

Establishing Consumers As Equivalent Players In Competition Policy

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1. Introduction

Competition is good for consumers. In markets where firms have to compete to persuade consumers to buy their products, consumer welfare is increased through greater choice and lower prices. In a competitive market, supply and demand determines the price and output of a good or service rather than the dominant behaviour of any one firm or the collusive behaviour of a group of firms.

Many examples can be given to illustrate this general point. However, the purpose of this paper is not to restate the virtues of competition for consumers or for economies but, using primarily Consumers Internationals' member research, to consider why competitive markets are difficult to achieve, particularly in developing economies, and to examine the tension between the stated objectives and the actual impact of competition laws, especially in relation to consumer welfare.

The evidence suggests that competition policies that give priority to the *supply* of competition - ensuring rivalry or contestability in the structure of markets (such as preventing barriers to entry or ensuring the fair conduct of firms) - will not by themselves be sufficient to ensure a competitive outcome. These issues are primarily producer oriented and do not directly affect the *demand* for competition. Competition policy needs to incorporate complementary consumer policies aimed at ensuring that consumers can make informed and active choices in the market place. These choices send signals to producers, and in doing so trigger the development of more competitive markets. Thus, competition policy will be more effective where it includes action to develop the demand side of the market. This applies whether the country is developing or developed.

The paper further argues that that consumers are not automatically able to respond to competitive markets, and considers policies in relation to individual consumers, consumer organisations and consumer protection agencies to rectify this.

Consumer welfare, and the ability of individuals to use their (limited) resources efficiently, is not a priority in many national strategies for growth and development. Countries certainly need the flexibility to choose their own balance between producers and consumers. But positive outcomes require attention to the demand side of the equation, for example through consumer protection laws and consumer-driven investigations of anti-competitive practices. Using a “bottom-up” approach to activate competition also makes the consumer a full participant in the competition policy-making processes. Such a strategy not only increases consumer welfare and enables markets to function more competitively, but also enhances democracy within the polity and the marketplace.

Part one of this paper looks at the difficulties experienced in achieving competitive markets, particularly in newly liberalising economies, and then examines the pre-dominant thinking behind competition policy. Part Two considers weaknesses in competitor/supplier-oriented competition policy. Part Three discusses how the demand-side to competition policy can be institutionalised.

The paper concludes with a call for demand side policies to be included in competition policy-making processes. Examples of recent developments are given, such as in the use of US litigation practice regarding consumers as “demand side” complainants and the EC Consumer Strategy. This Strategy includes new initiatives to inform consumers about competition policy and its impact on them, in addition to enabling consumers to identify anti-competitive activities and to bring them to the European Commission's attention.

Part One: Difficulties in Achieving Competitive Markets

There is an abundance of evidence that trade liberalisation does not by itself guarantee competitive markets in terms of increasing efficiency or becoming competitive internationally. Within projects such as the Consumers in the Global Market Programme,² CI members have been conducting research and analysis into national competition regimes in developing and transition economies.³ The problems identified by this research illustrate the lack of success these countries have had in creating and in maintaining competitive markets, due to tensions between seeking to protect domestic producers as players in the market and seeking to promote of consumer welfare.

a) Conflicting Policy Priorities

In conditions of scarcity and underdevelopment, competition policy seldom takes centre stage in government policy. If total income is very low, a governments may decide that the most appropriate national trade strategy is to increase its domestic industries' overall competitiveness by allowing dominant players to emerge in the market that are capable of achieving economies of scale and undertaking R&D.

In the Ukraine, for example, legislation allows for a concentration of economic entities, which would otherwise be prohibited by the Antimonopoly Committee, if the positive effect for the public interests of the concentration is judged to be greater than the negative consequences for competition caused by the market restriction.

