

EXPLORING COMPETITION POLICY AND LAW IN INDIA

Dr. Madhushree Mandar Joshi*

Abstract

Competition Era is the latest revolution in the world which has changed political, social economic context globally. The National Competition Policy will be a second wave of reforms to make the competition regime strong and effective. In the last two decades Indian market has changed significantly. The substantial benefits are revealed in various areas like telecom, transport, and manufacturing. This success is a structural shift in India's development path though some residual restraints and anti-competitive traits as well as process of reform remain. The pace and direction of this development requires overarching 'National Competition Policy', to realize further growth, potential of the economy. Our institutions of governance and policy are newly evolving with the changing dynamics of the new India, while remaining true to the founding principles of the Constitution of India, and rooted in our *Bharatiyata* or wisdom of our civilization history and ethos. The need of Competition Policy has been realized due to the proven benefits of competition. To avail the benefits to all sectors a comprehensive policy is essential as the lack of awareness of competition culture, applicability of competition law can be cured through Policy. The Paper discusses the Draft Policy and analyses to suggest the National Comprehensive Competition Policy.

Key words: competition policy, competition law, Draft National Competition Policy

Introduction

Competition Law has a legacy of more than 100 years, over 100 countries have their own laws, but Competition Policy is an exceptional phenomenon. In many countries the policy has resulted in higher growth and enhancement of public welfare. The avocation of certain intervention has helped in removal of competition impediments in markets. The overseas firms are increasingly interested in India for trade and investment, they

* Assistant Professor, DES Shri. Navalmal Firodia Law College, Pune.

need better ideas of the business environment in the key sector, this can be done through Policy¹. Many developing countries have moved from government control economy to market economy, for this ‘Competition Culture’ has been strongly inculcated. Competition is a process, not automatic thus needs a strategy and enforcing mechanism. Competition Law provides that mechanism however the Policy for it is still awaited.

Competition Policy is the set of policies and law which ensures that, competition in the market place is not restricted in a way that is detrimental to society. It is those government measures that directly affect the behavior of the enterprise and the structure of the industry². It includes measures enhancing competition at local and national level and effective competition law preventing anti-competitive practices. Core idea of policy is its regulation which is significant portion of government action to be regulated, subjected to coordinated, systematic and annual review.

The role of effective competition ‘Law and Policy’ is important. A well-designed effective policy reduces, eliminates impediments to competition arising out of public policy, interventions by government and private sector. It helps to realize benefits of competition nevertheless competition needs to be maintained, protected, and promoted.

The objectives of competition Policy in India is creation of an active competitive environment and to aid and abet the process of creating globally competitive firms. With enhanced investment and technological capabilities, the government’s proactive role has become imperative. The government efforts towards development and supporting legal reforms need a harmonizing bridge of Policy –Vision.

Adopting a more of a historical approach it’s observed that the competition policy has served many objectives and specified distributive goals. There are various approaches to the competition Policy³. India though has declared its commitment of

¹ Sujay Mahdavia, Adopt National competition policy, urges CCI, *The Hindu*, Oct.11 2013, available at www.thehindu.com/business/Economy/adopt-national-competition-policy-urges-cci/article5225773.

² Dutz, Mark, R. Shyam Khemani, *Competition Law and Policy: Challenges in South Asia* Washington DC: World Bank (2007), available at <http://documents.worldbank.org/curated/en/2007/03/9866435/competition-law-policy>.

³ The Explicit Competition Policy is a pro-articulation approach. Countries like Australia, Canada prefer explicit articulation of competition policy and its institutionalization. The Non-Explicit Competition Policy is the policy of the State which is part and parcel of competition enactment and is enforced

having 'National Comprehensive Competition Policy' yet it has neither been articulated nor has been adopted.

The Competition policy involves certain concerns: Firstly, role of competition authority as interventionist or non-interventionist based on free-market. Competition policy will depend on nation's historical, political and legal culture and the attitude towards market and role of state. Secondly Pigeon holing the activity as anti-trust to achieve fixed legal outcome is a concern, there is a need for certainty and predictability in competition Law. The debate is long lasting⁴. There are some difficulties like the role of economic theory⁵. Though mostly the economic theory of perfect competition is the basis of competition policy objective, the question arises of adequacy of using economic analysis for identifying particular behavior as harmful as economic analysis doesn't fit easily with providing certainty and predictability in the Law⁶.

