29

*Singapore**

– Aparna Shivpuri†

Singapore was founded as a British trading colony in 1819. After independence, it joined the Malaysian Federation in 1963, but separated two years later and again became independent. According to the Constitution, as amended in 1965, Singapore is a Republic with a Parliamentary system of Government. Political authority rests with the Prime Minister and the Cabinet.

Economy

Singapore's strategic location, on major sea-lanes, and its industrious population have given the country an economic importance, in Southeast Asia, disproportionate to its small size.

The Port of Singapore, the world's busiest in terms of shipping tonnage, is a key component of its prosperity. Upon independence in 1965, Singapore was faced with a lack of physical resources and a small domestic market. In response, the Singapore Government adopted a pro-business, pro-foreign investment, export-oriented economic policy framework, combined with State-directed investments in strategic government-owned corporations.

Singapore, a highly developed and successful free market economy, enjoys a remarkably open and corruption-free environment, stable prices, and a high per capita GDP. Singapore has adopted a free trade policy, and the Port of Singapore Authority has facilities for entrepot trade (about a quarter of Singapore's total exports are re-exports). The economy depends heavily on exports, particularly in electronics and manufacturing. The Government hopes to establish a new growth path that will be less vulnerable to external factors, but is unlikely to abandon efforts to establish Singapore as Southeast Asia's financial and high-tech hub.

Evolution of Competition Regime – Sectoral Regulation

Following an Economic Review Committee recommendation and subsequent commitments in free trade agreements with Australia and the US, Singapore enacted a Competition Act at the end of 2004.

PROFILE	
Population:	4.3 million***
GDP (Current US$):	91.3 billion***
Per Capita Income: (Current US$)	21,230 (Atlas method)*** 24,042 (at PPP.)**
Surface Area:	620 sq. km
Life Expectancy:	78 years**
Literacy (%):	92.5 (of ages 15 and above)**
HDI Rank:	25***

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

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

Until then, Singapore had competition regulation on a sectoral basis. The Infocom Development Authority (IDA), Media Development Authority (MDA), and Energy Market Authority (EMA) regulate and enforce competition frameworks, especially designed for the telecommunications, media, electricity and gas sectors respectively.

Telecommunications Sector

Singapore's commercial importance as an international communications hub, and as a gateway to Asian consumers, is indisputable. For these reasons, despite its small – albeit growing – population of around only four million, Singapore has become an important business and telecommunications services hub for the region. The island Republic has one of the most modern telecommunication infrastructures in the world, with nation-wide broadband services connecting schools, offices etc.

* Original paper submitted in November 2004 and revised in September, 2005 & December 2005. Comments received from Robert Ian McEwin, Visiting Professor, Department of Law, National University of Singapore

The IDA, the local regulator, oversees the development, deregulation and liberalisation of the domestic telecommunications market. In recent years, liberalisation of the industry has increased competition in almost every segment of the telecommunications services industry: fixed line, cellular mobile, paging, Internet, International telephone, and mobile data services.

Liberalisation of the Singapore telecommunications industry started in 1992, with the corporatisation of Singapore Telecom (SingTel). In 1996, the Singapore Government revoked SingTel's monopoly rights and awarded a new service provider named StarHub a licence to operate from April 01, 2000. The Government announced full liberalisation in January 2000.

Due to the cosmopolitan nature of Singapore, almost all of the international telecommunication companies, from various countries, are represented. Other reasons for the presence of these international players can be attributed to the low corporate income tax rates of 26 percent. In addition, the Singapore Government awards OHQ (operational headquarters) status to companies setting up their regional and global operations here and such companies are rewarded with a generous incentive package.

Box 29.1: History of Telecommunications Sector

- 1992: The Operations arm of the Telecommunications Authority of Singapore (TAS) was corporatised; the TAS was reconstituted as the regulator, promoter and developer for the telecommunications industry;
- 1997: Liberalisation of the mobile phone and pager markets;
- 2000: Full liberalisation across all markets in the telecommunications sector; and
- September 2000: Code of Practice for Competition in the Provision of Telecommunication Services (Telecom Competition Code).

The Telecom Competition Code aims to:

- promote efficiency and international competitiveness of the infocom industry in Singapore;
- promote competition and restrain anticompetitive behaviour;
- include the abuse of dominance and unfair methods of competition, restrictive agreements and mergers, in its ambit; and
- ensure fair and equitable interconnection among licensees.

