

Chapter 5 Conclusion and Agenda for Competition Policy

5.1 Essential Commodities Act (ECA),1955

5.1.1 To make the competition more effective in the agricultural sector, it is essential to have complete policy reforms. As recommended by various commissions and studies (referred as well as not referred) there is an urgent need to bring a central enactment to ban controls on intra and inter state movement of goods. In order to increase the participation of the private sector in agricultural marketing, amendment should be made in ECA. As detailed below

- i) To remove the requirement of licensing of dealers.
- ii) Restrictions on storage and movement of food grains, sugar, oilseeds and edible oils etc.

Comprehensive review of this Act with a view to scrap undesirable provisions is needed as being suggested by several quarters.

5.2 Food Corporation Act, 1964

The detail about Crop insurance scheme and weather information needs to be available to farmers at regular intervals.

It may be necessary to allow FDI to provide Insurance related services to the Agriculture sector. The services in relation to quality specifications should be strictly maintained in respect of procurement. FCI assets, more than that is required for maintenance of minimum buffer stock, should be privatized. Private Public Partnership should be encouraged for construction of modern procurement, transport, storage and logistics.

Removal of restrictions on supply of credit to agriculture, trade and storage are necessary. This may pave way for improving the efficiency of its operations and bring significant benefits to consumers and producers and improve food security.

Unless the control regime governing storage and movement of food grains and other essential commodities are suitably relaxed, the degree of success to bring elements of competition within the agriculture sector would be grossly limited. State Governments have imposed many restrictions on the movement and storage of food grains. Even when the country has achieved self sufficiency in food stuffs, many of these controls, which have outlived their utility are still continuing. Hence there is a need to withdraw them, keeping in view the emerging new

economic environment. Legislative measures for removing impediments to storage and movement of food grains need top priority.

5.3 The Recommendations made by the Committee of State Ministers in charge of Agriculture marketing to promote reforms:

The following recommendations made by the Committee in relation to agricultural marketing needs to be implemented by the government at the earliest possible.

- The system of licensing of traders, commission agents etc. should be replaced by simpler and more progressive system of registration.
- There should be single window unified single registration for traders/ market functionaries across the State to facilitate.
- There should be Unified single registration for main market (Hub) and collection centers (spokes).
- There is a need to have distinction between genuine service provider and black marketers/ hoarders, to encourage investment and better service delivery to the farmers.
- The role of service provider and regulator should be demarcated.
- Member states de-link the provision of compulsory requirement of shop for registration of trades/market functionaries for increasing the competition.
- Market fee/cess can be levied at first transaction only between farmer and trader and in subsequent trading between trader to trader, there should be service charged related to service in the State as well as across the country.
- States should take initiative to remove such physical barriers, if any.

5.4 The Insecticides Act, 1968

It is essential to have a comprehensive national approach pest management without hampering agricultural production and productivity. Education of the farmers about the ill effects of pesticides, need based use of chemical pesticides is essential and important. The Integrated pest Management approach is another way to infuse competition. The application of biological methods and use of bio pesticides may bring down the residues in agricultural products and thereby enhance competition in foreign markets.

5.5 The Agricultural Produce (Grading and Marking) Act, 1937

The Regional Laboratories needs to be established all over India with participation of private sector. This may bring competitive spirit. The standards set by Codex are becoming increasingly acceptable world over so it can be used as a benchmark in India. The Quality standards need to be fixed for each and every product under Law. Grading and standardization for all Agri-products is necessary for competing with foreign goods.

5.6 NCDC Act, 1962

The NCDC is mandated to provide financial assistance to cooperatives. With the objective of enabling cooperative business to become producer companies and to facilitate primary procedures in organising themselves as viable business entities, the Companies' Act 1956 was amended in 2002 to provide for the incorporation of producer companies. A producer company is a hybrid between a private limited company and a cooperative society.

An amendment in the definition of Cooperatives under S.2 (C) by adding the word '**or producer company as defined under the Companies Act, 1956**' can enable the corporation. Further, the words '**or producer company**' may also be inserted at the end of proviso to Sec. 9 (e) of the NCDC Act, 1962.

