Global Forum on Competition

THE INTERFACE BETWEEN COMPETITION AND CONSUMER POLICIES

Contribution from Singapore

-- Session IV --

This contribution is submitted by Singapore under session IV of the Global Forum on Competition to be held on 21 and 22 February 2008.

Contact: Hélène CHADZYNSKA, Project Manager of the Global Forum on Competition [Tel: 33 1 45 24 91 05; email: helene.chadzynska@oecd.org].
THE INTERFACE BETWEEN COMPETITION AND CONSUMER POLICIES

-- The Competition Commission of Singapore --

1. Introduction

1. Competition policies are government policies that affect the level of competition in markets such as policies on trade, the number of market participants, entry in markets, privatisation etc. Competition law, which is one aspect of competition policy, focuses on addressing market failures arising from market power. Common competition policy instruments include competition advocacy and competition law enforcement.

2. Consumer policy on the other hand, focuses on the protection and empowerment of consumers. The main market failure that consumer policies address is a lack of consumer information – particularly information asymmetries, where a producer is at an advantage because he knows more about the product or service being supplied than consumers. The consumer policy regimes of most countries are aimed at improving market transparency and information flows between producers and consumers, weeding out rogue traders and minimising transaction and search costs for consumers. Consumer policies typically employ a wide range of tools such as regulation and enforcement (e.g. product safety laws, ethical advertising codes), licensing for professional and technical services, mediation and negotiation practices as well as advocacy and education.

2. Competition and consumer policies are largely acknowledged to be complementary

3. Both sets of policies are necessary for the effective functioning of markets, given that consumer behaviour has an impact on firm behaviour and vice versa. The relationship between competition and consumer policies has been generally acknowledged to be harmonious and complementary, not least because they both seek to ensure that markets function effectively.

4. The largely complementary nature of both competition and consumer policies results in benefits that accrue both to consumers and producers. Competitive markets spur firms to be more responsive to consumer needs. Consumers benefit because competition forces firms to lower costs and to pass cost-savings on to consumers through lower prices in the short-term. In the longer term, competition stimulates innovation so that consumers are able to both enjoy better quality products and have more choices.

5. Consumer policies also contribute to competitive markets. By addressing information asymmetries, consumer protection enhances competitive markets, thereby allowing consumers to make more informed decisions. This in turn promotes competition by forcing producers to distinguish and price their products to better meet informed consumer needs.

3. Competition policy in Singapore

6. Competition is a key tenet that underpins Singapore’s economic policies. Although competition law is relatively new in Singapore (the Competition Act 2004 was passed on 19 Oct 2004, and became effective 1 Jan 2006), policies that encourage competition and ensure that businesses can compete on a
level playing field have been fundamental to the development of Singapore’s economy since independence in 1965.

7. Wherever appropriate, Singapore has opened up sectors of the economy to market competition as competition benefits the economy by promoting greater productivity gains and more efficient resource allocation. Post-independence, Singapore opened her ports to free trade and embarked upon an export oriented strategy to attract foreign multi-national companies (MNCs) to develop the manufacturing and finance sectors in Singapore. This occurred at a time when other countries were focusing on import substitution. By opening the economy to foreign competition, consumers were afforded more choice, better quality products as well as lower prices. Subsequently, Singapore also de-regulated sectors long thought to be natural monopolies. For example, when the telecommunications sector was fully liberalised in 2000, the entry of new players such as StarHub into the market to challenge the incumbent, SingTel, resulted in both price and product competition, with consumers enjoying more choice and lower prices.

8. More recently, in 2003 the Economic Review Committee (ERC), which was established in 2002 to review Singapore’s development strategy, articulated in their report that competition policy would be a key component of its blueprint to restructure the economy. In addition, a generic competition law was enacted in 2004 to create a level playing field for businesses, big or small, to compete on an equal footing. The Competition Commission of Singapore (CCS) was established in 2005 to administer the Competition Act. Competition policy and law currently form part of a set of pro-enterprise approaches with the three fold purpose of promoting enterprise growth, enhancing the efficiency of markets and strengthening external competitiveness.

4. Consumer policy in Singapore

9. In Singapore, consumers are afforded protection through product safety standards and regulations such as the Consumer Protection (Fair Trading) Act (CPFTA), the Unfair Contract Terms Act and the Sale of Goods Act which protect consumers from unethical business practices. The CPFTA lists 20 unfair trade practices for which consumers can seek recourse through the Small Claims Tribunal.

10. The Consumers Association of Singapore (CASE), an independent and non-profit body, was set up in 1971 with the three pronged aim of educating consumers, working with businesses to create a consumer friendly environment and lobbying the government on consumer issues. CASE provides a host of services, from informal channels for consumers to seek redress such as mediation and negotiation, to providing accreditation services through CASETrust for the retail and services industries. To qualify for CASETrust accreditation, companies must follow certain standards when conducting businesses and providing services to their customers. CASE also has accreditation schemes tailored for industries which tend to be more prone to information asymmetries such as employment agencies, educational centres, travel agencies, and e-commerce firms.

