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Bangladesh[*]

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Bangladesh[2] is one of the most densely populated countries in the world. The poor Bangladeshi economy, with a low per capita income and a large population, reveals some clue to the abject humanitarian situation in the country.

Bangladesh became independent in 1971, when it seceded from its union with West Pakistan. Earlier, the whole of Pakistan was a part of India until 1947, when the British departed from the Indian sub-continent after ruling over it for nearly two centuries. A democratic environment, though fragile, has been prevailing in the country since 1991.

Bordering Myanmar and India, the country is situated in deltas of large rivers flowing from the Himalayas, into the Bay of Bengal. It is divided into six administrative regions, with the capital being Dhaka.

PROFILE	
Population:	138.1 million***
GDP (Current US$):	51.9 billion***
Per Capita Income: (Current US$)	400 (Atlas method)*** 1,700 (at PPP.)**
Surface Area:	144 thousand sq. km
Life Expectancy:	61 years**
Literacy (%):	41.1 (of ages 15 and above)**
HDI Rank:	138

Sources:
- World Development Indicators Database, World Bank, 2004
- Human Development Report Statistics, UNDP, 2004

(**) For the year 2002
(***) For the year 2003

Economy

After independence, Bangladesh followed a policy of very rigid import substitution in its industrialisation strategy.

Now, the country has come a long way in terms of trade and exchange rate liberalisation, through the simplification of its import procedures; the significant decline of quantitative restrictions; the noteworthy flexibility of trade in many restricted items; and the considerable rationalisation and reduction of import tariffs.

Recently, Bangladesh has introduced a freely floating exchange rate system. Since the abandonment of the Singapore issues in the Cancun meeting of the WTO, Bangladesh had all but given up its initiative of pursuing a competition policy and law. Yet, there is no denial of the fact that both producers and consumers feel strongly that there should be a competitive business environment for their mutual welfare. So, the need for a competition policy is an internal imperative in Bangladesh, irrespective of the outcomes of negotiations at the WTO.

Policy-makers and consumers are aware of this imperative and, hence, keep the issue of formulating a national competition policy and law alive in Bangladesh. The consumers' movement in Bangladesh is, however, quite weak and, hence, the demand for a competition policy and law from their side is not very forceful.

Competition Evolution and Environment

By competition or antitrust policy, economists usually mean intervention by public authorities for ensuring competition in the markets. The basic objectives of competition policies are meant to promote competition, enhance consumer welfare, by preventing restrictive agreements or concerted actions between firms that distort competition in the markets, which are either explicit cartels or tacit collusion. Such policies also deal with monopoly position, and the process of business concentration, such as M&As.

Competition regimes are often related to the development strategy of the country. At the time of independence in 1971, Bangladesh inherited a policy of very rigid import

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2 Additional information has been compiled from http://www.cia.gov/cia/publications/factbook/geos/bg.html

substitution as its industrialisation strategy, which continued to be pursued well into the 1970s.

The typical instruments of this inward-looking development paradigm, such as widespread quantitative restrictions on imports, high import tariffs, foreign exchange rationing and an overvalued exchange rate, became characteristic of Bangladesh's then trade and industrial policy environment.

These policies aimed at creating a domestic industrial base in the economy by protecting local firms against foreign competition. Consumer interests were neglected, as it was believed that 'infant industries' would eventually grow up to become more efficient than their foreign counterparts, and that, in the long run, dynamic efficiency gains would outweigh the initial welfare loss.

Although the choice of import-substitution was dominated by macroeconomic concerns about the balance of payments (BoPs) and fiscal balance, even after a decade of highly protected trade regime, both the internal and external balance situation of the country continued to worsen.

Moreover, the import-substitution strategy generated a distorted incentive structure, resulting in an 'anti-export' bias, undermining the potential for export growth.

It was against the backdrop of serious macroeconomic imbalances, of the early 1980s, and the stagnating export performance, that reform policies for stabilisation and structural adjustment were undertaken. Pressures from the WB, the IMF, and the worldwide turn against the import-substituting development policies have also constituted important factors in Bangladesh's consideration of a policy reversal.