Globalization and International co-operation in competition law enforcement is also an important concern. Usually national competition law reflects domestic politics and interests, the occurrence of nationally based competition law has been observed. The globalized market needs response from national authorities in international competition aspects like cross-border merger⁷. The extra-territorial application of Law needs international cooperation.⁸

through law. UK follows this approach. Institutionalization of competition policy and vesting of a statutory role of formulating, commenting on government's economic and regulatory policy is the third approach.

- ⁴ Barry J Rodger & Angus MacCulloch, *Competition Law and Policy in the EC and UK*, 13 (3rd ed., 2004) Cavendish Publishing, the economic analysis suggests that this goal is unattainable as a primary goal. Competition Law arisen as a result of Political choice and the chosen rules will reflect first order rationale for their existence. The rules are not mechanical but discretionary and require a degree of political value judgment.
- ⁵ *Ibid.* Law relies on legalistic concept of wrong which doesn't fit particularly well with the economic analysis competition rules are based on economic theory based on assumptions which are reliant on abstract concepts like competition and monopoly.
- ⁶ Also see, McNutt, P, "Efficiency in Competition Policy: Expendable Competitors and Making Defendants Whole", unpublished paper, Strathclyde University Business School, Glasgow 27 Feb 1998.
- ⁷ Organization for Economic Co-operation and Development: recognized the need and recommended cooperation on anti-competitive practices affecting international trade. Though no formal institution but a bilateral agreement has arisen.
- ⁸ International Cooperation is needed in matters like resolving barriers to inter-trade and in public and private sectors, creating such a business environment where business success will ensure sustainable entry and

Competition policy interfaces with other Policies It has a direct bearing on the extent to which competition policy objectives can be pursued without being constrained by or conflicting with other public policy objectives. A government policy may encourage or adversely affect competition differently and hence contextual study of Competition Policy is appropriate. Competition Policy concerns all those Policy instruments that impinge on the promotion of competition in markets⁹, thus policies relating to trade, investment and technology development come under its purview. Economic Policy¹⁰ & Development Policy have a very close association with Competition Policy.

Impact of International Development led to adoption of new competition regime. Competition Act was pressed due to international obligations casted on India by various international agreements to which India is a signatory. WTO¹¹ necessitated providing a legal frame work ensuring reciprocal rights to the other members of it¹². GATS¹³ provided for liberalizations of international movements of goods, services. TRIPPS¹⁴ provided guidance pertaining to trade regulation.

growth of enterprises competitiveness based on productivity, to handle restrictions on FDI and technology transfer, regulations affecting registration of new enterprises , Tax and Corporate Governance, Unfulfilled potential kontras size of the potential benefits to economy from increased competition reforms to date.

- ⁹ Rakesh Basant, *Sebastian Morris Competition Policy in India*, 35 Economic & Political Weekly (2000) Special Articles, available at <http://www.epw.in/journal/2000/31/special-articles/competition-policy-india.html>, last seen on 15/07/2016.
- ¹⁰ Economic policy refers to the government actions in the economic field. It covers the systems for setting levels of taxation, government budgets, the money supply and interest rates as well as the labour market, national ownership, and many other areas of government interventions into the economy. Law and policy if coordinated with economic policy can foster and fastens broader and shared economic development.
- ¹¹ World Trade Organization, It provides a common institutional framework for the conduct of trade relations. More details, available at https://www.wto.org/english/res_e/download_e/inbr_e.pdf.
- ¹² T. Ramappa, *Competition law in India Policy, Issues and Development*, 2 Oxford University Press.
- ¹³ Ibid General Agreements on Trade and Services, establishes a multilateral framework of principles and rules for trade and commerce with for expansion of trade under progressed and transparent liberalization.
- ¹⁴ Trade Related Aspects of Intellectual Property Rights, aimed at promotion of effective and adequate protection of intellectual property rights and seek measures and procedure to enforce intellectual property rights.

