FDI in Indian Retail sector & Competition issues
INTERNSHIP PROJECT REPORT
Dec-2012

Submitted by:
Mr. Saagar Shamrao Gaikwad
Symbiosis Law School, Pune

UNDER THE GUIDANCE OF:
Mr. Amit Tayal
Dy. Director (Law)
Competition Commission of India
DISCLAIMER

This study report/ Dissertation have been prepared by the researcher as an intern under the Internship Program of the Competition Commission of India for academic purposes only. The views expressed in the report are personal to the intern and do not necessarily reflect the views of the Commission Hon’ble Chairperson / Members or its officers in any manner. This report is the intellectual property of the Competition Commission of India and the same or any part thereof may not be used in any manner, whatsoever, without express permission of the Competition Commission of India.

New Delhi
21 December 2012

Mr. Saagar Shamrao Gaikwad
ACKNOWLEDGEMENT

I am extremely grateful to my guide Mr. Amit Tayal, Dy. Director (Law) Competition Commission of India. without the guidance of whom this research paper would not have been possible. I am also thankful to the Competition Commission for the excellent resources in the library. I would also express my sincere gratitude to the Library staff and the Information Technology Department and Staff for their assistance extended to me.

New Delhi
21 Dec 2012

Mr. Saagar Shamrao Gaikwad
<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Content</th>
<th>page no.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Indian history on FDI</td>
<td>05</td>
</tr>
<tr>
<td>2.</td>
<td>Retail Sector in India</td>
<td>06</td>
</tr>
<tr>
<td>3.</td>
<td>Debate on FDI in Retail Sector</td>
<td>10</td>
</tr>
<tr>
<td>4.</td>
<td>FDI in Retail Policy</td>
<td>12</td>
</tr>
<tr>
<td>5.</td>
<td>Advantages of FDI</td>
<td>13</td>
</tr>
<tr>
<td>6.</td>
<td>Disadvantages of FDI</td>
<td>15</td>
</tr>
<tr>
<td>7.</td>
<td>Competition policy &amp; FDI in retail sector: Issues and Challenges</td>
<td>16</td>
</tr>
<tr>
<td>7.1</td>
<td>Regulation and competition</td>
<td>16</td>
</tr>
<tr>
<td>7.2</td>
<td>Impact on Farming Communities</td>
<td>18</td>
</tr>
<tr>
<td>7.3</td>
<td>Case studies of Pepsico India helping farmers improve</td>
<td>19</td>
</tr>
<tr>
<td>7.4</td>
<td>Is pepsico doing monopoly farming?</td>
<td>19</td>
</tr>
<tr>
<td>8.</td>
<td>Global scenario of FDI in Retail Sector</td>
<td>20</td>
</tr>
<tr>
<td>9.</td>
<td>Case study Carrefour</td>
<td>20</td>
</tr>
<tr>
<td>9.1</td>
<td>In South Korea</td>
<td>21</td>
</tr>
<tr>
<td>9.2</td>
<td>In Indonesia</td>
<td>21</td>
</tr>
<tr>
<td>10.</td>
<td>Does Farming Contract need to be regulated?</td>
<td>22</td>
</tr>
<tr>
<td>11.</td>
<td>Impact on Traditional Mom and Pop Stores</td>
<td>25</td>
</tr>
<tr>
<td>12.</td>
<td>Is it threat to Abuse of Dominant position</td>
<td>26</td>
</tr>
<tr>
<td>13.</td>
<td>Suggestions</td>
<td>27</td>
</tr>
<tr>
<td>14.</td>
<td>Conclusion</td>
<td>28</td>
</tr>
</tbody>
</table>
FDI in retail sector and Competition issues in India.

The Eminent economist and prime minister of India Dr. Manmohan Singh have played an important role in liberalizing Indian economics. First as opening the Indian market for world by allowing FDI and secondly to extend the FDI in multi brand retail sector.

