Competition Policy and the Consumer

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The days of mass production, strong brand loyalty and long product cycles have fallen by the wayside. Times have obviously changed and consumers want specialised products and services catering to new, often “niche” markets. Consumers are now more discriminating and demand the best quality, service and value for their hard-earned cash. Global forces have led to the growing convergence and interaction between different policies namely, competition policy and consumer protection policy which ultimately result in benefits for both the macro economy and consumers. Establishing closer relationships between the two policies is being further explored and advanced by policy-makers who have come to realise that true consumer power requires more than competitive markets and product choice. Accurate and understandable information is also needed to facilitate consumer decision-making in the increasingly complex marketplace of today.

In its simplest form, competition conjures images of individuals trying to defeat each other in some type of contest. One is left to wonder how competition between companies is expected to benefit consumers. However, competition in its business or policy sense goes much deeper than merely winning or losing a contest – it speaks to the way in which businesses compete.

Competition law and policy refers to the body of laws which govern the extent and ability, to which firms can economically and fairly compete.By extension it can be seen as a set of regulations which seek to promote fair competition among businesses and prevent anti-competitive conduct. The prohibition of anti-competitive practices such as abuse of dominance, exclusive dealing, predatory pricing, tied selling, collusion and excessive pricing, is a means to ensure efficient allocation of resources which are usually scarce in a developing economy. This efficient allocation and mobilisation of resources along with its ability to facilitate market access and prevent artificial barriers to entry present many benefits to the consumer. With an increasingly integrated global economy, a good competition policy would foster static and dynamic efficiencies which would not only focus on benefits to the economy, but would ultimately result in better and/or more choices as well as lower prices to consumers.

This positive effect on consumers is of course directly related to Consumer Protection policies which focus on protecting the interests of consumers and ensuring that consumers are fully informed with regard to products and/or services they use. The main goal of the policy of Consumer Protection is to shield consumers against unfair, deceptive, or fraudulent practices by businesses. In essence, it tries to ensure a fair and equitable marketplace as well as the provision of safe products and services for consumers. This goal of a “fair and equitable marketplace” is also part of the goals of competition policies and is therefore the major link between (Fair) Competition policy and Consumer Protection policy.

Both policies are primarily designed to enhance consumer sovereignty and effective consumer choice. Both are essentially concerned with improvement of the choices the consumer has and the control the consumer has for making such choices. Both also address situations where market transactions and outcomes fail to serve consumer interest, economic efficiency and a country’s productivity and competitiveness. These important and crucial synergies between the two policies would mean that greater competition and choice in the marketplace can lead to better consumer information, just as a better informed and more demanding consumer, who makes his or her preferences clearly known to suppliers, can stimulate greater competition amongst those suppliers and encourage wider product choice.

There is, however, one fundamental difference between the two sets of policies: Competition laws are intended to ensure that markets provide consumers with a competitive range of product or service options. Violations of these policies stem from market failures that may be considered as external to consumers (eg. tied selling). In contrast, consumer protection laws are intended to ensure that consumers have the information they need to choose effectively from among those options. Violations under this policy are founded on market failures that derive from consumers’ own perceptions (e.g misleading advertising). This difference is really only in the application of the policy once correctly aligned and/or implemented – the end result is still very much the same – benefits accruing to the consumers.