



**COMPETITION LAW & POLICY:
CREATING COMPETITIVE
ENVIRONMENTS**

by

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- Competition policy and competitiveness
- Free-competition and unfair competition
- Benefits of Competition
- Anti-competitive practices
- Competition and Globalisation
- Competition Laws in the World

COMPETITION POLICY

- Everything that can make our country/enterprises more competitive
- International competition/competitiveness
- Comparative advantages
- Free-trade viz protectionism
- FDI or International loans-based development?
- Monopolies or free-competition?
- Administered prices/Subsidies or price liberalisation?

INCREASE COUNTRY- COMPETITIVENESS

- By maximizing our enterprise competitiveness
- Deciding which sectors to support?
- Subsidizing them (to the detriment of others)?
- Protect them from « unfair trade » such as dumping or export-subsidies?
- Encourage monopolies to make them internationally competitive?

INCREASE COUNTRY- COMPETITIVENESS (Cont'd)

- Encourage private sector or public firms?
- Facilitate enterprise-creation?
- Encourage domestic monopolies or attract foreign investors?
- Attract FDI by offering tax- or other facilities?

HOW CAN ENTERPRISES BECOME MORE COMPETITIVE?

1. By betting on comparative advantages
2. By superior know-how
3. Through R & D and Innovation
4. By using anti-competitive practices
5. Misleading or false-advertising
6. Cheating on weights & measures
7. Counterfeiting, industrial espionage...

HOW CAN ENTERPRISES BECOME MORE COMPETITIVE?

- 1,2 &3 are honest means of increasing competitiveness
- 4,5,6 &7 are harmful practices, and 5,6 & 7 are illegal « unfair competition » practices, while 4 (anti-competitive practices) is prohibited in many countries but not everywhere, and the harm on the economy as a whole is not clearly understood by all...

UNFAIR COMPETITION

- Misleading or false advertising
- Disparagement
- Cheating on weights and measures
- Counterfeiting
- Industrial espionage
- Unfair trade (Dumping, Export subsidies, Currency manipulations, etc.)

ANTI-COMPETITIVE PRACTICES

- Cartel agreements (Price-fixing, market allocation, bid-rigging)
- Abuse of dominant position of market power (A single firm able to fix prices and conditions without taking into account competition, like a monopolist)
- Anti-competitive concentrations, resulting in a dominant position or a monopoly.

BENEFITS OF COMPETITION

- Static Efficiency:
 - Lower prices
 - Better quality
 - More choice
- Dynamic Efficiency:
 - Efficient allocation of resources
 - Management, processing and technological improvements
 - Product innovation