Recently 'NITI Aayog' has marked a new beginning.¹⁵ The vision towards Policy has undergone a sea change. The trend of Policy vision has been initiated giving up the mere planning approach. With the developmental process, nurturing an overall enabling environment, a holistic approach has gone beyond the limited sphere of the Public-Sector principles.

In 2011, Draft Comprehensive National Competition Policy was proposed, the policy aimed at promoting market structure that makes Indian economy more competitive, productive and helping inclusive growth. It also aims at achieving highest sustainable level of economic growth. The policy if adopted would help the sectors grow in healthy environment.¹⁶ National Competition Policy is Important to tackle entry barriers and has a larger objective.

Substantially the draft policy is based on the principles of effective control over anti-competitive activities through effective enforcement of Competition Act and CCI, principle of competitive neutrality, Level playing field among all players, rule-bound, transparent, fair and non-discriminatory procedures and Institutional-separation between policy making, operations and regulation.

Study of the draft Policy reflects the structure, functioning and framework of the policy. The Policy responds to the unprecedented growth and development of economy, strong macroeconomic fundamentals, vibrant entrepreneurial force, large and growing domestic market¹⁷ and enhances Indian economic flexibility during global economic stress.

The Policy is contemplated in a wider sense. The demographic dividend, favorable markets, new energies, avenues of growth, consumption demand and job creation opportunity are the

¹⁵ Principle of Cooperative Federalism and Think Tank offering domain knowledge as well as strategic expertise to all levels of government. A collaborative platform facilitating Implementation; by monitoring progress, plugging gaps and bringing together the various Ministries at the Centre and in States, in the joint pursuit of developmental goals, available at <http://niti.gov.in/content/niti-aayog-one-year>.

¹⁶ The Economic Times, National Competition Policy Not formulated – Arun Jetly, *available at* http://articles.economicstimes.indiatimes.com/2015-05-05/news/61833351_1_national-competition-policy-entry-barriers-economic-growth, last seen on 17/12/2015.

¹⁷ Report of the working group on competition policy, Planning Commission Government of India February 2007, http://planningcommission.nic.in/aboutus/committee/wrkgrp11/wg11_cp_olicy.pdf, last seen on 15/07/2016.

favorable to adopt the Policy. The Recommendations by Planning Commission forms the basis.¹⁸ The High-Level Committee report¹⁹ observed “Competition Law must emerge out of a national Competition Policy which must be evolved to serve the basic goals of economic reforms by building a competitive market economy.²⁰ The concerns like gap in infrastructure deficit, skill development, imbalance in inflationary pressures, inclusive growth reforms in market and global competitiveness of Indian industry necessitates and justifies the proposed policy.

The Sector policies have yield rich dividend however it’s uneven and have affected common man. There is need of dissimilating of restraints and introduction of Competition. It has resulted in enhanced competitiveness with allied benefits –static, dynamic and allocative efficiency helping further in growth. Though releasing energy and dynamism in the economy has given rise to 45 million new entrepreneurs; there are still residual restraints and unintended anti-competitive effects of government policies and laws in segment of economy.

NCP is expected to help to promote good governance through transparency and accountability, avoiding rent seeking practices. It will have a positive co-relation with other strategic national objectives. The Sovereign function of the state defense, internal security, currency, non-economic state activity of sovereign nature is not subjected to competition strategy.

NCP is contemplated to be flexible and accommodative of sensitive matters of special policy for weaker section of society, regional policy, environmental concerns and public policy. It does not seek laissez faire Market, absolute deregulation, disinvestment, welfare cutbacks, reduction of social services, and government ownership

¹⁸ Under IX Five year Plan – The policy document “Inclusive Growth” (Chapter XI) towards a Competition Policy”, available at http://www.mca.gov.in/Ministry/pdf/Revised_Draft_National_Competition_Policy_2011_17nov2011.pdf, last seen on 17/12/2015. It has been adopted by NDC (National Development Council) in 2007. The Policy Statement enables a coordinated effort to attain the full growth potential of the economy in a faster, inclusive and sustainable manner.