*It has been said that arguing against globalization is like arguing against the laws of gravity.*

1. Indian history on FDI:

Pre-Liberalisation Era

FDI through foreign investors was welcomed in the areas of high technology and high priorities to build national competency and to protect and encourage domestic industries. The regulatory framework was consolidated through the enactment of Foreign Exchange Regulation Act (FERA), 1973 where foreign investor in a joint venture was permitted only up to 40 per cent. Afterwards, various exemptions were extended to foreign investors involved in export oriented businesses and high technology and high priority areas including allowing equity holdings of over 40 per cent.

Additionally, after watching success stories in Asia, Government not only recognized special economic zones (SEZs) but also designed liberal policy and provided encouragements for promoting FDI in these zones with a view to promote exports.

Recognizing limitations, partial liberalisation in the trade and investment policy was introduced in the 1980s with the objective of enhancing export competitiveness, modernisation and marketing of exports through Trans-national Corporations (TNCs). The announcements of Industrial Policy (1980 and 1982) and Technology Policy (1983) provided for a liberal attitude towards foreign investments in terms of changes in policy.
directions. The policy was characterised by de-licensing of some of the industrial rules and promotion of Indian manufacturing exports as well as emphasising on modernisation of industries through liberalised imports of capital goods and technology. This was supported by trade liberalisation measures in the form of tariff reduction and shifting of large number of items from import licensing to Open General Licensing (OGL).

Post-Liberalisation Period

A major shift occurred when India open up its economic for liberalisation and reforms program in 1991. In directing to promotion its growth potential and integrating with the world economy. Industrial policy reforms gradually removed restrictions on investment projects and business expansion on the one hand and allowed increased access to foreign technology and funding on the other.

Some of reforms included:

(i) introduction of dual route of approval of FDI – RBI’s automatic route and Government’s approval The Foreign Investment Promotion Board (FIPB) route,
(ii) Automatic permission for technology agreements in high priority industries and removal of restriction of FDI in low technology areas as well as liberalisation of technology imports,
(iii) Permission to Non-resident Indians (NRIs) and Overseas Corporate Bodies (OCBs) to invest up to 100 per cent in high priorities sectors,
(iv) Hike in the foreign equity participation limits to 51 per cent for existing companies and liberalisation of the use of foreign ‘brands name’ and
(v) Signing the Convention of Multilateral Investment Guarantee Agency (MIGA) for protection of foreign investments. These efforts were boosted by the enactment of Foreign Exchange Management Act (FEMA), 1999 [that replaced the Foreign Exchange Regulation Act (FERA), 1973] which
was less stringent. This along with the sequential financial sector reforms paved way for greater capital account liberalisation in India.

2. Retail Sector in India

Retailing defines the direct interface between the manufacturers and the end users who are basically individual consumers. The retail business owners stock up all goods after purchasing it directly from the manufacturers and then sell it to individual customers keeping a profit margin for themselves. Of late the retailing industry in India has bloomed with much coveted success causing positive impact on the national economy. As per the recent revelations by the popular International Management Consultancy AT Kearney, India has been considered the second most lucrative destinations of the world for retail business.¹

In India, retailing industry is classified into two classes-

Organised Retailing

Unorganised Retailing

Organized retailing entails trading conducted by licensed retailers and unorganized retailing includes all types of low cost trading like local shops, small roadside stores and temporary shops or door to door selling of various goods.

Now the announcement of retail FDI in India has triggered a series of debates on both positive and negative notes and thus become political issue.\(^2\)

The organized and unorganized sector of retail in India can be seen as follow:

![Market Share Organized V/s Unorganized](image)

(Source: Retail Sector: Seeks industry status\(^3\))

India's retail sector is worth US$ 350 billion and has a low organised retail penetration (ORP) of 5 per cent to 8 per cent and is now growing at a compound annual growth rate.

\(^2\)http://www.chakreview.com/Lifestyle/FDI-in-Retail-sector-in-India

\(^3\) Retail Sector: Seeks industry status
(CAGR) of 15 per cent to 20 per cent, according to a PricewaterhouseCoopers (PwC) research report titled 'Winning in India's retail sector: Factors for success'.