ALL TO THE BENEFIT OF CONSUMERS

COMPETITION LAW

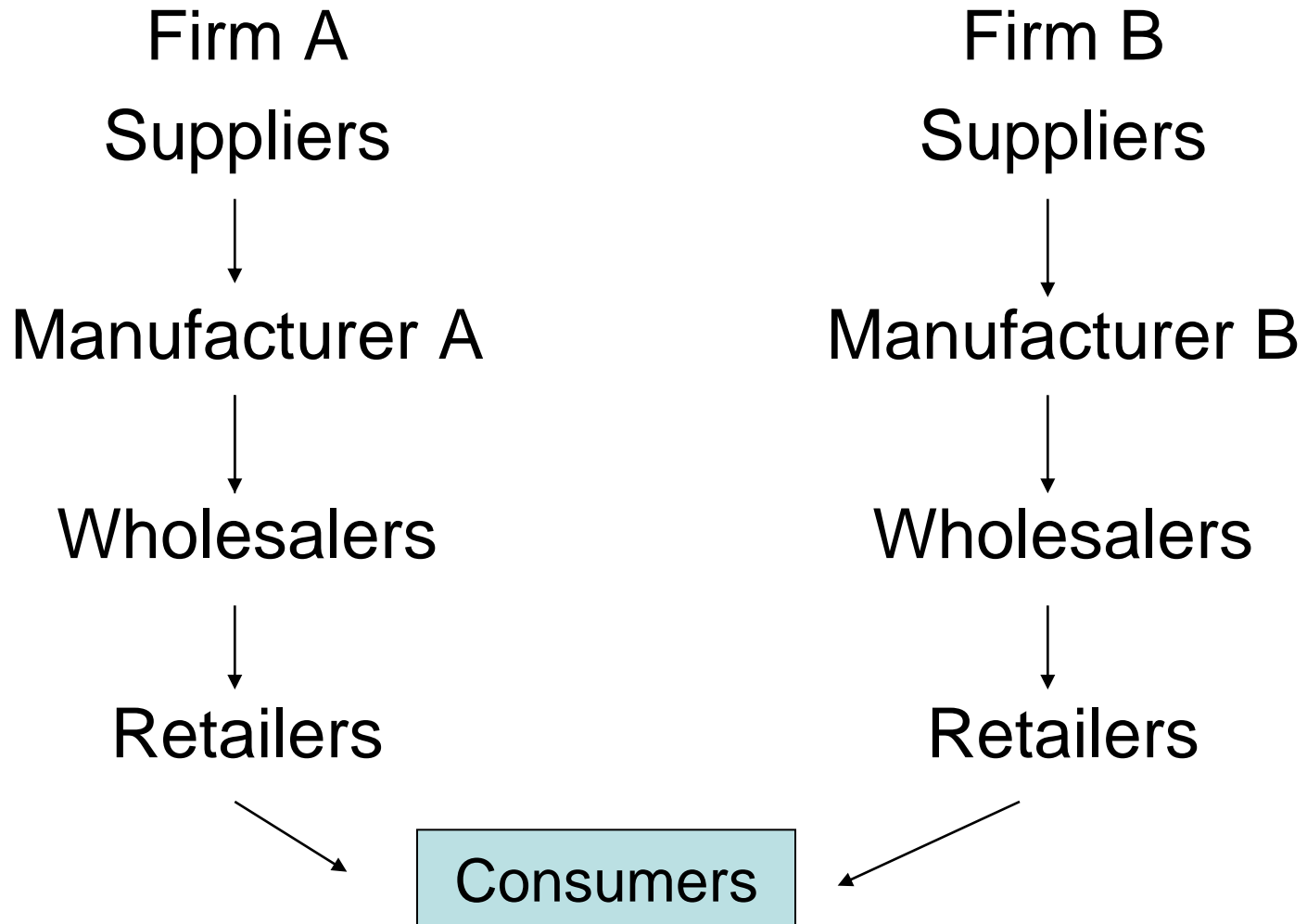
Prohibits anti-competitive practices such as:

- Cartel agreements
- Collusive tendering
- Abuses of dominance

Controls:

- Dominant firms and monopolies
- Mergers and acquisitions which might result in monopoly or dominant firms
- Establishes a Competition authority to ensure implementation of the law.

PRODUCTION-DISTRIBUTION CHAIN



CARTEL AGREEMENTS

Horizontal agreement:

- Fixing prices and sales conditions
- Allocating markets among cartel members
- Creating « combat fund » to predate non-cartel members
- Taking turns in Bid-rigging

VERTICAL RESTRAINTS

- Resale price maintenance
- Territorial exclusivity agreements
- Reciprocal exclusivity arrangements
- Year-end rebates
- Tied sales; full-line forcing
- Transfer-pricing (over- or under-invoicing)
- Below-cost sales (dumping)
- Refusal to deal (boycot).

COMPETITION & GLOBALISATION

- Price Liberalization
- Deregulation of infrastructure sectors (Transport, telecoms, energy, banking)
- Privatisation of State monopolies
- Liberalisation of FDI
- Liberalisation of international trade
- Creation of Regional groupings of States

COMPETITION LAW IN THE WORLD

- All developed OECD countries have such laws
- Numerous transition economies including China have adopted such laws
- A rapidly growing number of developing countries in all continents as well.

COMPETITION LAW IN THE WORLD

(Cont'd)

- Market-oriented economic reforms such as Trade and FDI Liberalisation and Privatisation need to be accompanied by competition law
- Many developing countries have privatised State monopolies creating private monopolies
- Many have opened their economy to FDI and Trade without having such laws.

DIFFICULTIES ENCOUNTERED IN THE APPLICATION OF COMPETITION LAWS

- Competition authority needs to be endowed with appropriate human and financial resources
- Government support is not always guaranteed
- The Judiciary needs to be trained and reformed
- Relations with Sectoral regulators must be clarified
- Consumers must be educated and protected

CONCLUSION

- Members of Competition authority need training
- Tasks of competition authority viz those of Sector regulators in the field of competition must be clarified
- Sectoral regulators need training in competition law and policy
- Need for specialised judges

CONCLUSION (End)

- Need for international cooperation (UNCTAD, OECD, World Bank)
- Bilateral, regional and sub-regional cooperation
- Multilateral trade negotiations (WTO)
- Regional trade negotiations
- Economic Partnership Agreements (EPAs) with EC
- Effective role of NGOs



**THANK YOU FOR YOUR YOUR
ATTENTION**

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