Therefore, since the mid 1980s, Bangladesh has been implementing trade policy reforms with inevitable consequences for the domestic competition regime. Quantitative restrictions on imports were drastically reduced from about 40 percent of all import lines, in 1987-88, to a mere two percent in the 1990s. Tariffs were slashed, from as high as 350 percent in 1992 to as low as 40 percent, in 1999 (currently, it is around 25 percent). Exchange rate restrictions were liberalised greatly with frequent adjustment in the nominal rates.

Previously, the imposition of discriminatory sales taxes on imports, in addition to tariffs, also protected domestic firms. However, together with the trade liberalisation process, the import discriminatory multiple rate sales tax has been replaced by a uniform value-added tax (VAT), which has been imposed on both imports and domestically produced goods.

The trade liberalisation measures, along with the rationalisation of tariff structure, have resulted in the reduction of mean nominal protection for all tradable goods in the economy, from 89 percent in 1989 to about 28 percent in 1999 (much lower now). Similarly, the import-weighted mean level of nominal protection for manufactures has declined by about 27 percentage points. Currently, Bangladesh's nominal import protection level ranks among the lowest in South Asia (WB, 1999). Bangladesh has also taken measures in privatising some of the publicly owned, large enterprises, and has offered generous incentives to attract FDI.

It goes without saying that the above measures have greatly reduced the protection enjoyed by domestic firms, in the tradable sector of the economy. These firms' monopolistic powers have been severely curtailed by a liberal import regime. How much this has affected the firms in the non-tradable sector is not clear, due to lack of research on the topic. In fact, competition policy is an area of regulatory economics that has received the least attention in Bangladesh.

Overall Policy and Regulatory Framework

Presently, Bangladesh has no competition policy or law. When it separated from Pakistan in 1971, it did inherit all their laws, which were notified on a selective basis for domestic implementation. One law, which was not notified, was the Monopolies & Restrictive Trade Practices (MRTP) Ordinance, 1970 which is the current competition law in Pakistan.

However, fresh initiatives taken to adopt a competition law in Bangladesh, following the discussions at the 1996 Ministerial Conference in Singapore, were abandoned after the Cancun Meeting. Because, the issue of competition under the Doha Round of negotiations in the WTO framework was dropped from the agenda.

In 2004, a law on protection of consumer rights was approved in the Cabinet. This is supposed to be presented in the Parliament for final legislation. However, at the time of the writing of this paper, its fate is still unknown.

This law emphasises the consumers' right to obtain goods and services at competitive price. It also highlights the consumers' rights to information regarding quality, quantity, standard and value of the goods and services. However, the overall policy framework of the country still acts as a hindrance to the promotion of an efficient and competitive market structure in Bangladesh, due to four main reasons.

Firstly, the regulatory framework in the country is yet to be developed. Only recently, a regulatory commission has been set up for the telecommunications sector. Nevertheless, it is still in its infancy and yet to acquire any teeth. A Securities and Exchange Commission (SEC) has also been established to regulate the capital market in the country. Besides, Bangladesh is also in the process of restructuring the electricity sector and has put an electricity regulator in place.

Secondly, transparency and fairness lie at the heart of competition policy, and the rule of the law concerning them must be implemented relatively quickly. As a result, an autonomous, independent, effective and efficient judicial system is one of the most essential elements for ensuring a favourable business climate for competition.

Investors get involved in activities that require hiring manpower, purchasing land, securing assets, protecting private property, and enforcing contracts. Underdeveloped and inefficient, legal, commercial, and regulatory frameworks reduce chances of pursuing business with fairness and justice, which discourage competition by raising transaction costs of business.

Currently, the country's legal system is burdened with more than half a million cases. Such a slow and inefficient judicial system increases the costs of litigation. When the judicial system cannot guarantee property rights (e.g. the case of Ekushey Television, ETV of Bangladesh) and enforce contracts quickly, the competitive environment is seriously disrupted, undermining the interest of consumers.

Thirdly, despite the substantial magnitude of the liberalisation and deregulation processes, the Government does not allow further entry into certain industries that fall into the categories of reserved, regulated or over-saturated sectors.

In a freely competitive market mechanism, one is not required to tell firms whether any particular sector is over-saturated. At best, the Government can provide such information as the number of firms operating in the market and the amount of capital invested, for example. Under no circumstances should this information be used in restricting entry into the sector.