Ukrainian competition policy therefore focuses on contestability in the market place, with a consumer protection clause in recognition of the public interest. However, this clause has not been effectively institutionalised. Without a transparent system of consultation with consumer representatives, and with no clear legal guidance on how "benefits" should be assessed or any indication of what should constitute a "fair share" of those benefits, it is rather the potential for conflict between the benefits for producers and consumers that has been institutionalised, along with poor governance in the marketplace.

A similar problem is highlighted by CI's research into the Colombian aviation sector. In this instance, the decision by the *Superintendencia* to reject a merger between Avianca, SAM and ACES, was reversed after the three companies appealed and a different 'ad hoc' Superintendent was appointed. Before the merger the national market shares stood at: Avianca 26%, SAM 11% and ACES 29%. After the merger the new entity held 80%, with control of 24 of the 27 (89%) of national routes. The justification for the merger was the need for scale in the aviation industry in order to compete in a global market where demand is fragile.

However, the new decision was controversial because it was *ad hoc*, dubious in the evidence used to support it, and insufficient consideration was given to the public interest. The case prompted the resignation of the Superintendent of Industry and Commerce, further undermining both the credibility and impartiality of the competition authority because the public interest over-ride was based on a non-transparent and seemingly non-democratic decision-making process. Effectively, the competition authority was told to go away and come back with a different verdict. Thus, although competition policy existed, it had its focus on producer concerns, and was ultimately unable to provide credible support for either competition or consumer welfare.

b) Competition and Privatisation

In transition and developing economies, privatisation and other market-orientated economic reforms have often been undertaken without appropriate regulation and competition laws in place. This has commonly resulted in the transfer of monopoly power from the public sector to the private sector - what Consumers International has called *false liberalisation*. Although, in principle, market-oriented reforms should increase competition and serve the consumer interest, much of the research indicates that privatisation has simply allowed firms to take advantage of weak governments to monopolise markets, with little resulting benefit for consumers. If sound competition policy does not exist, government intervention can appear arbitrary and irrational, and ultimately erodes confidence in the market.

In Indonesia, a long history of state-control of the most important sectors of the economy has inhibited the development of competitive markets. The Prohibition of Monopoly and Unfair Business Competition Practices Law, which came into force in 2000, did not address the issue that it was government regulation that determined domestic competition and trade policy, rather than the anti-competitive conduct of private enterprises. For example, when the government sold off the monopoly clove industry, the transaction favoured a single private purchaser who then became both the sole buyer and the sole seller of cloves. In this case, government intervention actually created a private monopoly, and further prevented any benefits from the privatisation from reaching the consumer. Again, the priority of producer concerns overrode due consideration of consumer interest - or the demand-side of competition policy.

The research also shows that many laws have been poorly formulated, with a lack of clarity between the “ends and means” to achieve a specific objective. There is, for example, a tendency to fail to make a distinction between anti-competitive business conduct on the one hand, and the form of market structure on the other. And in some laws are unclear as to the definition of the vertical integration of business activities. Laws which set an arbitrarily maximum market share limit as a benchmark for fair competition, ignore issues such as the fact that large-scale firms do not automatically have market power if the markets in which they operate have no barriers to entry or exit. So high market share or monopoly is prohibited even though it may encourage technological progress and economic growth, or it results from the inventor of a unique new technology automatically dominating the market he has created. Rather than prohibiting monopolistic enterprises, laws should have focused on “harmful” monopolistic conduct and specify the various types of anti-competitive business practice most detrimental to the goal of fair and open competition which enhances consumer welfare.

