneficial as all South Asian countries are still in the nascent stage of reforms. In meeting this end, thus, the private sector can be a major spark plug and act as an impetus for expeditious growth.

Developing country markets are prone to anti-competitive practice and unfair trade practices. This is because the level of awareness and reportage amongst the stakeholders for competition issues is very low in these countries. Due to this, it is very difficult to get a fair picture of the existing entry barriers. Despite significant progress made in terms of liberalising the business environment, several approvals are required to start a new business and they often take substantial time and costs, acting as a major obstacle for a new business operator to enter the market. It is astonishing to note that a World Bank study on Doing

Business puts India at the 130th position in terms of the number of days it takes to get the procedural clearances.

2.2 At this juncture, it is pertinent to note that despite an upward movement after liberalisation and globalisation specifically in businesses, there are still many impediments in the form of stringent approvals and lengthy procedures for any new entrants. One of the major factors behind this is the administrative incapacities or inefficiency in the developing countries due to which even the potentially competitive firms cannot compete because their efficiency advantages are wasted by the costs of administrative burden and hassles.

2.3 It is appalling that anti-competitive practices such as collusion, discouraging new entrants, abuse of market power, monopoly etc. have pervaded the system so much so that even if policy barriers are removed, competition can still be distorted to keep prices that deliver high profits. Some of the most prevalent anti-competitive practices are:

a. Abuse of market dominance
b. Cartelisation
c. Collusion
d. Tied Sales
e. Consumer lobbies
f. Pressure from Business groups
g. Administrative decisions
h. Political interventions
i. Geographical distributions

A few instances such as collusion among ghee and vegetable oil manufacturers in Pakistan, collusion among middlemen in vegetable farming in Bangladesh, buyers' concentration and collusion in wheat markets of North India, cartels in the poultry industry and in the LPG gas market in Pakistan, show the prevalence of anti-competitive practices.

2.4 Another set of restraints are in form of resource and capacity negatively affecting business. Apart from the other administrative barriers there are visa restrictions, transport connectivity which affects cross border transit and lack of infrastructure. The need of the hour is an amalgamation of regulators, policy makers and stakeholders, as in the status quo, most of the South Asian countries do not have a competition policy at all and if they do, they lack the spirit of effective implementation and accompanying procedures. An effective competition law pacifies the negative effects of poverty, unemployment, lack of infrastructure, poor human capacities and administrative hiccups. A common scenario especially in the developing countries is that power is in the hands of those, misusing it the most. Such elements always seek to retain status quo by acting adversely and getting in way of effective implementation. Thus, to move up the ladder, co-operation with international and national agencies and integration with regional, national and international stakeholders is definitive.

2.5 The South Asian countries should learn by example of the developed countries which have overcome the obstacles and sustained themselves. An apt example here can be that of the UK and EU economies. The UK White Papers on competitiveness start from a recognition of the UK's relative decline and identify 10 policy areas that influence competitiveness. One of the 10 areas is the policy related to fair and open markets. Similarly, the EU White Papers highlight four areas for priority action and one of them is "Ensuring fair competition". Both emphasise the need of free and fair competition in the market as an essential ingredient for enhancement and maintenance of competitiveness in the economy, which is also supported by empirical studies. Reformation of EU's electricity market is also one of the major instances which testifies the effectiveness of regulatory activities, monitoring and strengthening of end user rights thereby enhancing competition.

3. AREAS OF IMPROVEMENT

3.1 Technical Assistance:

This involves strengthening of integration, building an institutional framework and enhancing human capacity thereby providing more room for healthier discussions. As discussed above, this can be done through public private partnerships which not only foster growth but also suffice for technical expertise, checking and monitoring standards etc.

3.2 Market growth

This involves letting easy entry to new entrants/players, creating new opportunities and increasing the market size, which can only be a possibility if there are effective competition laws in place to check the entry-exit barriers, let pro-business policies to flourish and most importantly, provide a check to the efficient implementation of the laws and policies made.

3.3 Free entry and exit

This involves clearing administrative and trade barriers which impede the growth and entry of new market players. Barriers are usually linked to capital market imperfections and government regulations. The former make it difficult for firms with viable objects to get access to capital or capital is easily available to firms with a proven track record. Government regulations act as barriers in the form of license or fees.

3.4 Regulatory Reforms

Removal of deterrent regulations, acting as obstacles for entry into the market, is quintessential for an economy to grow as this leads to reduction in flexibility thereby stressing on strict adherence to the principles of competitive neutrality.

As it is said, both over and under regulations are dangerous, which means, regulations without market failures or its absence in the presence of market failures might be harmful for the economy and impede economic growth.

3.5 Autonomy

Financial and functional autonomy of the regulator as well as effective coordination and delineation of functions among sector regulators. The nature of regulations should be pro-competition and those conducive to effective market growth.

3.6 Comprehensive legislations

The objects of competition policy are varied and in place to promote and encourage competition for efficient use of resources and consumer welfare. Other public interests are also included within the ambit of competition policy. These may include equity, fairness protection of small businesses, equality of opportunity, freedom of economic action, decentralisation of economic decision making and so on.

3.7 Analysis of Trade barriers

This involves an analytical study of the non-tariff barriers and identification of their nature and category. Also, it is required to do a detailed study of how these barriers affect other countries and affect trade.

3.8 Building human capital and Institutionalisation

This involves improvisation of standards of transparency and equity by banking upon human capital. It also included looking at business associations with trade groups, agreements for technical expertise, gaining support of big industries and associations thereby increasing market capacity.

4. CONCLUSION

South Asia offers a plethora of unexplored opportunities which have remained so due to the above discussed. But the private sector has immense potential to meet the mistrust, develop closer interface between policy formulation and implementation and spur economic growth. In the meantime, this may also change the outlook of the government in leaving behind the old school methodologies and giving way to new policies and procedures which ease business risks and develop a private sector friendly market for new entrants. At an initial stage, the private sector may be relatively less potent but eventually this is the only way for improving climate in South Asia for future investments and transitions in the economy.

It is a tried and tested formula for development. Not only policy building but lucrative partnerships with principal agents are the new buzz. This may at some level tackle the socio political problems as existing in the South Asian countries.

Hence, a well-structured and effective competition law can be the vanguard for the declining confidence that the stakeholders possess in these economies. Therefore, if the government adopts and implements competition law, there should not be any major administrative, political, social or economic hazards.

The challenge thus lies in making the markets more competitive and in creating independent effective regulatory institutions that address market failures, fairness and development objectives. The response to such challenge lies to a great extent in adequate capacity building of the regulators, policy-makers and stakeholders.

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