11. In addition, the Advertising Standards Authority of Singapore (ASAS), an Advisory Council to CASE, has issued the Singapore Code of Advertising Practice (SCAP) for the advertising industry. The ASAS Council is empowered to take action in relation to advertisements, which are found to contravene the SCAP.

12. Beyond providing a base line for consumer protection, the general policy approach to consumer protection has largely been *caveat emptor*, or buyer beware. The emphasis in Singapore has been on encouraging competitive processes and raising consumer awareness instead of direct consumer protection, as active competition policy is seen as a more efficient way to deliver benefits to consumers. Furthermore, in addition to end-user consumers, competition also benefits business consumers.
5. **The interface between competition and consumer policies in Singapore**

13. It is worthwhile noting that there are cases where competition issues arise due to information asymmetries; in such cases, consumer policy can play a role in providing a solution. For example, some motor distributors were found to have an arrangement with an insurance company (Company A), for the provision of discounts to buyers of new cars who took up motor insurance from Company A. The complaint from a competing motor insurer was that such an arrangement foreclosed the motor insurance market through the bundling of motor insurance from Company A with new cars sold by some large car distributors coupled with the provision of discounts to entice consumers to take up the bundled packages. In this case, many customers took up the bundled package although Company A’s motor insurance was more expensive than competitors’. This could be because consumers preferred the convenience of conducting their motor transactions at one location as it saved them the search costs of shopping around for motor insurance. However, it was just as likely that consumers could have been ignorant of the prices of motor insurance and were enticed by the discount on the purchase price of the car. The arrangement was cleared on competition grounds as buyers were not compelled to buy the insurance together with the car. The success of the scheme was simply because consumers preferred the bundled discount package and not due to foreclosure of competitors. It is interesting to note that in this case, improved consumer welfare is more likely to result from raising consumer awareness instead of taking action on competition grounds.

14. However, there are instances when tradeoffs need to be made, as competition and consumer policies do not always complement each other. For example, the issue of price guidelines has generated some public debate in Singapore on the extent to which guidelines may serve to protect consumers from overcharging. The issue of whether non-binding price guidelines should be allowed, remains whether accurately or not, mired in public perception as a consumer and competition trade-off. To consumers, price guidelines may be seen as providing a measure of certainty, by indicating the price they can expect to pay, which may reduce search and negotiation costs. However, price guidelines may tend to stifle price competition by acting as a price signal to suppliers, resulting in the clustering of prices in a narrow range around the recommended price. As such, competition authorities are in general agreement that price guidelines are harmful to the competitive process.

6. **Institutional design in Singapore**

15. Given the closely intertwined nature of competition and consumer policies, some jurisdictions have called for an integrated approach to policy-making on competition and consumer issues.

16. Singapore has sectoral specific regulators that deal with competition matters for certain services such as telecommunications, energy and water, which are excluded under the Competition Act. These sectoral regulators, which were in existence before the enactment of generic competition law and the CCS, are effectively dual role agencies, i.e., apart from being regulators, they also deal with both competition and consumer issues and some, where necessary, engage in price regulation to stabilise prices.

17. Generic competition law in Singapore is administered by the CCS, which acts to administer the Competition Act, whilst CASE deals with consumer matters. Singapore has adopted a dual agency design in the area of generic competition law, as consumer protection laws and competition laws require different perspectives of the market. In Singapore’s context and market environment, it is more appropriate for consumer and competition issues to be administered by separate agencies. Although there are complementarities between competition and consumer policies, as addressed earlier, both aspects have different economic issues underpinning policy. Combining both functions in one agency may run the risk that competition policy may tend to create a bias towards consumer welfare, instead of seeking to maximise total welfare.
18. There are admittedly, some limitations in a dual agency design. Firstly, the range of tools available to the CCS is narrower than a dual function agency. When the CCS refrains from intervening in cases that do not raise competition concerns but which impact consumers, the CCS may be seen as not being consumer friendly. Given the nascence of competition law in Singapore, consumers often mistakenly believe that the primary objective of competition law is to protect consumers. Consumer advocacy and education has therefore been a key challenge and focus for the CCS in its outreach programme.

7. Conclusion

19. While there is little controversy that both competition and consumer policies are needed for efficient markets to spur economic growth, there seems to be less consensus on what is the ‘right’ institutional design, as can be seen from the various permutations in the international community.

20. Singapore has chosen to adopt the dual agency design as best suited to the needs of the Singapore economy. As the Competition Act is relatively new, the CCS’ immediate focus has been on the promotion and enforcement of competitive practices. Once past the formative first few years, the CCS’ next step will be to expand its role, to include building closer ties with CASE, the consumer body, so as to bring about more benefits for both businesses and consumers.