Source: www2.jftc.go.jp/eacpf/05/ APECTrainingProgram2003/ NCTeo.pdf

There are no import duties on telecommunications and software related goods. To encourage the new economy business, the Government has recently taken further steps to fine-tune its legal framework, by amending existing laws such as the Electronic Transactions Act, Computer Misuse Act, Copyright Act, and Evidence Act. Regarding competition within the industry, the regulator has taken a consultative approach to the development of the Telecom Competition Code.

Media Sector

The evolution of competition in the media sector started in 1996 when the Operations arm of the Singapore Broadcasting Corporation (SBC) was corporatised, and the Singapore Broadcasting Authority (SBA) was established to function as a regulator, promoter and developer for the media industry.

In 2000, the Government announced the partial liberalisation of Singapore's print and free-to-air (FTA) broadcast markets. SPH MediaWorks Ltd (SPH MW) subsequently obtained a licence to provide two FTA television channels, in order to compete against the incumbent FTA television broadcaster, Media Corporation of Singapore Pte Ltd, through its subsidiaries MediaCorp TV Pte Ltd, MediaCorp TV12 Pte Ltd, and MediaCorp News Pte Ltd. During the same period, MediaCorp Press Ltd obtained a permit to publish a daily newspaper.

By introducing limited competition, Singapore sought to foster investment in, and the development of, the Mass Media Service sector, in order to ensure the availability of a comprehensive range of quality Mass Media Services in Singapore. However, the SBA soon realised that, in order to yield the expected gains of competition, it is necessary to adopt a Code of Practice that will clearly specify the rights and obligations of Regulated Persons, and certain other entities, participating in the Mass Media Services markets.

In 2003, the SBA, the Films & Publication Department (FPD) and the Singapore Film Commission (SFC), were merged to form the Media Development Authority (MDA). Various initiatives, developments and standards for television, film, video, radio, publication and new media are now handled by the MDA. The organisation makes its guidelines clear and consistent, across all aspects of the media, so as to create a pro-business environment.

The MDA,[1] over a period of time, has put in place a number of laws and policies to ensure the regulation of this sector. These legislations are as follows:

- Broadcasting Act;
- Films Act;
- Newspaper and Printing Press Act;
- Undesirable Publications Act;

1 For more see www.mda.gov.sg

Box 29.2: Singapore Heading Back to Media Monopolies

In 2000, Singapore tried to open up its tightly controlled media sector by allowing limited competition, with Singapore Press Holdings Ltd (SPH) going into broadcasting, and MediaCorp venturing into newspapers.

As of September 2004, this experiment seems to have failed. The two dominant media firms are now returning to separate near-monopolies in newspapers and TV. SPH, the city-state's biggest publisher, will buy nearly half of a rival newspaper run by MediaCorp, whilst MediaCorp will acquire most of SPH's TV assets.

The new development will see state-linked SPH, which publishes 14 newspapers, including the *Straits Times*, pay RM 42.24mn for 40 percent of *Today*, a free newspaper, run by MediaCorp Press. It has been observed that this is not the first failed attempt at introducing media competition into Singapore. In the 1980s, the Government encouraged local banks to start a newspaper, the *Singapore Monitor*, to compete with the SPH's flagship *Straits Times*.

Source: http://www.jeffooi.com/archives/2004/09/singapore_back.php

- Public Entertainments and Meetings Act;
- Class Licence; and
- Code of Practice for Market Conduct in the Provision of Mass Media Services.

Box 29.3: The Media Competition

The Code aims to:

- maintain fair market conduct and effective competition;
- include obligations and prohibitions that are applicable to dominant licensees, non-discriminatory access to essential resources, and generic anticompetitive provisions; and
- ensure availability of a comprehensive range of quality mass media services.

Source: www2.jftc.go.jp/eacpf/05/APECTrainingProgram 2003/NCTeo.pdf

Power Sector

The deregulation of the power sector in Singapore began in 1995, with the corporatisation of the electricity undertakings of the Public Utilities Board (PUB). The vertically integrated electricity industry was restructured in 1995, to introduce competition in electricity generation and supply. Two power generation companies (PowerSenoko Ltd and PowerSeraya Ltd), a transmission and distribution (T&D) company (PowerGrid Ltd), and a supply company (Power Supply Ltd) were formed under Singapore Power Ltd. The third power-generation company, Tuas Power, took over the development and operation of the Tuas Power Station.

On April 01, 1998, the Singapore Electricity Pool (SEP), a wholesale electricity market, commenced operations to facilitate the trading of wholesale electricity, in a competitive environment. Under the SEP, the power generation companies had to compete to sell electricity through the Pool. They could purchase electricity at competitive prices, from the Pool, for resale at the retail level. The aim was to promote competition and reduce reliance on regulation.

