Unclassified **CCNM/GF/COMP/WD(2003)31**

Organisation de Coopération et de Développement Economiques
Organisation for Economic Co-operation and Development

31-Jan-2003

English text only

CENTRE FOR CO-OPERATION WITH NON-MEMBERS
DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS

CCNM/GF/COMP/WD(2003)31
Unclassified

OECD Global Forum on Competition

THE OBJECTIVES OF COMPETITION LAW AND POLICY AND THE OPTIMAL DESIGN OF A COMPETITION AGENCY

-- UNCTAD --

This note is submitted by UNCTAD under Session I of the Global Forum on Competition, to be held on 10-11 February 2003.

English text only

JT00138510

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OBJECTIVES OF COMPETITION LAW AND POLICY: TOWARDS A COHERENT STRATEGY FOR PROMOTING COMPETITION AND DEVELOPMENT

This note was prepared at the request of the OECD Secretariat for the OECD Global Forum on Competition (10-11 February 2003) as an attempt to clarify the main objectives of competition law and policy for developing countries, taking into account UNCTAD's experience with development issues. It is recalled that the *UN Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices,* renamed as *The UN Set of Principles and Rules on Competition* in September 2000 by the *UN Conference to Review all Aspects of the Set,* contains the following objectives:

1. "to ensure that restrictive business practices do not impede or negate the realisation of benefits that should arise from the liberalisation of tariff and non-tariff barriers affecting world trade, particularly those affecting the trade and development of developing countries;

2. to attain greater efficiency in international trade and development, particularly that of developing countries, in accordance with national aims of economic and social development and existing economic structures, such as through (i) the creation, encouragement and protection of competition; (ii) control of the concentration of capital and/or economic power; (iii) encouragement of innovation;

3. to protect and promote social welfare in general and, in particular, the interests of consumers in both developed and developing countries;

4. to eliminate the disadvantages to trade and development which may result from the restrictive business practices of transnational corporations or other enterprises, and thus help to maximise benefits to international trade and particularly the trade and development of developing countries;

5. to provide a Set of Multilaterally Agreed Equitable Principles and Rules for the control of restrictive business practices for adoption at the international level and thereby to facilitate the adoption and strengthening of laws and policies in this area at the national and regional levels."

In addition, the *UNCTAD Model Law on Competition* states that the main objectives of national competition law and policy are: "to control or eliminate restrictive agreements or arrangements among enterprises, or mergers and acquisitions or abuse of dominant positions of market power, which limit access to markets or otherwise unduly restrain competition, adversely affecting domestic or international trade or economic development".

1. Competition and market-oriented economic reforms

A major focus of competition law and policy is the avoidance of market-dominating behaviour of businesses through, *inter alia,* price fixing or market-sharing cartels, abuses by leading firms and undue concentration. The main objective is to promote competition as a means of assisting in the creation of

markets responsive to consumer signals, and ensuring the efficient allocation of resources in the economy and efficient production with incentives for innovation. This is expected to lead to the best possible choice of quality, the lowest prices and adequate supplies to consumers, leading to increased consumer welfare. Efficient allocation and utilisation of resources also lead to increase competitiveness, resulting in substantial growth and development. There is growing consensus that competition is an essential ingredient for enhancement and maintenance of competitiveness in the economy.

Standard economic theory also tells us that competitive forces work best and deliver the expected outcomes when there exists a market that is not overridden by distortions. In most developing countries, the conditions for perfect competition are far from being met and the benefits of enhancing economic efficiency do not necessarily always translate into increases in consumer welfare. The relationship between increased competitiveness and development consequently becomes blurred. There is growing evidence that anti-competitive practices both at the international and the national level hamper the competitiveness of firms in developing countries. Available evidence suggests that anti-competitive practices in the international arena are more prevalent and pervasive in developing countries and impair the process of development. This is because developing countries have to rely heavily on imports in view of their narrow domestic industrial base, and to the extent that their imports are subject to anticompetitive practices, local producers and consumers are penalized by higher than necessary import prices. Similarly, developing countries' exports to countries where anti-competitive practices may exist undermines their export growth. Firms can engage, and tend to engage, in cross-border anti-competitive behaviour with impunity, especially in countries that do not have domestic competition law, and developing countries are particularly vulnerable to these practices. The majority of them have not as yet developed competition laws and policies and are not able, either individually or through co-operation with foreign competition authorities to challenge the firms' market behaviour. Such countries lack of a competition culture, and do not benefit from the comparative legal advantages resulting from competition law. Even those countries that have adopted competition laws face a number of resource and skill constraints in enforcement.

