1. Introduction

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In recent years there has been an acceleration of interest in competition policy for developing countries. This interest is most evidently seen in the number of countries that have revised old competition laws or have developed new ones. This trend towards the introduction of new competition laws has been accompanied by the development of dedicated competition agencies designed to tackle anti-competitive practices and review cases of mergers and acquisitions. Competition has also been part of the remit of the spate of newly established dedicated regulatory bodies responsible for ensuring economic efficiency and protecting the welfare of consumers arising from the activities of enterprises in the utilities sector, particularly those that have been privatized.

This rise of interest in competition in developing countries has a number of explanations (Cook, 2004). Undoubtedly, the interest in the competitiveness of domestic markets and the attention to antitrust-type competition policy has to some extent resulted from the failures of economic reforms in the 1980s, that overly relied on trade liberalization to promote domestic market competition. During that time, World Bank structural adjustment loans did not stipulate conditions for competition policy (Gray and Davis, 1993). The conclusion reached was that trade liberalization by itself did not achieve all it was expected to in terms of increasing productive efficiency and competitiveness in external markets (Tybout, 1992). The idea that trade liberalization would improve domestic competition has led to a reassessment, addressed in this book, that indicates that success in international trade is itself linked to establishing a competitive domestic market environment. This, in turn, is associated with a view that competition policy not only incorporates notions about the potential abuses of economic power, but needs to act to promote competitive conditions and adopt a broader perspective that encompasses the competitive infrastructure such as communications, financial and fiscal systems and regulatory constraints.

Further, the interest in competition has been heightened as a consequence of the recent spate of mega-mergers and the increased potential for cross-border anti-competitive practices (Evenett, 2002). In relation to these

events, concern has been expressed over the ability of developing country governments to deal with these, and to the role that global institutions can play in setting rules to ensure competitive conditions are maintained (Holmes, 2004). While there are numerous bilateral and regional agreements on competition policy between countries, most multilateral principles for competition continue to rely on voluntary action.

The issue of competition has also gained ascendancy as a result of the wave of privatization since the early 1980s across the world. In particular, the shift towards the privatization of utilities in developing countries in the 1990s raised new concerns about the economic regulation of private utilities into markets that were not fully competitive. Would regulators provide surrogate competition for monopoly utilities and how would competition be developed in these industries? These questions also extended the debate over competition into an examination of the respective roles between dedicated economic regulators and competition agencies.

The new interest in issues of competition and the implications for policy exposed how little was known about the ways in which the competitive process works in developing countries and of what types of policy would be most effective in creating a competitive environment. These are the issues addressed in the various chapters of this volume.

The book is divided into three parts. The first consists of chapters reviewing the notion of competition and the implications for competition policy in developing countries. The first chapter in Part I, Chapter 2 by Stan Metcalfe and Ronnie Ramlogan, examines competition as the regulator and promoter of economic development, arguing that competition and development are processes for the transformation of economies from within. This view of the role of competition is in sharp contrast to that portrayed in the static theory of resource allocation, which is grounded in the notion of equilibrium as the organizing concept. The authors argue that viewing competition as a process of transformation and therefore placing it firmly in a development context, challenges many of the ideas that shape existing antitrust-based approaches to competition policy. Metcalfe and Ramlogan indicate that adopting the wrong model of competition, particularly when it is drawn from the experiences of advanced industrialized economies, may not only stifle development but is also likely to clash with local institutions and embedded business culture.

In Chapter 3, Cassey Lee compares and contrasts two models of competition law put forward by the major international development agencies, the OECD-World Bank model and the UNCTAD model laws. The chapter compares the objectives and definitions contained in each model and how each proposes to tackle issues relating to market dominance and mergers. Lee discusses the implications for developing countries of drawing on these

frameworks and how in practice this may affect implementation and enforcement.

Following on from this, Cassey Lee in Chapter 4 analyses the relationship between legal origins and the development of competition policy. The differences between civil and common law approaches are reviewed and their relation to economic development and growth is discussed. After reviewing some of the cross-country and econometric-based studies on the determinants of competition policy and its likely effects, Lee develops a framework to examine the links between legal tradition and competition policy. The review of the literature indicates that the relationship between legal tradition and competition policy is complex and multidimensional. The attempt by Lee to model the relationship is beset, as with other quantitative studies, with problems concerning the adequacy of the data, the smallness of sample sizes and poorly developed proxy variables. Despite the limitations and preliminary nature of this research, Lee concludes that variations in legal traditions appear to have a limited effect on competition law.

Chapter 5, by Kamala Dawar, develops a consumer perspective on competition. Rather than simply viewing the competition as a process where enterprises compete to influence consumers to purchase their goods and services, Dawar argues that more attention ought to be given to the demand side in the competitive process. Dawar contends that consumer welfare and the ability of individuals to use their resources efficiently, is not a priority in national development strategies. Correspondingly, there is a need to draw consumers into the competition policy process so that their welfare is considered and markets are made to function more competitively. Dawar proposes a strategy to draw consumers as participants into policy-making through various ways of institutionalizing consumer representation.

The final chapter in Part I is by Raul Fabella. In Chapter 6, Fabella develops a model drawing on the East Asian experience that characterizes the relationship between entrepreneurs and government. Fabella analyses property rights and contractual conditions within a weak governance environment. The model depicts the *guanxi* system, referred to as relational contracting, to examine the possibilities for solving contract enforcement problems where there is weak state enforcement. Fabella then shows how entrepreneurial behaviour modelled in this way can result in anti-competitive outcomes, which have important implications for the type of competition policy that will be effective.