¹⁹ The High-Level Committee report on Competition Law and Policy published in 2000, recommended a new competition law, available at http://www.competitioncommission.gov.in/Act/Report_of_High_Level_Committee_on_Competition_Policy_Law_SVS_Raghavan_Committee29102007.pdf, last seen 22/06/2017.

²⁰ Draft National Competition Policy, available at http://www.mca.gov.in/Ministry/pdf/Revised_Draft_National_Competition_Policy_2011_17nov2011.pdf, last seen on 15/07/2016.

of business. It intends to seek government intervention with optimal regulation.

Objectives of NCP is to achieve highest sustainable levels of economic growth, entrepreneurship, employment, higher standard of living, protection of economic rights for just, economic, inclusive and sustainable economic development, promote economic democracy, support good governance. The additional considerations are competition for consumer, competition advocacy, well-functioning Markets through encouraging adherence of competition principles in policy and law facilitative approach of law Institutional coherence and competition regulation with synergy in sector regulator. Single national market and consumer protection by availing them greater choice, better quality and services at competitive price.

The policy is based on well thought principles like priority to promote healthy competition culture, effective prevention of anti-competitive conduct, institutional separation in policy making, operations and regulation, competitive neutrality, level playing, essential facilities-third party access on reasonable and non-discriminatory terms and condition. Adherence to Competition Principles is a rule and deviation exceptionally only in case of meeting social, national objective, to be clearly spelt out. The deviation should be for a pre-determined Tenure as there is insertion of Sunset clause.

Government Initiatives to generate Competition Culture has been emphasized. Central government establishment of National Competition Policy Council for overseeing and co-ordinating implementation of policy is proposed. For review of such policy 'Competition Impact Assessment' of proposed policies, statutes, regulation is suggested.

Competition Impact Assessment in all Govt. depts. and the In-house cell in ministry is proposed. A senior officer will head the cell not below the rank of Joint Secretary of the ministry. The Responsibility of the officer will be to undertake CIA of policy and laws, statute administered by dept, to align public procurement regulation and practice with competition Principles. NCPC works with and assist various depts. in undertaking Competition Impact Assessment.

Consideration for 'Competition Impact Assessments' are specified to be limitations on no. of range of Supplier, competitiveness of the supplier, incentives of supplier whether reduced, regulatory and policy Barriers, choice and information available to

Customers. Integration of competition principles in all sectors regulatory regimes, with a gradual dilution with a progress of competition principle is contemplated. Ensured functional and financial autonomy to competition authorities, third party access to essential facilities on fair and agreed terms and multilateral, bilateral and regional trade agreements in accordance with competition principle encourages government to undertake pro-competition reforms and provide suitable incentive mechanism for undertaking such reform.

State Government Initiatives are suggested for reforms to be permeated to state level. The economic areas of state legislation are also subjected to insertion and adherence to competition Policy. Measures like review the existing and Proposed Competition Policy, law, and regulation. The in-House cell mechanism at all state government departments to undertake Competition Impact assessment mandated. Sub-state Authority, the extended arm of Government²¹ are also subjected to the same assessment, Law review, align them with NCP principles, similar In-house cell to undertake Competition Impact Assessment is also proposed. Further implementation government bodies prime Institution NCPC Central Government In-house cell initiatives State Government in-house Cell Initiatives Sub-State Authorities.

Oversight mechanism

Institutional arrangement to oversee implementation of the NCP, CCI and COMPAT to enforce Competition Laws and infuse the principles of competition enhance the role of competition and competitive markets in govt. policy at Central and State Levels and promote competition culture in the Country.