Recently, many developing countries have adopted commitments to competitive markets by further liberalization of trade in goods and services, by privatisation of former public enterprises and by deregulation of former government-regulated sectors. Such reforms, for the full achievement of their goals, strongly require simultaneous adoption of competition laws as safeguard to avoid market distortions and in order to create incentives for improved economic performances.

For example, the consumer welfare and developmental benefits from increased competition resulting from trade and investment liberalisation and privatisation, in the absence of the appropriate competition rules and supporting institutional infrastructure, have been questioned in the light of the experiences of many developing countries.

Although a new arrival among traditional policy instruments applied by developing countries, competition policy as a public policy has developed its own field and criteria in the economies that have only recently begun to open up. Countries that have already adopted competition legislation pursue a series of different objectives. Pursuing different objectives obviously implies the acknowledgement of other forms of organisation and new forms of implementing a policy in society. The adoption of competition systems implies the consolidation of market principles, involving the transition from state ownership, vertically integrated monopolies and strong state intervention to a situation in which the interaction of economic agents can take place more freely.

For many developing countries, competition law is a recent innovation. This upsurge in interest in competition law in developing and transition economies reflects the substantial changes that have been taking place in the political and economic environment. During the past two decades, many developing countries have instituted a programme of microeconomic reform, involving greater reliance on markets and

less emphasis on state intervention. Among the more important changes have been a lowering of tariff barriers, the removal of many quantitative import restrictions, the reduction of subsidies to domestic producers, the privatisation of government business enterprises, the easing of foreign exchange controls and the encouragement of foreign direct investment.

Underlying these reforms is a renewed confidence that market forces and the individual decisions of consumers and privately owned businesses, can make a greater contribution to economic and social development than an inward looking centralised economic system. However, the potential benefits of a shift towards a more market- oriented economy will not be realised unless business firms are prevented from imposing restrictions on competition. Deregulation of previously regulated sectors, including state-controlled monopolies such as utilities and "network industries", considered for the most part to be "natural monopolies," need to be subject to competition review by competition authorities or sectoral watchdogs to ensure that these firms do not abuse their dominant position in the market.

The point was made that all these economic reforms have one important feature in common: the need for competition policy if market-oriented policies are to be given the best possible chance of success. For example, price liberalisation, if not accompanied by competition laws and policy aimed at controlling economic behaviour and structures, can result in substantial price increases and reduced benefits for the overall economy. If monopolistic structures are allowed to continue unchecked, price liberalisation will not proceed satisfactorily. The same can be said of privatisation of state monopolies into private monopolies. Finally, opening of markets through import competition and FDI liberalisation might bring enhanced competition, but if no safeguards exist, foreign firms might also engage in anticompetitive practices and abuse dominant market positions (UNCTAD, 2002a). Hence the need for a strong and effective competition law which will only permit anti-competitive agreements or conduct where there are demonstrable net public benefits.

In almost all countries that have a competition law, the stated objective of the legislation is to improve economic efficiency and thus contribute to economic development. It is also widely accepted that the law should aim to increase consumer welfare. This is an attainable objective, because the removal of obstacles to competition will tend to put downward pressure on the prices of intermediate and final goods and services. While there is a broad consensus among developed and developing countries about the principal objectives of competition law and policy, there are also some differences between countries in the statement of secondary objectives. Some developing economies emphasise that competition law has a role in limiting further increases in the concentration of economic power in the hands of a few large corporations. Other countries see the need to have provisions in the legislation to protect the interests of small and medium-sized enterprises. (UNCTAD, 2002b)

From this short account it becomes clear that competition policy is directly relevant to the main policies of market-oriented economic reforms undertaken in most countries of the world during the last 10–20 years, in particular trade liberalisation, foreign direct investment policies, privatisation and deregulation. An examination of the relationships between competition policy objectives and the objectives of these related policies is therefore necessary.

2. Trade liberalisation and competition law: common objectives

The liberalisation of international trade, including the reduction of tariff barriers, the elimination of most quantitative restrictions on imports and exports allows producers to expand their horizons to world markets, rather than relying exclusively on small domestic markets. By taking up the new export opportunities they are able to increase output and lower costs through economies of scale. Moreover, because strong competition is usually encountered in export markets, these firms are generally under

pressure to devise more efficient methods of production, better marketing techniques and quality improvements in their products. This often results in lower prices and better quality goods, not only for foreign customers, but also for domestic consumers. The lowering of trade barriers also increases competition from imports for those local producers of tradable goods and services mainly dependent on the domestic market. The additional competitive pressure obliges these firms also, to improve their productivity and keep down prices to consumers.

