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The Distributional Implications of Competition Policy

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competition regulation for a growing and inclusive economy



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Does competition policy have a role to play in addressing poverty, inequality and unemployment?

- Competition laws are designed to address particular societal problems – society concerned with outcomes rather than the competition process
- Old presumption: assumes that markets are naturally competitive, self-correcting and don't require policy intervention to fix
- New presumption: firms with market power exploit it. Market power is one of the sources of inequality
- Market power also has particular implications in developing countries, so we have to ask, what are its implications on development and stability

Developing country challenges : the case for South Africa

- *high concentration* - 70% of market sectors dominated by 3-4 large firms (private, state owned or recently privatised) enterprises
- *inequality* - GINI co-efficient of 63.38, one of the highest globally
- *poverty* –approximately 12 million people (21.7% of the population) live on less than US\$3 a day
- *persistent exclusion* - Asset ownership stable over a very long time
- *low economic growth* – forecast at only 0.2% for 2017
- *unemployment* – remains stubbornly high at 27% nationally and significantly higher amongst the youth

There are growing calls for a developmental perspective to the competition policy and regulation agenda

- competition is about markets (or market failures) and markets enable people to participate in economic activity
- The benefits of markets are only in the interest of the public when they empower individuals to be part of the mainstream –
 - competition is about contestability of markets and empowering outsiders
 - it demands human and socio-economic development and not just economic efficiency
 - must clearly demonstrate benefits for citizens

Competition policy foundations: context and history

- Economic policy in South Africa has been shaped by dependence on extractive industries and isolation from many world markets
- Racial discrimination and policies of state ownership, protection and import substitution were combined in policy measures to exclude the majority of the population
 - Challenges of poverty , inequality and high levels of unemployment
 - Black owned firms were kept outside of the formal economy
- Reviewing competition policy was high on the agenda of the first democratic administration (elected in 1994)
- Competition policy became one of the instruments of controlling private enterprise in the public interest

Motivations of competition law

- The motivations of competition law include a focus on equity and distribution as well as efficiency are captured in the preamble
- The preamble characterises the problem that the law seeks to address
 - that past practices, including apartheid, **led to excessive concentration of ownership and control, inadequate restraints** on anti-competitive trade practices, and **unjust restrictions** on full and free participation in the economy

Motivations of competition law

- The preamble states that
 - “the economy must be open to greater ownership by a greater number of South Africans” capturing concerns about equity and justice, and describes restrictions on free competition as “**unjust**” rather than as “**inefficient**”
- The preamble connects economic efficiency with equity, and correctly points out that
 - a credible competition law and institutions to administer the law are necessary for an efficient functioning economy, as well as “an efficient, competitive economic environment, balancing the interests of workers, owners and consumers and focussed on development, will benefit all South Africans.”

Consideration of mergers in South Africa

- Mergers are subject to the SLC test using the conventional assessment tools

- In addition, when mergers are subject to a public interest test, which entails assessing the impact of a merger on:
 - a particular industrial sector or region;
 - employment;
 - the ability of small businesses, or firms controlled or owned by historically disadvantaged persons, to become competitive; and
 - the ability of national industries to compete in international markets.

Consideration of mergers in South Africa...

Ab Inbev / SABmiller

- Concerns regarding market power and impact of the merger on the value chain, employment and small businesses. Merger approved with undertakings aimed at promoting access to the market by small producers, increasing production of inputs by local farmers and preserving jobs.

Walmart / Massmart

- Major concern was displacement of local suppliers by imports, given Walmart's global sourcing reach. Competition Appeal Court accepted the principle that conditions to promote local suppliers were justifiable. The Court imposed a condition to create a fund to assist local suppliers.

Competition Commission's strategic approach

- Prioritisation based on impact on the poor, economic growth, and development

- Priority sectors identified include:
 - Agro-processing and food
 - Construction and infrastructure
 - Energy
 - Financial services
 - Healthcare
 - Industrial and intermediate goods
 - Information and Communications Technology

Competition enforcement and poverty

2016 World Bank Study revealed that competition policy in South Africa brought substantial benefits to households, especially the poor:

- break-up of cartels in **the bread, maize, wheat, poultry and pharmaceutical sectors**, (making up 15.6% of the consumption basket of the population's poorest 10%)
- reduced household poverty by 0.4% (i.e. 200,000 individuals were made better off and lifted above the poverty line through lower prices); and
- The savings put an additional 1.6% back into the pockets of the poorest 10% of the income spectrum by raising their disposable income

Market power and inequality

- In SA, there is no doubt that market power reinforces itself and creates barriers to entry
- Inequality means a few have resources to enter markets
 - The returns of from abuse of market power go disproportionately the rich
- Economic exclusion exacerbates inequality, poverty and unemployment
- Inequality leads to poor economic performance and instability
- Competition policy in conjunction with industrial policy interventions can break down barriers to entry and unleash growth, innovation and greater economic participation

Conclusion

- Broadening the competition law agenda to include public interests
- Challenge beautiful and elegant but unfitting economic assumptions
- Make competition law an integral part of socio-economic policies addressing real issues of citizens – making markets efficient, but also work for the poor - ending exclusion, reducing in equality
- Recognising and tolerating diversity of approach – informed by context