National Competition Policy Council: (NCPC) is proposed to be established for monitoring the progress of the implementation of the policy. It consists of a small and compact Competition Policy Council of about 25 members. It will be an advisory, non-statutory and autonomous in its functioning and be headed by an eminent non-official person and comprising key officials from economic Ministries/Departments, and non-officials from media,

²¹ Municipalities, panchayats, housing boards, universities, professional Institute, roadways, corporations, created by statutes engaged in production, supply or distribution of goods or provision of services explained by the National Competition Policy, *available at* http://www.mca.gov.in/Ministry/pdf/Revised_Draft_National_Competition_Policy_2011_17nov2011.pdf, last seen on 15/07/2016.

academia and civil society²². It is proposed to be provided with sectoral assistance and funding and appropriately positioned in the government. It will facilitate and provide technical assistance to the in-house cell at various depts. of Central, State and Sub-Authorities. NCP will develop a Manual considering the 'Best Practices'²³. It will report to the cabinet through MCA (Ministry of Corporate Affairs) annually, the report will be displayed publicly NCP capacity Building competition Principles Sectoral Research Frame schemes Advocacy technical Assistance.

Task of NCP is to facilitate and monitor the progress in the implementation of the NCP through review of the law and policy, to recommend the release of financial incentives to the state government based on their progress and Institute incentive scheme to link with the progress in aligning policies. Coordination among regulators is initiated through focusing on regulation of natural monopolies and network industries, where a universal service obligation exists.

Competition based or Competition driven regulation, object of competitive market, expansion of competition in sector with ultimate abundant economic regulation, for this purpose the SUN SET Clause base on timelines has been considered in all economic regulatory laws. All the conduct Issues are allotted to the competition regulator.

Sectoral harmonization is essential considering the possibility of lack of consistency or the possible inconsistency in the sectoral regulators over the Competition issues. The competition regulators are in exclusive position to apply competition principles and thus through policy they are suggested to apply it uniformly in enforcement and penalizing powers. The conflicts, Inconsistency between them due to legislative ambiguity,

²² This structure was proposed by National Development Council, see The National Development Council (XI Five-Year Plan document, Para 11.31): also referred under draft National Competition Policy.

²³ Several objects are specified under the draft like, to undertake the competition impact assessment, encourage consumer movement in implementation of NCP by capacity building and strengthening resource base, encourage competition culture insertion in all govt. departments to increase accountability, transparency and representation, recommend the expert agencies for fostering policies and practices increasing competition in the sectors, undertake to build capacity of Govt. departments, ministries and stakeholders in context of National Competition policy, Incentive Scheme to grant financial help to state governments, measures to create public awareness – include in the curriculum, advocacy among all the stakeholders.

jurisdictional overlap, legislative omissions or interpretational bias of executive involved or conflict generated by market players is harmful to consumers, uncertainty increases risk – this conflict resolution by court can be a last option. Formal Mechanism or Forum for Regular Exchange and Cooperation framework has been suggested for interaction/interface between a competition regulation and a sectoral regulator, to identify the issue appropriately, for channelization of Concerns, to avoid duplication, conserve the regulators ambit only to competition concern and for capacity building and developing expertise at both the sides. The Mechanism and coordination is suggested to be made mandatory under the Competition law.

Strategy for Implementation of NCP is needed. Timelines and milestones are to be evolved, enforcement is expected to be formulated and implemented by Government and all Stakeholders within 12 months from adoption of Policy. Approval, Establishment of NCP, Constitution of in house Cell, and Formulation of incentive Scheme is proposed to be undertaken.

Review of NCP is proposed at every 5 years from the date of Notification. If broad reforms with clear results are there NCP may be declared redundant. NCPC is to give Annual report to government. Also, the Central govt., state govt. and the Sub-authorities to report annually to concern government, which will be reviewed. Annual reports will be made available in Public Domain.

Analysis of Draft National Competition Policy

The articulation and attempt to provide the draft national Competition Policy itself is indeed lauded as a step towards overarching policy framework. However, there are still areas of concern, along with raising some questions are not answered efficiently. To find appropriate explanation, justification and further suggestions for improvement is attempted. The Objects stated and the principles adopted are competition focused and seek economic development and welfare only. The statement provides for inculcating competition principle of [policy and legislation, Promotion of competitive market structure in economy and maximization of economic efficiency and public welfare²⁴. The comprehensive Policy must intend to pursue Development

²⁴ Draft National Competition Policy available at http://www.mca.gov.in/Ministry/pdf/Revised_Draft_National_Competition_Policy_2011_17nov2011.pdf, last seen on 15/07/2016.

through competitiveness and tool of competition. This enlarged view is missing the draft.