**Type of products retailed**

Retail sector in India is primarily categorized by the type of products retailed, as opposed to the different retail formats in operation. The Food and Grocery vertical is the largest segment and accounts for close to 60% of the total value addition. This category has the highest consumer demand across all income levels and various retail formats. The Indian consumer behavior of preferring proximity to retail formats is highly pronounced in this sector, with food, grocery and allied products largely sourced from the local stores or push-cart vendors.

![Market Segments](Type of products retailed)

---


5 Ibid pg. 5

6 Ibid, pg. 5
3. Debate on FDI in Retail Sector

Some of experts view

CCI Chairperson Ashok Chawla:

"This (FDI in multi-brand retail) will promote competition, as we see it prima facie. At least by the stated objective. Let's see how it works. Once they come, their functioning will be clear and then we can see if at all there is a need to step in,"\(^7\)

Director, Nathan India Ram Tamara, said, "If in the medium and long-term consolidation happens in the industry with a few retailers controlling a majority of the market, there could be tendencies for anti-competitive behavior, either in the form of vertical restraints - where the dominant retailers exercise their market power on their suppliers - or horizontal arrangements such as cartel behavior."

Consumer organisation CUTS said that fears relating to possible anti-competitive practices of predatory pricing and abuse of dominance by big players was unfounded "because of low entry barriers for unorganised retail.\(^8\)

Nobel Laureate Joseph Stiglitz is talked about FDI in retail in India

When asked, In India, FDI in retail has become a hot issue. Do you agree with the government’s claim that India needs FDI to grow?

He replied “I think the advocates of FDI have probably put too much emphasis on it. India is really in a different position than a small, developing country. It is different in two ways. First, you have a large pool of entrepreneurs and they are globally savvy. They have access to global technology and they have a lot of wealth. So, if there were large

\(^8\)Ibid
returns to large-scale supermarkets, the domestic industry would have supplied it. They are supplying to some extent. It is possible that more competition would spur growth but not having access to FDI is not an impediment in India. I think you have to ask the question - the way to get access to technology to run a supermarket in other ways. A store like Wal-Mart has developed a supply chain in China that is able to procure many goods at lower prices than others because of the huge buying power they have and will use that power then to bring Chinese goods to India to displace Indian production. So the worry is not so much about the displacement of the small retail store but displacement further down the supply chain. So that is what I am worried about."\(^9\)

"The Planning Commission supports FDI in (multi-brand) retail. Farmers will benefit from modern retail marketing. No doubt that modern retail marketing is good," Ahluwalia said at a programme organised by news channel CNBC-TV18. Earlier, trying to allay fears about 'kirana (mom-and-pop)' stores going out of business if the sector is opened up, Ahluwalia had asserted that large-scale multi-brand retail will be a difficult proposition in India, because land is not easily available in commercially viable locations.

As per government estimates, India sees wastage of perishable food and vegetable items worth Rs 1 lakh crore annually due to the lack of proper storage and food processing facilities.\(^10\)

Rajnath Singh: MNCs will monopolise retail if FDI is allowed: He cautioned that if FDI in retail were allowed, multinational retailers would offer good deals to farmers in initial years, but after “monopolising” the retail sector, they would earn astronomical profits by forcing Indian farmers to sell agricultural produce at cheap prices.\(^11\)

---

4. Policy

Now the Committee of Secretaries, (CoS) had given their nod to 51% FDI in multi-brand retail, but with stringent conditions like mandatory investment of at least 50% in the back-end infrastructure, minimum sales of 30% to come from small traders, and 30% mandatory sourcing from small and medium enterprises.

So,

a. Firstly, with 50% investment in back-end infrastructure, it will not improve our country's infrastructure but also generate the employment to the country.

b. Second, minimum sales of 30% to come from small traders, it will create a very good opportunity for small traders and they will competitive enough.

c. Third, 30% mandatory sourcing from small and medium enterprises will give an opportunity to small and medium enterprises to be competitive and improve their quality because whoever will come in India they will be very quality conscious.\(^{12}\)

**FDI in multi-brand retail with riders**

The proposal of the Union Cabinet allow 51 per cent foreign direct investment (FDI) in multi-brand retail clears the deck for multi-national chains such as Carrefour, Tesco and Walmart to set up shop in India, but with riders.