Thus while competitive markets benefit consumers, if privatisation and liberalisation is embarked upon without sound competition and consumer policy, these newly liberalised markets will not function to the benefit of economic efficiency or consumer welfare. As competition becomes more acute, businesses have attempted to cut their costs and secure their market position by reducing the standards of their product and services to an unsafe level, or by undertaking fraudulent practices.

c) Competition and Regulation

Competition policy and regulation both address the concern to limit the exercise of market power and to facilitate the efficient allocation of resources. Many industries, particularly natural monopoly industries or those said to be “clothed in the public interest” such as water, energy, fixed-line local telecommunications, and transport, need to be regulated to ensure the benefits of economies of scale while protecting consumers from high prices or abuse of dominant positions. Regulation is understood to be appropriate, either as a substitute for competition, or as a short to medium term strategy until competition can be introduced to the market. However, in developed economies such as the US, difficulties over assessing what is a ‘fair’ rate-of-return within regulation⁴ have also raised concern that the process itself reflects a complex mixture of political and economic considerations,⁵ where the consumer interest may well be subsumed by politically organized groups that can more effectively negotiate a higher rate of return.

Evidence has emerged in the US suggesting that nascent regulated industries have used regulation and the creation of state regulatory agencies to insulate existing firms from competition.⁶ As incumbents allocate resources to protect their position, new entrants may have to deplete resources to enter the market, while others may have to enter the political marketplace in response to the political activity of others. The extra advocacy pressures from other interest groups results in further politicisation, and rent-seeking can become a significant diversion of resources away from more productive activities. If this is a documented problem in the US, then the opportunity cost of similar expenditures and pressure to rent-seek in economies characterized by scarcity is an even greater concern.

Even the best designed economic regulatory process imposes costs on society for its establishment and administration, through its distorting effect on economic efficiency, and because of the time, effort and expense associated with its removal.⁷ In one study, deregulation was found to provide consumers with benefits of at least \$50 billion annually.⁸ Research has consistently demonstrated that deregulation has been accompanied by large price reductions to consumers and substantial improvements in quality and service. Regulatory frameworks should only limit competition to the minimum extent necessary to achieve their goals. This can be aided by ensuring that domestic

competition agencies work with regulators on regulatory proceedings, and participate in the process of developing laws or policies that have the potential to impact adversely upon competition.⁹

With general consensus as to the benefits of competition policy in underpinning both liberalisation and regulation, the following section highlights the importance of political will for strengthening the structure, application, and implementation of laws and policies that incorporate not only the supply side, but the also the demand for competition.

d) Lack of coherent legislation and effective institutions and agencies

Consumer research in Panama highlighted the importance of a strong judiciary and the role that public interest organisations can play in monitoring competition. Competition policy in Panama was, in principle, strengthened by a brewery merger decision insisting that the benefits of greater efficiency must be passed on to the public. Yet while this ruling strongly indicated that consumer welfare was to be considered within competition policy, it appears to have had little impact on how the competition authorities monitored other industries, such as wheat flour.

Following price liberalisation in 1991 the Panama market in wheat flour was dominated by four large domestic miller companies who have benefited from an import duty of 32.5%. In 1996 the Panamanian consumer association lodged a formal complaint with CLICAC (the competition authority), using evidence they had secured to suggest that the four millers had been colluding to fix flour prices and apportion market shares since 1994. CLICAC favourably responded by demanding an immediate end to illegal agreements and indemnities, but the court case took five years and eventually failed to reach a conclusion. In 2001, the millers made an out-of-court settlement accepting that they had acted illegally and pledging to stop colluding regardless of the court. The inability of the court to come to a decision seriously undermined public perception of its ability to defend the rule of law, as well as of the role of competition authorities and the work of consumer organisations.

Had this case been successfully concluded in the courts, it would have brought together an effective demand for competition and its successful enforcement. The demand was evident when consumers

complained about the price of wheat flour and sought a fair price. And the case utilised the cost-effective strategy of drawing upon the evidence produced by consumer organisations about the impact of anti-competitive practices on consumer welfare. The study highlights the need for competition authorities to look beyond unfair trading as practices against competitors and/or the specific scope of consumer protection laws. The focus should be on ensuring effective rights of access for relevant public interest groups and enabling these potential allies to present *amicus curiae* briefs to the courts, or even better, to bring collective actions as full parties before the courts in order to institutionalise securely the demand for competition.