In Part II, attention is shifted to consider the experience with competition policy in a range of developing countries. Three chapters in this part examine countries where a competition law has been introduced, namely Brazil, South Africa and Indonesia. In contrast, two further chapters review the experience with competition policy in general but where no specific law

has been enacted. In Chapter 7, Germano Mendes de Paula reviews the historical evolution of competition policy in Brazil. The 1990s represented a turning point in economic policy for Brazil, which was to have significant implications for the role of competition policy. de Paula analyses competition policy in Brazil with reference to the changes that were taking place in the steel industry. A key finding of de Paula's review relates to the speed with which competition policy decisions are reached and enacted upon. It is argued that the procedures for competition policy are drawn out and slow. This appears to be in part due to the reluctance of the bureaucracy to accept change; to overlapping responsibilities of various agencies dealing with competition and to fundamental problems with the judicial system, which is slow and open to lengthy appeal processes.

Competition policy and specifically the role of public interest objectives are examined in Chapter 8 by Trudi Hartzenberg. This chapter focuses on South Africa's new Competition Act, which was introduced in 1998. Hartzenberg provides a detailed account of the development of the competition law and of the public interest test, which is explicitly included within it. Hartzenberg argues that public interest considerations embodied in competition law are necessary to meet the challenges in terms of transition and sustainable development facing South Africa. In this chapter Hartzenberg uses examples to illustrate the use of public interest objectives over employment, black empowerment and smaller enterprise development and to draw lessons for other countries. Hartzenberg concludes that public interest considerations are necessary but must be applied cautiously if the long-term credibility of competition agencies is to be maintained.

Chapter 9 by Efa Yonnedi considers the competitive environment and competition policy in Indonesia, which was introduced in 1999. Yonnedi reviews the available evidence on market concentration and concludes that, although this is high by international comparisons, it has generally been declining. Yonnedi also reviews the factors that account for relatively high levels of concentration in Indonesia. In the second part of the chapter, Yonnedi traces the historical evolution of economic policy in Indonesia from the nationalization programme of President Sukarno to the current spate of market opening policies pursued after the economic crisis of 1997. An important component of the most recent reforms have concerned reducing the extent of policy-induced barriers to domestic competition and the introduction of a formal competition law. Finally, Yonnedi discusses some of the challenges confronting the government in terms of effectively implementing the new competition law.

Attention in the next two chapters turns to countries where issues of competition have become important but where no formal competition law has yet been developed. In Chapter 10, Cassey Lee reviews the experience

of Malaysia. Lee documents the rise of sector regulation in Malaysia, with a particular emphasis on the competition elements. Lee examines the impact of a range of economic policies on competition and points to the difficulties raised by not having a clear and coherent view on competition policy. This has often resulted in a heavy-handed approach to regulating market behaviour on an ad hoc basis, rather than one developed within a consistent framework.

Like Malaysia, Bangladesh does not have a formal competition law. In Chapter 11 Selim Raihan critically examines the range of economic policies that constitute competition policy in its broader context. These principally consist of trade and industrial policies, but competition is also affected by privatization and foreign direct investment. Raihan assesses the competitive environment by developing a number of measures that indicate the extent of competition in Bangladesh. Raihan's econometric analysis indicates that the tendency towards capital intensity has reduced the degree of competition in the domestic market, although external competition has had the opposite effect.

Part III of the book places greater emphasis on examining the effects of competition policy and determining the extent of competition in various markets. This is achieved through reviews and case studies drawing on the experience in South Africa and econometric analysis across a range of countries. In Chapter 12, Kim Kampel examines the effect of South Africa's competition law on the development of small and medium-sized enterprises. Initially, Kampel outlines the intentions of the competition law, and despite showing how small and medium-sized enterprise interests are accommodated in the law, Kampel explores instances that can occur where this goal conflicts with the need to consider other wider interests. A number of examples are used to illustrate the complexity of this issue.

Joachim Ewert and Jeffrey Henderson present a further case study of competition and its effects in South Africa in Chapter 13. Ewert and Henderson examine the implications of government competition and regulatory policies on growth and equity in the wine industry. It is shown that while some progress has been made in South Africa towards poverty alleviation in urban areas, the same cannot be claimed for rural areas where farm workers remain one of the poorest and most marginalized groups. Ewert and Henderson show that while regulatory reforms and the global integration of the industry has brought about fundamental change that has benefited some, there are many workers in the industry that have lost permanent work and whose welfare is less secure. Ewert and Henderson argue that the existing policy environment, which seeks to address issues of poverty and equity, is too narrowly focused on employment and workplace transformation. Instead, Ewert and Henderson suggest that the viability of

the industry and its welfare implications will also be determined by the motives and actions of oligopolistic enterprises operating on the demand side and by a wider set of other government policies aimed at improving international competitiveness.

The next two chapters in the final part of the book use quantitative methods to examine the extent of competition in developing countries. In Chapter 14 Selim Raihan examines the impact of foreign competition on the growth of manufacturing in Bangladesh. Raihan selects a range of variables that provide indicators of the extent of competition being faced in the domestic industry and finds that the relationship between foreign competition and growth in the manufacturing sector using the five indicators is somewhat ambiguous. Raihan provides a number of explanations for this result.

In Chapter 15 Yuichiro Uchida and Paul Cook examine trade and technological competitiveness and the role played by domestic competition. Using country- and industry-based analysis Uchida and Cook investigate changes in patterns of technological and trade comparative advantage and link these to changes in the level of domestic competition. Not surprisingly the levels of domestic competition within industries vary but are increasing in medium and high-tech industries, particularly in East Asia. Uchida and Cook show increases in the level of domestic competition are correlated with improvements in international competitiveness, particularly on the trade side.

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