Competition policy comes into this picture because some firms, fearful of the consequences of trade liberalisation and stronger competition from imports may be inclined to protect their interests by introducing restrictive business practices, such as domestic cartels. In some circumstances, such practices can limit international trade even more severely than the former high tariffs and just as severely as the non-tariff barriers. International suppliers may enter into exclusive arrangements with their local distributors, which effectively deny importers access to some markets. Large retail chains may refuse to stock imported goods. An import cartel may be established to fix prices, so that imported goods cannot be sold more cheaply than the equivalent domestically produced items. If an effective competition law is in place, such restrictive practices can be challenged. However, in countries where there is no competition law, the benefits of trade liberalisation could be lost through such anti-competitive conduct in the domestic market.

It is increasingly clear that anti-competitive practices, both domestic and transnational, impair the process of development in developing countries more significantly than has previously been thought. This is true for at least three reasons. Firstly, given their narrow domestic industrial base, developing countries have to rely on imports of intermediate goods. To the extent that such imports are subject to anti-competitive practices either by domestic firms (for example, an import cartel) or by foreign suppliers of these imports (for example, an export or international cartel), the importing country will be penalised by higher than necessary import prices. The first practice clearly falls within the objectives of a national competition authority. Prosecuting cartels among foreign suppliers is a more daunting task for developing countries, which in many cases will need international remedy.

Secondly, to achieve their developmental goals, developing countries need to rely on export-oriented strategies. However the gains expected to arise from recently eased market access conditions at a multilateral level or through preferential schemes will be severely limited if private anti-competitive practices are still in place.

Thirdly, foreign firms feel freer to engage in across-the-border anti-competitive behaviour when the countries to which they export do not have a domestic competition law and can neither individually nor through co-operation with foreign competition authorities challenge the firms' market behaviour. Thus, countries that do not have a domestic competition law will be the prime victims of international anti-competitive practices. Ensuring that measures are in place to deal appropriately with such arrangements should be one of the major objectives of any national competition framework.

3. Foreign direct investment and competition law

The need for competition law is also evident when foreign direct investment is being liberalised, as the impact of FDI is not always pro-competitive. It is often the case, in fact, that foreign direct investment takes the form of a foreign corporation acquiring a domestic enterprise or establishing a joint venture with one. By making such an acquisition the foreign investor may gain a dominant position in the relevant market, enabling it to enjoy a high profit margin, and charge prices well above a competitive level. Another scenario often encountered in developing and transition economies, is where the affiliates of two separate multinational companies (MNCs) have been established in competition with one another in a particular market, following the liberalisation of foreign direct investment in that country. Subsequently,

the parent companies overseas decide to merge. With the affiliates no longer independent of one another, competition in the host country may be virtually eliminated and the prices of the product increased.

These adverse consequences of mergers and acquisitions by MNCs can be avoided if an effective competition law is in place in the host country. As mentioned earlier, one element typically found in competition law is a prohibition of any merger, acquisition or takeover likely to substantially lessen competition or prevent access to a market.

It is also argued that an economy that has implemented an effective competition law is in a better position to attract foreign direct investment than one that has not. This is because most multinational corporations are accustomed to the operation of such a law in their home countries and know how to deal with any concerns that the competition authority may raise. Moreover multinational corporations expect competition authorities to ensure a level playing field between domestic and foreign firms, including among MNCs.

However, when considering the prospect of investing abroad in a developing economy without a well-established competition law, foreign investors face the uncertainty of not knowing if, and when, competition legislation will be introduced and, perhaps more importantly, how it will be implemented. There are, of course, other areas of uncertainty that may tend to discourage foreign direct investment, notably political uncertainties, the slow pace of economic development, exchange rate movements, obstacles to international trade and government regulations and of course, any discriminatory application of competition laws. Nevertheless, when a foreign investor has to make a choice between two or three alternative locations for a particular investment and these are of approximately equal merit, the country that has an effective competition law may be favoured.

In order to ensure that a developing country gains the full benefit of foreign direct investment, government policy in that area must be consistent with the objectives of competition law. Sometimes, in order to attract a large-scale foreign investment by a MNCs, a national or local government may offer that corporation exclusive rights to supply its goods and services to the public authorities. It may even agree that no other firm will be given approval to enter the market in question. Such inducements are evidently anti-competitive, and the crucial question is whether competition policy objectives should be outweighed in certain circumstances by the economic benefits that the foreign direct investment can bring.