**Riders**

A. It clearly says that approval should be taken from the Foreign Investment Promotion Board (FIPB) for investments.

B. It also states that fresh agricultural produce, including fruits, vegetables, flowers, grains, pulses, fresh poultry, fishery and meat products, may be unbranded. For the purpose of FDI in multi-brand retail, the note describes small industries as

units which have a total plant and machinery investment not exceeding $250,000 (around Rs.1.25 crore). This investment refers to the value at the time of installation, without providing for depreciation. The foreign retail chains will be required to comply with self-certification. They have to keep all records, and the government will have the first right to procure agricultural produce.\footnote{http://www.thehindu.com/business/Industry/fdi-in-multibrand-retail-with-riders/article3897775.ece \hspace{1em} last visited 19 Dec 2012}

5. Advantages of FDI
FDI in Retail Sector is a very good indication for consumers because they will get lots of diversities in a sensible price, employment generation, and increase in competition.

- **Growth in economy:** Due to coming of foreign companies’ new infrastructure will be build, thus real estate sector will grow consequently banking sector, as money need to be required to build infrastructure would be provided by banks.

- **Job opportunities:** Approximations, this will create about 80Lakh jobs. These career opportunities will be created mostly in retail, real estate, and it will create positive impact on others sectors also.

- **Benefits to farmers:** by FDI, as farmers might get contract farming where they will supply to a retailer based upon demand and will get good cash for that, they need not to search for buyers.

- **Benefits to consumers:** Consumer will get variety of products at low prices compared to market rates, and will have more choice to get international brands at one place.

- FDI might help India overcome issues like improper infrastructure. In spite of India being one of the largest producers of vegetables and fruits, lack of proper
count of cold storages has significantly affected the selling of these perishable items by channelizing the resources in the right manner.

- **Growth of the Retail sector in India - Improvement in Retail capability building**
  About 5-7 years back, the industry was expected to grow at a much faster rate than what it actually has. Lack of retail experience & capability has been one of the primary reasons for this subdued growth. FDI in retail will make way for inflow of knowledge from international experts which can give boost to the overall growth of the industry. Capability building apart from financial investments is extremely important for the industry.

- **Push to Infrastructure - Improvement in management of supply chain**
  FDI in retail will boost investment in infrastructure from the retail players, 3rd party supply chain companies as well as the Government in the back of a sophisticated front end that international players are likely to bring. This will improve the efficiency of the supply chain, which will bring down the wastage, increase efficiency and reduce the overall cost to the consumer.

- **Single brand**
  This is a welcome step. FDI investment in single brand retailing till now has just been 0.03% [Rs 204 cr / usd 44 mn] of total FDI investments from April 2000 to September 2011. This relaxation is likely to result in increase in FDI in retail sector, by way of either new foreign entrants, or buy outs / increase in stake / M&A amongst existing single brand JVs with foreign partners. We could also potentially see present licensing / distributor / franchise arrangements being converted to either JVs with respective foreign retailer / brands, or, foreign retailers completely buying out the Indian licensee / franchisee / distributor.


- **Multi brand**

  This is a welcome and historic step. This is likely to result in increase in investments and growth in Indian retail sector, which is ranked amongst the top retail destinations in the world. Besides new entrants / joint ventures, this could also result in combination of existing cash and carry operations of foreign players with retail operations of Indian retailers, or, foreign retailer acquiring stakes in existing Indian retail entity. Also, this could provide further options to existing Indian retail chains / groups to raise long term capital for expansion and maybe to attract partnerships with some global players. Also, foreign multi brand retailers, who did not want to enter India through cash and carry operations, may now explore Indian presence by having stake in Indian retail company\(^\text{14}\)

6. **Disadvantages**

- According to the non-government cult, FDI will drain out the country’s share of revenue to foreign countries which may cause negative impact on India’s overall economy.