In 1999, the Singapore Government reviewed the electricity industry structure, with the view to further enhance efficiency through competition in electricity generation and retail, whilst ensuring reliability and security of supply. Acting on the findings of the review, the Government launched the following initiatives, in March 2000, to further deregulate the electricity industry:

- *Competition in Power Generation*
  Generation companies will be kept separate from PowerGrid Ltd, the grid operator, to ensure a level playing field.

- *Competition in Retail*
  Full retail competition for large industrial and commercial consumers will be introduced from April 01, 2001; retail competition for smaller consumers will be introduced later.

- *Formation of an Independent System Operator*
  An independent market and system operator (ISO) will be established by separating the system and market operator functions currently within PowerGrid. This is to make system and market operations more transparent to industry players. The ISO will be formed as part of PUB. PowerGrid will only be the grid owner.

- *Electricity Transmission & Distribution (T&D)*
  PowerGrid's electricity T&D business is a natural monopoly. PowerGrid will be subjected to a performance-based regulatory regime.

A regulatory agency for the country's electric utility sector, the Energy Markets Authority (EMA) was created, in April 2001, to act as a regulator and competition authority of electricity and gas industries and also to introduce a level playing field for industry players. The monopolistic business of gas transportation was also unbundled from the competitive business of gas import and retail.

The Electricity and Gas sectors both have competition codes. The Electricity Act was assented on March 26, 2001. The main purpose of this law is 'to create a competitive market framework for the electricity industry and provide for the safety, technical and economic regulation of the generation, transmission, supply and use of electricity'[2]. The Gas Act, with the same scope of law, concerning the gas industry, was also enacted on the same date.

Competition Policy and Regulation

Singapore had, till recently, adopted a sector-specific approach to deal with competition issues, instead of a comprehensive competition law. Its competition policy framework is now undergoing a historical change. The Government recognises that there is a need to have a generic framework law in place.

As a result of the recommendations of the Economic Review Committee, Singapore started the process of working out a generic competition law to create a pro-competitive business environment. The draft of the competition law was made public in April 2004, and has been largely modelled on the UK Competition Law.

The Competition Act was passed on October 19, 2004 and the authority, the Singapore Competition Commission, was established on January 01, 2005. The prohibitions on anticompetitive practices and abuse of dominant position will come into force in 2006, with the merger provisions coming in at a later date. To implement this Act, a Competition Commission of Singapore was established under the MTI, as a new competition regulator with considerable investigation and enforcement powers.

The Commission is empowered to impose sanctions, such as requiring the offender to modify or terminate agreements, or act to eliminate the harmful effects of any infringement of the Act's regulations. The most significant sanction is the imposition of a financial penalty by the Commission. Though the amount is not fixed, the penalty cannot exceed 10 percent of the offender's turnover per annum for no more than three years.

The Law prohibits M&As, and agreements that restrict, prevent or distort competition in the Singapore market. The provision has been made to align the sectoral competition frameworks and the general competition law, to ensure that businesses do not end up being regulated on the same competition matter by more than one regulator.

The Law prohibits the following activities[3]:

- Anticompetitive agreements (Section 34 prohibition) such as agreements among competing firms to fix prices of their goods and services, agreements between competing firms to reduce the quantity of their goods and services they will sell (which indirectly increases prices to consumers). However, the Commission's purview will focus mainly on those anticompetitive business practices that have an 'appreciable adverse effect' on competition, or that do not have any net economic benefit. An action must first be assessed as anticompetitive, with due consideration given to whether it promotes innovation, productivity or longer-term economic efficiency.

- Abuse of dominant position one or more undertakings (Section 47 prohibition). Dominance is not restricted to a market in Singapore – a firm can be dominant in a market anywhere in the world but might not abuse that market power in a Singapore market. The competition law does not prohibit firms from increasing market power through cheaper or innovative products, nor will it prohibit firms from having a high degree of market power, for example, monopolies.

- M&As (Section 54 prohibition), which substantially lessen competition in Singapore. Firms may decide to merge to create, or reinforce, a dominant position (making it easier to drive out competitors from the market), or to make it easier to collude and so enter into anticompetitive agreements. However, the Act recognises that not all M&As will have anticompetitive results. Being a small, open economy, highly concentrated markets in Singapore, are at times, inevitable, due to economies of scale and scope. Firms are not obligated to gain the approval of, or to notify, the Commission of a merger. Though those that wish to seek the guidance or advice of the Commission may do so.