4. Privatisation: posing a new challenge for the competition authority?

In the last decade, many developing countries and economies in transition have privatised key industries and large individual enterprises formerly in public ownership. Privatisation has taken place in telecommunications, banking, ports, bus transportation, water supply, electricity generation and airport services, for example.

One motive for privatisation has been to boost government revenues, while another, perhaps more important, has been to improve industry productivity and competitiveness. However, as mentioned in the previous section, in practice privatisation may lead to conflicting objectives between government revenue maximisation or FDI promotion and competition policy goals.

In some industries, privatisation has not necessarily meant the end of regulation, for two main reasons. First, when the privatised industry is a natural monopoly, regulation has been necessary to ensure that the enterprise does not restrict output or raise prices in order to reap monopoly profits. In the supply of electricity, gas, and telecommunications services, a natural monopoly usually exists at only one stage of the production/distribution chain. (i.e. in those facilities that cannot be duplicated economically - electricity

transmission lines, gas pipelines and the telephone line network). However, competition is feasible, for example, among firms engaged in the generation, wholesaling and retailing of electricity, and in the provision of telephone services to subscribers. It is therefore important to ensure that the private owner of the natural monopoly facility does not take advantage of its dominance of that stage to damage its competitors at other stages in the chain. Moreover, empirical evidence suggests that downstream competition creates more consumer choice and allows price reductions to reach final consumers.

Secondly, governments, for social reasons, have sought to protect the interests of certain groups of consumers who, prior to privatisation, were enjoying low prices as a result of cross-subsidisation from other consumers of the same service. For example, consumers living in rural or remote areas may not have had to pay the full cost of connection to the telephone network. Following privatisation, some governments have imposed a so-called "community service obligation" on the telephone service provider so that, in return for a small subsidy, the provider will continue to favour the remote consumer without increasing the charges to metropolitan users of the service.

One way to overcome such problems is to ensure that after the privatisation process the natural monopoly owner shall not operate at other stages of the production/distribution chain. The other, more light-handed approach would be to ensure separation of accounts and to use the general competition law to prohibit that firm from abusing its market power (UNCTAD, 2002b). This, however, may impose heavy burden on the competition authority having to constantly monitor the conduct of the firm, hence the establishment in many countries of a sectoral regulator having certain competition prerogatives.

5. Competition, Regulation and Deregulation: conflicting objectives?

Competition law and policy are intended to regulate anti-competitive behaviours by firms, whereas deregulation is aimed at minimising market-distorting government intervention. Regulation is meant to control the behaviour of firms in sectors where market failures are widespread. Regulation can pursue different types of objectives. Economic regulation, social regulation, environmental, health and safety regulation are among the main categories of government intervention that may have a bearing on the market and may interfere with competition objectives. The interaction between competition and regulatory policies is complex (see box below).

Regulatory policies can become a barrier to competition when measures taken by state administrations (e.g. central or federal government, local government) or by bodies enjoying a governmental delegation prevent or hamper effective competition and lead to a loss in welfare. Such measures are to be found in as diverse activities as telecommunications, financial services (banking and insurance), professional business services (accounting, lawyers, architects etc.), and the energy sector (electricity, gas), as evidenced by an abundant literature. These measures, which can negatively affect market entry, market exit and market operation, take a wide variety of forms, such as:

- Restraints on competition, i.e. by introducing uncommon norms and standards amounting to barriers to market entry or by preventing foreign firms from competing in national market;
- Elimination or exclusion from competition through exemption of certain activities from the scope and coverage of competition laws;
- Creation of distortions to competition, such as artificial executive interventions changing the competitive positions of certain firms (through arbitrary public procurement policy decisions, for instance).