5.7 The Seeds Act, 1966

In order to make competition more effective in the agricultural sector, the following recommendations are made. There is need for registration to all seeds for sale against partial registration in force as on date. (Seed Bill, 2004). There is also need to bring special provisions for registration of transgenic varieties of seeds. The law must provide for adequate compensation to farmers under the Consumer Protection Act, 1986 in the event of under performance of seeds. All seeds imported need to be regulated by the Plant Quarantine (Regulation of Import into India) Order, 2003 or any corresponding order of the Destructive Insects and Pests Act, 1914; which should conform to minimum limits of prescribed germination standard etc. exports may be restricted under law if it adversely affects the food security of the country. There must be strict punishment provided in this Act to any person who contravenes any provisions of the Act or imports, sells or stocks seeds deemed to be misbranded or not registered. According to the seed bill 2004, the recommended punishment is punishable by a fine of Rs 5,000 to Rs 25,000. The penalty for giving false information is only to six months imprisonment and/or a fine up to Rs 50,000.

5.8 The Legal Provisions identified for bringing legislative changes to infuse the elements of competitions within Agriculture Sector.

5.8.1 The Essential Commodities Act, 1995

1. Section-3 [3.1, 3.2 (a), 3.2 (c), 3.2 (d), 3.2 (e), 3.3 (a)] (Powers to control production, supply, distribution, etc. of essential commodities).
2. Section 6E (Bar of jurisdiction in certain cases)

5.8.2 The Food Corporations Act, 1964

Section 13 [13.1, 13.2 (a), 13.2 (b)] (Functions of Corporation)

Section 28 (Lending by Food Corporation on security of food grains)

Section 29 (Power to enter into agreement for purchase of food grains after harvest)

Section 30 (Guarantee by Food Corporation)

5.8.3 The Agriculture Produce (Grading and marking) Act, 1937

Section 3B [3B (2)] (Powers of authorised officer to seize agricultural produce)

Section 5B [5B (1), 5B (3), 5B (4)] (Power to prescribe compulsory grade designations in respect of certain articles)

5.8.4 The Warehousing (Development And Regulation) Act, 2007

Section 3 [3 (1)] (Requirement of registration for warehouses issuing negotiable warehouse receipts.)

Section 5 [5(1)] (Registration of accreditation agencies)

Section 35 (2) (b) (Powers and functions of Authority)

5.8.4 The Dangerous Machines (regulation) Act, 1983

Section 6 (Power of Controller to issue orders.)

Section 9 (Issue, Renewal and cancellation of Licences to Manufactures and dealers)

5.8.5 The Protection of Plant Varieties and Farmers' Rights Act, 2001

Section 14 (Application for registration)

Section 18 (1) (Form of application)

Section 20 (1) (Acceptance of application)

Section 29 (Exclusion of certain varieties)

5.8.6 The Insecticides Act, 1968

Section 13 (Grant of Licence)

Section 21 [(a) (d) (e)] (Powers of Insecticide Inspectors)

Rule 30 (Form of order not to dispose of stock)

Rule 31 (Prohibition of sale)

5.8.7 National Cooperative Development Cooperation Act, 1962

Section 9 (Function of corporation)

5.8.8 The Seeds Act, 1966

Section 7 (Regulation of sale of seeds of notified kinds or varieties)

Section 14 (Powers of seed Inspector)

Section 17 (Restriction on export and import of seeds of notified kinds or varieties)

5.8.9 Order, 1989 section 3 general conditions for import

Section 3 [3(1), 3(3), 5(1)] (General conditions for Import)

Conclusion:

Though, an earnest attempt has been made, within the time and resource constraint, to study and analyse the laws, rules, orders, regulations, schemes, programmes pertaining to Agricultural Sector with the intention to specifically identify laws, rules etc. which affect, limit, restrict or prohibit the elements of competition, there is an urgent need to study all the said innumerable law, rules and regulations etc. pertaining to agricultural sector so as to get the desired result. It is recommended that the Government shall undertake immediate steps to commission a detailed sub-sectoral study on the subject for the agricultural sector covering all the laws, rules, regulations etc. framed by Central as well as State Government.