Consumer Protection

Most regulatory laws contain an element of consumer protection. For example, the Electricity Act incorporates a section (also applicable to the Gas Act, in terms of the Gas industry) to protect the interests of consumers with regard to:

(i) The prices charged and other terms for the supply of electricity;
(ii) The reliability, availability and continuity of supply of electricity; and
(iii) The quality of electricity services provided.[4]

2 http://www.ema.gov.sg/reg_framework.php#
3 http://www.atmdlaw.com.sg/medianpublications/pdfs/0205_guidecompete.pdf
4 http://statutes.agc.gov.sg/non_version/cgi-bin/cgi_legdisp.pl?actno=2001-ACT-10-N&doctitle=ELECTRICITY%20ACT%202001%0a&date=latest&method=part

Besides, there are other laws with a fair amount of focus on consumer protection, such as the Multi-level Marketing and Pyramid Selling (Prohibition) Act, Sale of Goods Act, Unfair Contract Terms Act, etc. These laws are generally applicable to transactions over the Internet. However, the Government recognises that some laws may not adequately address electronic transactions and is, thus, actively looking into how existing consumer protection laws can be clarified and applied specifically to cyberspace.

Singapore has also put in place The Consumer Protection (Fair Trading) Act, which came into existence on March 01, 2004. The Act is principally designed to accord better protection to consumers, by allowing them to seek civil redress against traders engaging in unfair practices.

Government authorities or regulatory bodies regulate the safety and performance of products through two mechanisms, namely, the Government/Regulatory Authorities Registration Scheme or the Third-party Product Certification Scheme.

The Standards, Productivity and Innovation Board (SPRING Singapore) is appointed by the Ministry of Trade and Industry (MTI), as the Safety Authority, to administer the Consumer Protection (Safety Requirements) Registration Scheme (CPS Scheme). SPRING Singapore ensures that consumer products, gazetted as controlled goods, meet the specified safety standards and are safe for normal use. Registration of controlled goods with SPRING Singapore is mandatory before they can be advertised, traded or displayed for sale in Singapore.

Concluding Observations and Future Scenario

Discussions regarding the provisions and enactment of the Competition Act 2004 are ongoing at present. The MTI has proposed a phased approach to the Act's implementation[5] as follows:

- Phase I – The first phase involved the establishment of the Competition Commission of Singapore (CCS) on January 01, 2005. CCS functions under Singapore's Ministry of Trade and Industry to enforce the Act, and it has been given a full year to build up its resources and capabilities when the Act's prohibition provisions start rolling into effect. CCS will investigate anticompetitive activities and act as a referee. It will also have the liberty to impose sanctions, such as requiring the offender to carry out structural remedies to eliminate the anticompetitive activity[6].

- Phase II – On January 01, 2006, the substantive provisions – the section 34 prohibition – on anticompetitive agreements, decisions and practices; abuse of dominance; enforcement and appeal process will come into force.

- Phase III – The remaining provisions relating to mergers – the Section 54 prohibition – will come into force later, at least 12 months after Phase II.

The Law will apply to all activities by private sector entities and Government-linked companies (GLCs) in all sectors, unless there are exclusions and exemptions for reasons of public interest. The Competition Act has been designed to take into account the unique characteristics of Singapore, as a small and open economy with sectoral competition laws.

Businesses have been given an additional six-month grace period to get their act together even after this wide-ranging competition law comes into force next year. Before, they have already been given a one-year window. The Law came into being at the start of the year but will only be enforced from January 01 next year. In July 2005, the first set of guidelines on Singapore's new competition law was finalised with little change from the original text.

5 http://www.atmdlaw.com.sg/medianpublications/pdfs/0205_guidecompete.pdf
6 Singapore Investment News, May 2005, www.sedb.com

Suggested Reading

Seah, Sandra. for **Alban Tay Mahtani & De Silva.** *Quick Guide to the New Singapore Competition Act 2004*

† ***Aparna Shivpuri*** *is a Research Associate at the Institute of South Asian Studies in Singapore. Prior to joining the Institute, she worked with the CUTS Centre for International Trade, Economics and Environment, India from August 2003 to December 2004. During this period, she worked on various trade and development issues, such as Agriculture, Trade in Services, Regional Trade Agreements and the Millennium Development Goals (MDGs).*

She completed her Master's in International Studies from the National University of Singapore (NUS) in July 2003 and her Bachelor's in Economics from Rajasthan University in July 2001.