- The domestic organized retail sector might not be competitive enough to tackle international players and might loose its market share.

- Many of the small business owners and workers from other functional areas may lose their jobs, as lots of people are into unorganized retail business such as small shops.

7. Competition policy & FDI in retail sector: Issues and Challenges

From an economic perspective, policy competition can be a right instrument for regional development and remove weaknesses in the domestic environment that cannot otherwise be solved without FDI stimulation. When local government start trade activity to support incentives, the latter can then attract important investors. Several OECD countries and developing economies, such as in South East Asia and China, had been successful in these endeavors.

7.1 REGULATION AND COMPETITION

Presently, there is no distinctive regulatory framework for the retail sector in India. Regulation of the retail sector is largely in the purview of the state governments. The growth of the retail sector influences on the various sectors of the economy like agriculture, real estate, food processing, etc., central ministries, as the Ministry of Agriculture, the Ministry of Commerce, and the Ministry of Finance, have impact over the regulation of the sector.

However, considering the huge development the sector is experiencing and its increasing overall contribution to the GDP, it requires a better and exclusive regulatory framework to sustain the impressive overall growth. Competition in the retail sector is getting stiffer in the nation as many big players both national and international are testing and applying different retail plans in the market.

Entry by fresh players is still at a promising stage. But, increasing competition in the sector would, in due course, lead to a drop of margins with each retail chain trying to attract consumers through innovative and effective ways.

The key players currently operating in the Indian retail industry include the Future Group,
Trent Ltd,
RPG Enterprise,
Vishal Retail Ltd,
Shoppers Stop Ltd,
Bata India Ltd,
Provogue India Ltd,
Videocon Appliances Ltd,
ITC Ltd,
Godrej Agrovert Ltd DCM,
Hariyali Kisaan Bazaar,
HLL,
Bharti Group and Reliance Retail.

All of them are making huge funds, which will ultimately enable them to reap economies of scale.
However, the increased competition in the sector requires efficient supply chains to sustain them and better management of stock availability and reduction of the wastage. Opening up the retail sector steadily to foreign investors would help in encouraging competition in the sector and add to the overall development of the economy. Consumers will benefit through lower prices enabled by greater competition.

Regulation bodies like Competition commission of India need to ensure that opening up the sector to giant players does not encourage cartels and create monopolies.

The question of the security of the farmers would become important, as large retail chains jump to receiving agricultural goods straight from farmers. However the big giants, like Reliance, buying straight from farmers are a good idea, but if there will be a dispute between them then Can the farmer sustain a legal fight against a big giant?
Therefore, a strong regulatory framework would go a long way in ensuring that the growth of the retail sector is inclusive and sustainable.\textsuperscript{15}

\textbf{7.2 Impact on Farming Communities}

Hypermarkets have now gone well beyond the upper and middle class custom in many countries to reach the mass market. Within the food scheme, the effects of this trend touch not only old retailers, but also the wholesale, processing, and farm sectors.

Hypermarkets impact on suppliers is biggest and earliest for food processing and food-manufacturing enterprises, given that some 80% of what supermarkets sell consists of processed, staple, or semi-processed products. But by affecting processors, supermarkets indirectly affect farmers, because processors tend to pass on the demands placed on them by their retail clients. Supermarket chains prefer, if they are able, to source from medium and large processing enterprises, which are usually better positioned than small enterprises to meet supermarkets’ requirements. The rise of supermarkets thus poses an early challenge to processed food microenterprises in urban areas.

When farmers enter supermarket channels, they tend to earn from 20 to 50% more in net terms. Among tomato farmers in Indonesia, for example, net profit (including the value of own labour as imputed cost) is 33–39% higher among supermarket channel participants than among participants in traditional markets. Farm labour also gains. But supplying supermarket chains requires farmers to make more up-front investments and meet greater demands for quality, consistency, and volume compared with marketing to traditional markets.