Presently, cooking oil, electric fans, corrugated iron sheets, etc, are considered to be sectors that are saturated. Financial institutions openly discourage investors to enter into these sectors. This is against the spirit of a competitive environment, as the Government does not know whether potential entrants could be even more productive and technologically better than the existing ones.

If such government policies restrict the entry of more efficient firms, the dynamic efficiency of the economy will be compromised. In addition, certainly consumers would not benefit from reduced price or better quality products or both in the case of entry restriction. Besides, in the name of 'over-saturated' sectors, the Government might be providing protection to the inefficient firms, detrimental to the overall welfare.

Fourthly, there are other sectors (e.g. telecommunications, power generation and air transport), which are gradually being opened up to private sector participation. However, it has been alleged that these sectors are being opened in a non-transparent and unpredictable manner, resulting in increased business transaction costs and widespread rent-seeking opportunities. This does not allow the participation of the efficient firms in business and, therefore, the society cannot benefit from any efficiency gains. Moreover, when things are done in a non-transparent way, they may be susceptible to being altered, due to changes in the political regime. Discontinuation of policy is regarded to be the worst factor in hindering private sector development and promoting efficiency.

Institutions, Competencies and Anticompetitive Business Practices

Lack of Legal Provision

As discussed above there is currently no effective legal provision designed to protect the interest of the consumers in Bangladesh. Nor is there a legal entity to oversee the trading practices of business firms. These tasks are, of course, complicated. On the one hand, assurance is needed that consumers are not cheated in any way. On the other hand, special care should be taken that regulatory powers, exercised on private firms and businesses, are not excessive.

Overseeing trading practices will also require knowledge about market structure and product quality, and, above all, will require technical expertise. Some businesses may consider gaining unfair competitive advantage, with misleading claims about their products' value, quality, place of origin and ingredients, a perfectly legitimate means to promote sales.

The ability of the average consumer to verify the product information given to them is extremely limited and, in most cases, impossible to implement. Therefore, in this era of commercialisation, the protection of consumer interests will necessitate much more than the enactment of laws. How the rules of the game are implemented – that is the most important issue at stake.

Presence of State-owned, Inefficient Industries

A number of large, SoEs have contributed to anticompetitive behaviour in certain industries. Many of them are making huge losses, putting an enormous amount of pressure on the Government budget. Strong unionised labour and several, other, vested interest groups do not facilitate the exit of these enterprises. Any competitive environment must allow for provisions of easy exit. When exit is blocked, competition within the industry is severely affected. Textile, jute, and sugar are examples of such industries in Bangladesh.

Monopolies

Natural monopolies exist in many sectors where government has an important role to play. However, in such sectors in Bangladesh, for example, railways, telephone, and other public utility services, anticompetitive structures have been in existence for so long, that they not only inhibit the modernisation of these services but also hinder private investment. Whilst, in recent times, the private sector has entered into the business of cellular/mobile telephones, competition has been restricted to only a few firms. This allows the state owned Bangladesh Telegraph and Telephone Board (BTTB) to continue to operate inefficiently.

Box 4.1: Vignettes on Anticompetitive Business Conduct in Bangladesh

In Bangladesh, local manufacturing companies often appoint one sole distributor, in a region of the country, allowing it to dictate or manipulate prices in that region. Often, foreign manufacturing companies even go so far as appointing one sole distributor or agent for the entire country.

This sole distributor or agent establishes a monopoly for that product and charges prices according to their whims. They never display company price lists, and may even refuse to show it if a customer asks to see it. As an example, H. S. Enterprise has been the sole distributor – in Bangladesh – of Honda Motor Company Limited, Japan, for 20 years, and the firm declares its status as a sole distributor in public. These types of practices are surely anticompetitive.

City Cell is a company involved in the mobile telecommunication business. When a consumer takes a mobile phone connection from City Cell, they have to pay for the particular mobile set supplied by the company. In this case, the consumer is deprived of having the option of another mobile set. This is surely a tying arrangement. So, this practice may also be considered as anticompetitive.

Source: Bangladesh Tariff Commission, 2004

Even within the sectors of natural monopoly nature, public-private sector collaboration can help improve the standard of services. This can result in increased competition as private sector firms will be involved and, consequently, consumers will be benefited from improved products and services at low cost.