In the Ukraine, research has identified many press articles and foreign business complaints denouncing the poorly developed concept of what constitutes a conflict of interest within the legislative and judiciary branches, particularly when so many officials retain their commercial interests while in power. This creates barriers to entry for less influential and less-resourced businesses as well as to the emergence of transparent and rational market mechanisms. In addition there is no mechanism for giving rights of access to the consumer to pursue his/her legitimate interest. Thus both the supply and demand for competition are seriously undermined. Removing vested interests from the marketplace is a long-term objective for ensuring contestability in any domestic system, but enhancing the demand for competition is an immediately less politically destabilising strategy for improving competition and democratic governance. Institutionalising demand-side policies within the competition regime will provide information, evidence and a means of mobilizing the public to send signals to business which can counteract vested interests. In addition, demand side strategies can be shown to be cost effective relative to agency enforcement.

Dysfunctional markets and widespread corruption mean that there is little protection for consumers, despite the existence of laws. In such situations, bottom-up demand side policies, including direct actions by consumers, are even more important to counter-balance the lack of effective supply side competition policy.

e) Lack of complementary consumer policy

The highest level of demand-side competition policy is consumer protection law. While some countries such as Australia, Poland and the UK have joint agencies and laws, others have not introduced complementary consumer policy or harmonized policy objectives. For example, Slovenia's competition policy was motivated by EU accession. The necessary legal framework and apparatus for the execution of the EU anti-trust regulation and regulation of state aid was introduced, but without enhanced consumer protection and education components.

Without adequate and relevant regulation protecting the welfare of consumers, increased competition in, for example, the Slovenian road freight transport sector has proved problematic. This sector has been undergoing liberalisation and de-regulation since 1989, during a period of large losses in transport volume and widespread bankruptcies. There was little legislation regulating new businesses and drivers who had previously lost their jobs found it easy to set up new small enterprises by buying trucks from their previous employers at very competitive rates; 72% of the market was held by new small enterprises with only one employee. The increased number of business operators resulted in cut-throat price competition and in lower transport prices.¹⁰ However, there was deterioration in transport safety, with the number of accidents involving freight vehicles increasing more than 30% between 1994 and 2000. The average age of freight vehicles owned by individuals was almost double those owned by companies, at 10 years compared with 5.4 years. While this development decreased prices and eased the burden of the expected increase in unemployment, it took place without adequate regulation and consumer protection measures to complement the sudden increase in competition, to the detriment of the industry and public safety.

Competition agencies need constantly to monitor changes in markets which will affect efficiency and consumers. The rise of e-commerce in South Korea has brought new issues to the attention of the competition authorities and the on-line market system has been specifically charged with using exaggerated advertisements and with swindling. Legislation such the Fair Labelling and Advertising Act has not yet been able to redress these negative developments. This has a negative effect on consumer confidence in e-transactions, and the level of competition in the market. Ultimately it inhibits the growth of the industry. In Indonesia, consumer protection from injurious monopolistic practices only covers the packaging and advertisements of cigarettes, pork-free labelling of canned goods and the censoring of pornography or scenes offensive on cultural or religious grounds.

Given the potential complementarity of objectives within competition and consumer protection policy, competition will be enhanced if the remit of consumer protection policies is enlarged and further resourced whether or not there is a joint competition and consumer protection agency.

Part Two: Predominant Thinking Behind Competition Policy

With experts agreed on the benefits of competition, policy needs to translate theory into practice for both the economy and consumers, particularly in developing and transition economies where 'policy transfer' has not often been successful.¹¹ Yet, the economic analysis that underpins the work of competition authorities has shown a strong tendency to privilege producer concerns - the supply of competition, while the issues about consumer behaviour - the demand for competition - are secondary or in some cases non-existent.