The Draft National Competition Policy provides CIA, the institutions deal with it and even the parameters are set under Annexure. It is observed that no specific Mechanism is stated with the responsibility of Competition Impact assessment. The draft provides a CIA model for competition analysis empowering the government ministry and in-house cell. NCPC is an advisory mechanism. Also, the broader parameters are felt to be insufficient in the context of wide range of sector regulators. The Regulators harmonization has been mentioned in the objectives and endeavors but no formal mechanism and strategy is established. Sectoral harmonization needs a cooperation and sector representation in Policy with active competition concern. It is strongly suggested to have CIA at the instance of Regulators instance at least at primary level and an added RIA at the In house cell of ministry with the aid and advice of NCP.

International progressive approach towards Competition Law and Policy puts forth five principles to build upon an important work on related issues by international agencies like OECD, the International Competition Network (ICN), UNCTAD and civil society organizations such as CUTS in recent years²⁵. WTO has worked specifically on competition and policy and the interaction between them. It has developed the fivefold principle to have the “holistic approach” to competition law and policy, the principles are as follows ; Competition must be used as a tool, Policy reforms and legislation initiatives must essentially focus on public acceptance and support, Policy must address needs of individual producer as well as individual consumer in the society, its inclusive of spectrum of government measures for enhancing competition and improvement in market performance and while responding to global concerns Policy needs to consider international cooperation.²⁶

²⁵ Interaction between Competition Policy and WTO, *available at* https://www.wto.org/english/tratop_e/comp_e/comp_e.htm, last seen on 15/08/2016.

²⁶ These fivefold principles comprise the “holistic approach” to competition law and policy which is referenced in the title of the paper: First, the focus of policy makers in using competition policy as tool for poverty reduction should be on approaches that are relatively easy to implement but have a track-record of being effective and economically sound. Second, for competition policy reforms and legislation to be successful, public acceptance and support is critical and must be an essential focus of related initiatives. Third, to serve as an effective tool of poverty reduction, competition policy needs to address the needs of the citizens of poorer

The research has developed the application of these principles to areas in which competition policy contributes²⁷, and concludes with some observations regarding the future of international co-operation in the competition policy sphere. Thus, globally the trend is to take Competition Policy and law in a wider context of development and is not restrictive of competition as a goal in itself. The comprehensiveness of the policy is underlined and emphasized upon.

The working group while drafting a Proposed Competition Policy for India has referred to number of jurisdictions. Policy in Australia, Malawi and Mexico are comprehensive.

Competition policy in Australia is world's most explicit Competition Policy. Core idea of Policy under *Hilmer Report*²⁸ is that regulation which is a significant portion of government's action should be subjected to Coordinated Annual Review and that's Policy. The Institutionalization of Competition Law and Policy has been advocated to gain public benefits from pro-market reforms.²⁹

Competition Policy in USA is outcome of debate between Chicago and Harvard school interventionist and free market. Debate in competition law concerns the degree of intervention deemed appropriate. It focused the 'Third Way' in politics between

societies in their capacities as producers (and, therefore, as users of extensive input goods and services, including public infrastructure), in addition to their capacities as final Consumers/households. Fourth, it is posited that "competition policy" is more than just "what competition agencies do" and includes the full spectrum of measures that governments employ to enhance competition and improve the performance of markets. Fifth, in order to address the challenges posed by the changing landscape of competition policy worldwide, new forms of international co-operation may need to be considered. see Research and analysis: working papers, competition policy and poverty reduction: a holistic approach, *available at* https://www.wto.org/english/res_e/reser_e/ersd201302_e.htm, last seen on 15/07/2016.

²⁷ Research and Analysis: working papers, competition policy and poverty reduction: a holistic approach, *available at* https://www.wto.org/english/res_e/reser_e/ersd201302_e.htm, last seen on 15/07/2016.

²⁸ Hilmer Report recommends implementation of a national competition policy for Australia, *available at* <http://ncp.ncc.gov.au/docs/National%20Competition%20Policy%20Review%20report,%20The%20Hilmer%20Report,%20August%201993.pdf>, last seen on 22/07/2016.