Regulatory barriers to competition not only relate to market entry but also can prevent market exit from happening, for instance through public subsidisation or the granting or prolongation of monopoly rights. In addition, they can make it harder for resources to be allocated from one sector or market segment to another. They can be considered barriers to mobility, which prevent resources from being transferred into more efficient sectors or segments, and which in the end will reduce allocative efficiency. (UNCTAD, 2001a)

Box 1: Competition law and policy and regulation

Basically, competition law and policy and regulation aim at defending the public interest against monopoly power. If both provide tools to a Government to fulfill this objective, they vary in scope and types of intervention. Competition law and regulation are not identical. There are four ways in which competition law and policy and regulatory problems can interact:

- *Regulation can contradict competition policy*. Regulations may have encouraged, or even required, conduct or conditions that would otherwise be in violation of the competition law. For example, regulations may have permitted price coordination, prevented advertising or required territorial market division. Other examples include laws banning sales below costs, which purport to promote competition but are often interpreted in anti-competitive ways, and the very broad category of regulations that restrict competition more than necessary to achieve the regulatory goals. Modification or suppression of these regulations compels firms affected to change their habits and expectations.

- *Regulation can replace competition policy*. In natural monopolies, regulation may try to control market power directly, by setting prices (price caps) and controlling entry and access. Changes in technology and other institutions may lead to reconsideration of the basic premises in support of regulation, i.e. that competition policy and institutions would be inadequate to the task of preventing monopoly and the exercise of market power.

- *Regulation can reproduce competition law and policy*. Coordination and abuse in an industry may be prevented by regulation and regulators as competition law and policy do. For example, regulations may set standards of fair competition or tendering rules to ensure competitive bidding. However, different regulators may apply different standards, and changes or differences in regulatory institutions may reveal that seemingly duplicate policies may have led to different practical outcomes.

- *Regulation can use competition institutions' methods*. Instruments to achieve regulatory objectives can be designed to take advantage of market incentives and competitive dynamics. Coordination may be necessary in order to ensure that these instruments work as intended in the context of competition law requirements.

Source: UNCTAD Model Law on Competition 2002, p. 23

Aware of this potential conflict of objectives between regulation and competition, a large number of developing countries have undertaken regulatory reforms aimed at ensuring that regulations better serve public interests and reinforce competition in the market place. These reforms have been introduced in industries such as communications, transportation, water/sewage, agriculture, and financial and professional services. They have included privatisation and the liberalisation of restrictions on market entry, and have also related to prices and business practices as well as universal service obligations, although there are important differences across countries and industries. One of the principal objectives of these reforms has been to broaden the scope for markets to allocate resources, and improve general consumer welfare and economic efficiency. Given these considerations, there is a clear interface between competition law and policy, deregulation and consumer welfare. Often a public choice would need to be

made between the extension of economic regulation and consumer protection under the competition laws in order to avoid potential conflict between these two policies and promote consumer welfare.

Competition agencies are equally affected by and interested in the regulatory reforms and many have played and continue to perform important advocacy and consumer protection roles in the regulatory reform process. Competition agencies have also been instrumental in drawing attention to how regulation has unnecessarily restricted competition and how part of the solution to this problem may lie in the universal application of general competition law. The experiences of many countries show success in removing some of the severe restrictions on competition in regulated sectors. However, despite significant progress through competition advocacy and competition law enforcement reported by many countries, changes in the affected sectors occur relatively slowly. (UNCTAD, 2001b)

From a market structure point of view, the competition authorities should be consulted when a process of regulatory reform is being undertaken as a part of a privatisation program. They should be given legal powers to impose divestiture measures on existing monopolies or to control or prohibit mergers that undermine competitive market structures. If they are not given such powers, for instance because of lack of human resources, it should be made possible for them to suggest divestiture measures or merger controls to an executive authority that has those powers. Nevertheless, it is clear that the dominant pattern of distribution of roles between competition agencies and regulatory agencies is rarely one whereby competition authorities simply replace regulatory agencies.

Studies of these relationships show that the competitive process can be appropriately stimulated by the intervention of competition authorities when firms in a regulated sector abuse their privileges to the detriment of consumer interests and the efficiency of firms that use their regulated services. The experiences so far suggest that there are specific regulatory regimes in many sectors and there is no unique model for the relationship between sector-specific regulators and competition authorities either across countries or sometimes even within a country. However, one particular models -- the mandate-driven division of labour approach -- appears to be somewhat more common than others. It is clear, at least, that sectoral regulators should be separated from regulated firms or entities and should assume obligations regarding accountability and independence from the executive branch of government. Also, institutional changes should be effected in order to guarantee their independence. (UNCTAD, 2001a)

6. Competition policy and broader development objectives: friends or foes?

Competition is unambiguously a good thing in neo-classical economic theory. This stems from a belief that competitive markets give consumers wider choice and lower prices and give sellers stronger incentives to minimise their costs and cut out waste. In addition, in competitive markets firms need to innovate and adapt quickly to changing circumstances. Competition also induces firms to pass on cost reductions to consumers and better satisfy their specific preferences.