Not all countries give a high priority to consumer efficiency and welfare because of the need to preserve domestic capacity to compete, as seen in many development strategies, or because of the inherent need to preserve flexibility to choose between policy objectives. These can include choosing between competition and regulation, and between competitors and consumers, for example. Competition authorities tend to be largely concerned about whether policy should focus on rules and procedures to prevent anti-competitive practices, dominance or abuse of dominance, the reduction of barriers to entry and / or facilitating optimal conditions. However, even if governments do choose to implement laws which focus on reducing competitor protection by promoting rivalry, or by eliminating excessive divergences from an industry structure, the outcomes can and should be enhanced by increasing the impact of consumer behaviour, in sending signals to the market which trigger competition.

There tends to be too little analysis of consumer behaviour and welfare in making policy, law enforcement and investigations. In a series of studies conducted in the US in the early seventies, economists compared the markets where government was enforcing antitrust laws with the markets

where government should enforce the laws - if consumer well-being were the paramount concern. The studies concluded unanimously that the size of consumer losses from monopoly played little or no role in government enforcement of the law.¹² While the US, Australia, the UK and other developed countries have been moving more towards consumer efficiency models of competition policy, demand side policies have still not been meaningfully institutionalised throughout the different levels of consumer interest. In less developed economies, industrial policies remain focused predominantly on competitor protection. The next section examines the three levels of consumer interest and the role each can play in raising the demand for competition.

Part Three: Institutionalising Demand-led Competition Policy

The first level of demand-side competition policy focuses on the individual consumer. Just as the behaviour of firms impacts on consumers, consumer behaviour directly impacts on competition. How consumers search the market, how many firms they survey before making decisions, and how much they will pay (in time or money) to search the market are important factors. Allied to this is consideration of how they respond to products and prices offered in the market – whether they switch firms, whether they make formal complaints, or seek redress if necessary, etc. This raises the question of whether or not policy could or should influence consumer search behaviour and whether there is a greater role for emphasizing the similarities between products and services, in order to aid consumers in making choices.

Policy can influence both the costs to consumers and the actions firms can or cannot take. In addition to the tangible costs of searching and switching, consumer behaviour may be the result of intangible factors, such as cultural taboos. Consumer perceptions or misperceptions of searching and switching costs can be manipulated by those who supply the good or service. Firms can choose, for example, whether or not to mark prices clearly at the point of sale, or whether to provide the information required freely to facilitate switching between firms or products. Frictions in markets, such as barriers to entry, may also be caused by consumer behaviour manipulated by advertising.

Within Waterson's work on the role of consumers in competition and competition policy,¹³ he puts forward 5 propositions to demonstrate the importance of searching and switching costs for the outcome in a market. For example, if each consumer searches only one firm prior to the purchase decision, the pricing outcome is at the monopoly level regardless of the number of firms in the market. Thus, the higher the proportion of active searchers, all other things being equal, the greater the proportion of low cost firms, with searchers also imparting information to non-searchers. Waterson also argues that in firms where no discrimination between new and old customers is feasible, firms' prices are generally higher with switching costs than in their absence. In examining the UK energy market after liberalisation, Waterson's work indicates the value of understanding what can facilitate consumers in making rational and informed market decisions, and in doing so, build the demand for competition – or a competition culture - from the bottom up.

The implications of the behaviour of consumers are wide ranging. Consumers will only engage in additional searches if the expected benefits are greater than the costs. Yet the consequence of this is that if consumers *believe* it is not worthwhile searching a market, it *will not* be worthwhile because firms will get signals that they do not have to compete with each other in order to gain customers. In the case of Bates (US Supreme Court, 1976) a low-price law practice won a case to allow it to advertise lower fees because it became clear that their business could not survive in the absence of information provided to consumers about their low-cost centre. This is because consumers would not have otherwise learned about the law firm and be motivated to use them.