In addition, there are some other issues that lead to anticompetitive practices in Bangladesh (Bangladesh Tariff Commission, 2004) such as:

- mergers, price fixing and manipulation of supply (through collaboration among importers, local manufacturers, suppliers etc.);
- exclusive dealing and tying arrangements (e.g. doctors' advice to use services from only particular diagnostic centres; teachers' advice to buy educational accessories from particular outlets; and also, visa fees for some foreign embassies need to deposited specifically at the Standard Chartered Grindlays Bank);
- bid rigging (pre-arranged and threat driven);
- price discrimination (dumping and charging different prices for identical products);
- bribery and gifts (e.g. bribing tax officials to avoid taxes); and
- extortion (e.g. sellers extorted by a purchasing agent).

Consumer Protection

As with any other country, the political economy of protection is also important in establishing a suitable competition regime in Bangladesh. It is through chambers, business organisations, and connections with the bureaucrats and politicians, that the producers (or firms) promote their business interest. This results in lobbying the Government for more protection, either in the form of increased tariffs or subsidies, or restricting competition.

Box 4.2: Anticompetitive Behaviour in the Banking Sector

In Bangladesh, nationalised commercial banks (NCBs) are burdened with bad loans and loan defaults. The Non-performing Assets (NPAs) are also very high (almost a third of total advance). Largely because of these bad loans, the spread between lending and deposit rate is very high in Bangladesh, i.e. the pricing policies followed by the NCBs are driven by their compulsion to recoup past losses.

When private banks were allowed to operate, it was hoped that they would charge lower rates of interest on lending as they did not have to start with bad loans. It was found that private banks' price loans follow those of the NCBs, who act as the price leaders. Such anticompetitive behaviour was responsible for allowing the NCBs to become much bigger than the private banks and also more inefficient.

Therefore, just by providing efficient services, the private banks have been attracting customers. All the same, there is a limit to this strategy. The market share for the private banks remains limited. Besides, access to the Government's development fund has been restricted for the private banks.

Moreover, NCBs also operate in such activities where private banking is absent (such as, agriculture and rural development projects). This also reduces the competition between the public and private sector. The central message of the above is that since much bigger and inefficient NCBs still operate, private banks have failed to bring any effective competition into the banking sector of the country.

In contrast, consumers are not formally organised at all, and due to the lack of an effective association or civil society group, little can be done to actively promote consumer interests.

The existing Consumers' Association of Bangladesh (CAB) has not been particularly successful in raising the concerns of the consumer at the higher level. As a result, policy makers most often see strong lobbying in favour for demands of business protection, whilst hardly encountering popular public stances countering these protective demands.

It is advisable, therefore, for an effective competition policy to concentrate on developing consumer associations, so that debates and discussions can take place between parties with opposing views. This will generate important points and information to help the policy makers decide on measures to improve competition and enhance consumer welfare.

Concluding Observations and Future Scenario

Despite significant reforms in the domestic economy, Bangladesh still possesses a rather weak competition regime, which has, in turn, impeded the efficiency gains therein. Moreover, a weak competition regime implies that the interest of the consumers is totally overlooked. Setting up an effective regime, in this regard, will remain a challenging task for Bangladesh, as it would require, among other things, legal and regulatory reforms, implementation of rule of law, development of civil society group protecting the consumers' interest, and, above all, further deregulation and liberalisation of the domestic economy.

Moreover, competition policy is not a panacea for promoting competitiveness. This depends, to a significant extent, on factors, such as human capital, institutional infrastructure, ethical business codes and commitment to good governance. The civil society too, has an important role to play in raising consciousness, regarding vices of anticompetitive practices. Education, media and social organisations have a role in mobilising a society for an appropriate competitive regime.

Besides, there is also a danger of excessive competition, which may have adverse socio-economic implications. There is, therefore, a need for open public debate on these issues, and continuous monitoring of the impact of competition on the weaker sections of the economy, particularly on small and medium-sized enterprises (SMEs). Simultaneously, there is a need for the realistic assessment of the extent to which multinational corporations (MNCs) are following the disciplines of competition law. Indeed, participatory governance should also be at the heart of any move to regulate competition.

Suggested Readings

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