However the gap between the assumptions of such theories and the realities in many developing and even developed countries remains often considerable. Several objections about competition policy objectives have been raised. Concerns have been expressed about the competition reform program on three main grounds. Firstly, it has been argued that competition policy does not allow state authorities adequate discretion in relation to other development policies, in particular industrial policies or strategic trade policies. However, in principle, industrial policy does not necessarily conflict with competition policy. In fact, some economists consider industrial policy to be one of the main elements of broad competition policy, as distinct from competition law. Inadequate institutional infrastructure, low levels of research and development, limited access to capital, inefficient distribution networks, all need policies that will put in place a 'competitive' infrastructure which cannot be provided by the market alone. In such circumstance, a

non-intrusive industrial policy with clearly defined economic criteria may complement the broad competition policy framework and promote growth and development. Secondly, it was argued that its effective contribution to economic efficiency is relatively small. Thirdly, opponents of competition policy argue that it gives too much weight to efficiency relative to other societal goals, such as environment, protection, income distribution, etc.

In particular, concerns have been voiced about the limitation effects of competition policy on other development strategies and major debates have addressed the potential conflict between competition policy, on the one hand, and strategic trade and industrial policies, on the other. Strategic trade policy makes a compelling argument in favour of temporary protection suggesting that development requires modern technology, which must be acquired and cultivated, and that learning by doing must occur within national borders and sheltered from import competition. Examples are found in past and recent history of successful industrial policies, particularly in East Asia. For such policies to succeed, governments must be able to identify strategically important industries and some firms that can act as "national champions" once the learning-by-doing phase has been carried out under appropriate funding and protection. However, despite a number a success stories, no systematic positive relationship has been found between firm size and profit, export activity, or research and development, and an equally large number of notorious failures of industrial policy can be cited.

It is therefore not surprising that different schools of economic thought have strongly conflicting views on the relevance and the content of competition policy in developing countries. Developing economies, in particular, are even further away than developed countries from this ideal, theoretical world. The current discussions on these issues point to the fact that the main policy question that needs to be addressed is not 'Competition policy: to have or not to have?' but rather 'How to maximise the expected benefits arising from competition, given the existing policy and economic constraints?'

The discussions conducted in various fora have already identified a number of cases where a too narrow definition of competition policy objectives may be detrimental for developing countries. An important paradox is that promoting transparency in market transactions can harm competition by enabling companies to sell at high prices through tacit collusion. Likewise, aiming at very high quality standards for products to ensure consumers get good quality products may run the risk that such standards will limit dynamic competition. Excessive competition may also negatively affect the stability of small and medium enterprises. Deregulation of interest rates and rapid entry by new banks in small markets may lead to 'excessive' competition, which forces banks to make risky investments to boost their margins, sometimes with destabilising effects for the entire financial system. Excessive competition was also mentioned as one factor contributing to the downward trend in commodity prices.

Notwithstanding these arguments, 'excesses' of competition could hardly be thought to exceed the negative aspects arising from the absence of competition. In fact, there is growing empirical evidence that in general more competition leads to more innovation and accelerates productivity growth and that there is a strong correlation between the effectiveness of competition policy and growth. Such analyses suggest that the effect of competition on growth goes beyond that of trade liberalisation, overall domestic institutional quality, and a generally favourable policy environment. Yet, this link is not equally strong across all economies. This observation cautions us against being overly simplistic in promoting the importance of competition policy as a major and independent determinant of long-run growth. Competition policy is a complex, cross-cutting policy instrument which is affected by a number of related factors. Failures in the overall infrastructure that effective competition policies need for their enforcement will obviously reduce the expected benefits stemming from the adoption of competition policy and laws at national level. As a number of developing countries still struggle with deficiencies in their overall institutional infrastructure, a right balance should be found between the objectives and reasonable achievements of competition policy in developing countries.

However, these very specific implementation difficulties make the case for competition policy in developing countries actually stronger. This argument becomes clearer when realising that factors that facilitate collusion, predatory strategies, market concentration (such as weak credit markets, high entry barriers and existence of capacity constraints) are likely to be more important in developing countries. Therefore the design of a body of simple and transparent competition policy rules for developing countries, in particular for horizontal collusion and abuse of dominant position remains a worthy task. The optimisation of the use of scarce human and material resources for regulatory purposes is also crucial. Furthermore, a competition agency will be valuable for its educational role in advocating the social benefits of fair competition.

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