Conversely, if consumers believe searching is going to be worthwhile, it will probably be so because informed and active consumers seeking out cheaper provisions of a standard good or service will send firms signals they will respond to by reducing prices and/or improving quality. A Bill was introduced into the UK House of Commons in 1984 proposing to end the solicitors' monopoly on conveyancing (house ownership transfer). Despite the Bill being withdrawn and legislation being delayed until 1987, reductions in conveyancing charges actually first appeared in 1984. As the public became sensitised to possible changes in prices, some solicitors responded to new expectations and initiated price cuts before competition was actually institutionalised.¹⁴ In the UK in the early 1990s, British Telecom also brought down their telephone charges before, but in anticipation of, the termination of the duopoly market.

Therefore, in addition to the need for greater political will in implementing and maintaining supply side of competitive markets, there is an equal requirement for ensuring consumer action in the market. Both aspects need to be in place in order to ensure that the framework for contestable markets is triggered by informed and active consumers. Law and policy can create the conditions for competition to flourish but it is consumers that ultimately set it in motion. Even when a market has the potential to be competitive, it may not be so in operation largely because of the behaviour of consumers.

Part Four: Establishing Consumers As Equivalent Players In Competition Policy

It is suggested here that the stimulation of the demand for competition needs to be institutionalised at three inter-connected levels: in policy and investigations, in the work of consumer organisations, and at the level of the individual consumer. By taking a more bottom-up approach and creating an administrative mechanism which can ensure rights of access to consumer representatives, through consultations and amicus curiae briefs, for example, policy makers can complement quantitative consumer behaviour data with qualitative insight into consumer attitudes, knowledge, satisfaction and complaint levels to understand market responses better.

A notable development at a regional level is the EC Consumer Policy Strategy 2002-2006, which initiates a decision to integrate consumer interests tangibly into the implementation of Community competition rules and develop lasting capacities allowing them to be genuine and effective representatives of consumer interests within the decision-making process. This focuses directly on the demand side by seeking to support consumers at member state level in order to increase their capacity to participate before national competition authorities.¹⁵ In particular, the strategy seeks to promote the possibility of collecting information and evidence about practices that may be particularly injurious to the consumer, but where competitors may not be injured due to their capacity to pass the costs of restrictions to the ultimate consumers. Thus, for anti-trust and merger control areas, network services, mass marketed products or the liberal professions,¹⁶ it may be that the Commission is seeking to bring the consumer, as represented in organisations at domestic level, directly into the national authority case decision-making structure. If so, this assists not only the consumer, who is

enabled by the programme to obtain the resources to complete market research, but to authorities as well, who otherwise are restricted by lack of resources to dealing with complaints by competitors against other competitors.

Different domestic systems rely in different parts on agencies and private rights of enforcement. Thus, demand side developments can be tracked not only by agency-oriented strategies such as the Commission policy above, but also by court developments.

A recent *Trinko* case in the US showed that private actions by consumers remain a ripe area for legal development. Here the indirect but ultimate purchaser of an office telephone system asserted his right to recover damages caused by the anti-competitive behaviour of the supply firm to his own local provider.¹⁷ Besides consideration of the practice itself and its relation to federal regulatory enactments, the demand side issue of standing by the ultimate consumer - of the right to bring the action to court - was also at issue. The 2nd U.S. Circuit Court of Appeals found that the plaintiff did have standing. This case was supported by amicus curiae briefs by the two largest consumer organisations in the US on the grounds that:

"It is vital that consumers, who are often the immediate focus and always the ultimate victims of anti-competitive conduct, have standing to vindicate their rights under the antitrust laws."¹⁸

Thus, even in developed countries with a highly advantageous system, the extent to which that system is available for consumers is still an aspect of judicial development

In addition to supporting individual consumers, national consumer organisations can play a cost effective role in aiding competition authorities' investigations by providing evidence and the consumer welfare perspective to counter-balance producer concerns. In Mali, the consumer organisation ASCOMA undertook a price survey of the meat industry after an unexpected price hike in 1994. This market surveillance and information dissemination drive was directed at the government, and the evidence gathered was subsequently used by the government to bolster their competition drive. In Zambia, the national consumer organisation, ZACA, set up Consumer Water Watch groups to monitor the water and sanitation sector following privatisation. ZACA now regularly lobbies the

Zambian National Water Supply and Sanitation Council, offering information and consumer representation.