²⁹ The same view was during 1980 in US and UK Competition Policy. The Australian School of Economics and even The Chicago School has regarded competition as a process rather than a desirable end and stated that innovation would result from non-intervention in the competitive process.

capitalism and free markets and the state economy. The 'Third way' is little more than traditional mixed economy, tilts closer to competition and antitrust economic analysis moving away from Chicago and even Harvard school to more practical economic theories as found in industrial economics theory of structural school, mostly economic theories are based on nations political ideology as in US Chicago school law and Economics is based on Chicago School approach. Relevance of economics, Agreement between US and EU provides for confidentiality of information exchanged, Negative Comity respect for other party enforcement, positive comity whether party can request to another to act in a matter affecting interest. The Agreement was resorted to in Microsoft case and extensively in Merger cases.

Competition policy in UK is not explicit. It doesn't have an institutionalized mechanism. Government policies to prevent and reduce the abuse of monopoly power. Abuse of monopoly power can lead to market failure and be against the public interest. Therefore, Governments are concerned to intervene and protect the interests of the consumers 1998 Competition Act sought to bring the UK into line with EU competition policy. The OFT is responsible for investigating suspected abuses of monopoly power and engaging in prohibited practices. There are 2 main types of behavior they investigate Collusive Behavior, Abuse of Market Power.³⁰

Competition Policy in China is certainly reflected in the Anti-monopoly law provisions substantially deal with the consistent Western economies' competition policy frameworks, in that they provide for a substantive test of the impact on competition and consumers of the merger or anti-competitive conduct. However, the Chinese law also explicitly allows the inclusion of 'economic development' and 'national interest' in the assessment.³¹ The Chinese antitrust law has been technically be used to pursue industrial policy objectives and protect domestic industries Competition Policy in Canada has traditionally been tailored to

³⁰ 176UK Competition Policy, *available at* <http://www.economicshelp.org/microessays/competition>, last seen on 22/07/2016.

³¹ Mario Mariniello, the dragon awakes: Is Chinese competition policy a cause for concern? (2013), *available at* <http://voxeu.org/article/chinese-competition-policy>, last seen on 22/07/2016.

reflect the country's special characteristics as a small, open economy.³²

Conclusion

Considering the International trend and research on integrated comprehensive policy approach it is observed that competition policy world wide reflects new direction for Competition Law. The developing issues the system has to confront are debated worldwide. Criminalization of aspects of competition Law³³, human rights concern³⁴, interaction between development of new economy and Competition Law, the changing parameters of economy and thrust on network needs a Competition Law response.

Observing Competition Policy impact on effective law: Usually first Policy and accordingly Law is drafted, Competition Law is exceptional one, though the Law is in place since 2002 and the draft Policy is also proposed still it is not articulated and institutionalized. Keen observation of implementation of the policy is necessary.

Institutionalization of Competition Policy: Establishing a Competition authority will be beneficial as mere regulatory system controlling the anti-competitive practices will not be sufficient. It is suggested that the government policies and measures must be subjected to review of the Competition Policy which will be more efficiently worked out if Competition Policy is institutionalized.

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Barry J Rodger & Angus MacCulloch, *Competition Law and Policy in the EC and UK*, 13 (3rd ed., 2004) Cavendish Publishing,

³² Options for the Internationalization of Competition Policy, Defining Canadian Interests.

³³ Barry J Rodger & Angus MacCulloch, *Competition Law and Policy in the EC and UK*, 13 (3rd ed., 2004) Cavendish Publishing.

³⁴ *Ibid.* The legal enforcement makes legal rights and human rights protection more important. Art. 6 of European Convention on Human Rights. Competition Law is not applicable against natural person however legal person are subjected to human rights protection. Right to fair trail is important right in context of competition.

T. Ramappa, Competition law in India Policy, Issues and Development, 2 Oxford University Press.

Draft National Competition Policy available at
athttp://www.mca.gov.in/Ministry/pdf/Revised_Draft_National_Competition_Policy_2011_17nov2011.pdf.