The information gathering and dissemination function of consumer organisations can be further enhanced as a primary component of the demand side. Not only are consumer organisations closer to the individual consumer than government agencies, but they are usually seen as more independent than government and their advice and information is consequently more trusted. In Senegal, the consumer organisation Arête's undertakes regular media alerts during controversial tenders such as the Shell, Total and Elf joint tender to run the Senegalese oil refinery. These media campaigns raise public awareness about each particular case, acting to ensure that tenders serve consumers and not only the firms involved, and to increase transparency and accountability.

Conclusion

Institutionalising consumer representation in competition authorities' policy-making processes is necessary to incorporate and advocate procedures that will take account of the impact of both consumer behaviour in activating competition and of business behaviour on consumer welfare. Competition authorities can incorporate mechanisms that will help consumers to encourage - even force - businesses to act more effectively by working with national consumer organisations to disseminate information, mobilise consumers and undertake consumer research to input a consumer welfare perspective into investigations and policy making.

This presents not only a cost effective means of enhancing competition, but perhaps more important; it increases consumer welfare, provides legitimacy to consumer welfare objectives, and ultimately enhances the democratic process itself.

Endnotes:

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- ¹ Trade Policy and Representation Officer. Consumers International London Office. With thanks to Dr Jim Mathis and Robin Simpson.
- ² The Consumers in the Global Market Programmes are supported by the Dutch Government, the International Development Research Centre and Oxfam.
- ³ For the full case study report please contact the relevant CI regional office, or visit the CI website: www.consumersinternational.org.
- ⁴ That is, regulators provide a return that covers a firm's costs plus a "reasonable" profit to induce the necessary capital investment.
- ⁵ A Kahn. *The Economics Of Regulation*. Vol I Cambridge: The MIT Press (1995) P42.
- ⁶ See Gregg A Jarrell. *The Demand For State Regulation Of The Electricity Utility Industry*. *Journal Of Law And Economics*. October 78. Vol. 21 No. 2. P34.
- ⁷ Paul S. Crampton & Brian A. Face. *Revisiting Regulation And Deregulation Through The Lens Of Competition Policy*. *World Competition* 25(1): 26, 2002.
- ⁸ Robert Crandall and Jerry Ellig, *Economic Deregulation and Customer Choice: Lessons for the Electric Industry*, Center for Market Processes, Fairfax, Va.: 1996.
- ⁹ Paul S. Crampton & Brian A. Face. *op cit*.
- ¹⁰ There was, for example, an estimated 30% decline in the price of a 25-ton transportation on the Ljubljana-Hamburg link between 1995-2000.
- ¹¹ World Bank 1995. *Bureaucrats in Business: The Economics and Politics of Reform*. Paul Cook. *Leading Issues in Competition, Regulation and Development*. Cook, Kirkpatrick, Minogue & Parker. p48.
- ¹² Demsetz, Harold. "Industry Structure, Market Rivalry, and Public Policy." *Journal of Law and Economics* 16 (April 1973): 1-9.
- ¹³ Michael Waterson. University of Warwick Working Paper no. 679, May 2003; University of Warwick Working Paper no 607, July 2001.
- ¹⁴ Domberger and Sherr. 1989, p41, from Waterson *ibid*.
- ¹⁵ European Commission Consumer policy strategy 2002-2006 (*COM(2002) 208 final*)(2002/C 137/02)
- ¹⁶ These are the sectoral themes for competition analysis set out in the EC DG Sanco 2004 call for tenders. SANCO-2004-01307-00-00
- ¹⁷ That the telecommunications company violated Section 2 of the Sherman Act by using its monopoly power to keep rivals out of the marketplace. The increased costs of the practice were by purchaser, thereby warranting treble damages and injunctive relief.
- ¹⁸ *The American Lawyer* 10-08-2003