\textsuperscript{15} Competition and Regulation in Indian Retail Sector http://www.parfore.in/pdf/2008Comp_Reg_in_Indian_Retail.pdf by CUTS International.
7.3 Case studies of Pepsico India helping farmers improve

Vision of Pepsico’s:
Building PepsiCo’s stature as a development partner by helping farmers grow more and earn more. Introducing new high-yielding varieties of potato and other edibles Also introducing sustainable farming methods and practicing contact farming. Making world-class agricultural practices available to farmers and helping them raise farm productivity. Working closely with farmers and state governments to improve agro sustainability and crop diversification. Today PepsiCo India’s potato farming program reaches out to more than 12,000 farmer families across six states. We provide farmers with superior seeds, timely agricultural inputs and supply of agricultural implements free of charge.
The remarkable growth has resulted in farmers receiving a profit between Rs.20,000–40,000 per acre, as compared to Rs.10,000–20,000 per acre in 2009.16

7.4 Is pepsico doing monopoly farming?

Dr. MurliManoharJoshi (MP) takes up the government’s argument that foreign companies have worked in the benefit of potato farmers in Bengal. “You had said that Pepsico is in an agreement to procure potatoes from 10,000 farmers now, as opposed to 1,800 when they started off in 2010. Cultivation is happening in 7,000 acres of land now compared to the 5,500 acres that were being cultivated in 2010. You call this beneficial? It is far from that. This is what we call ‘monopoly farming’, where a foreign company monopolises even agriculture in our country,” argues MurliManoharJoshi In loksabha17

16http://pepsicoindia.co.in/purpose/environmental-sustainability/partnership-with-farmers.html

8. Global scenario of FDI in Retail Sector

(Source: Articles on Retailing in Business line, www.thehindubusinessline.com)

9. Carrefour case

**About Carrefour:** it is a French multinational retailer headquartered in Boulogne Billancourt, France, in Greater Paris. It is one of the largest hypermarket chains in the world (with 1,395 hypermarkets at the end of 2009), the second largest retail group in the world in terms of revenue, and the third largest in profit (after Wal-Mart and Tesco). Carrefour operates mainly in Europe, Argentina, Brazil, China, Colombia, Dominican Republic, United Arab Emirates and Saudi Arabia, but also has shops in North Africa and other parts of Asia, with most stores being of smaller size than hypermarket or even supermarket.
9.1 In South Korea

Supermarket also resort to unfair and unethical practices. Carrefour was fined in South Korea for unfair business practices i.e. forcing suppliers to cut prices to save 1.737 billion won supply order for 10 months in 2005 by forcing its suppliers to agree to pacts that allowed Carrefour to purchase goods at heavy discounts for extended periods.

South Korea's corporate regulator said Tuesday that it levied 1.38 billion won (US$1.46 million) in fines on retailer Carrefour Korea for unfair business practices. The nation's No. 4 discounter was cited by the Fair Trade Commission (FTC) for unilaterally forcing manufacturers to cut prices on products they sell to Carrefour stores, returning products without due cause and intentionally delaying the signing of contracts with suppliers.

"We have ordered remedial actions for the milder infractions and imposed fines for the more serious purchase price discount practices," an FTC official said. He said the measures are part of a greater process to root out unfair transactions in the country's retail sector.

The regulator started an investigation of the large retail outlet this year and said if other violations are detected, it will take appropriate measures.18

9.2 In Indonesia

It was also fined 1,70, 000 dollars by the Indonesian Business Competition Authority (KPPU) in 2005 for not sourcing goods from a listed supplier who then went bankrupt, which was considered an unfair competition practice. It was also asked to stop minus margin practices. Its agreement was found to include listing fees, fixed rebate, minus margin, terms of payment, regular discount, common assortment cost, opening

cost/new store, fees for bi-weekly advertisements and penalties. Its listing fee was significantly higher than that of competitors and was applied before the suppliers could sell in its supermarkets (Stichele et al, 2006). The regulator had found the company guilty of holding a monopoly in the retail sector and of abusing that dominant position. The original complaint was brought to the regulator by small suppliers, who claimed they were being squeezed by Carrefour into giving more and more discounts.

Further, there is need to limit buying power of the supermarkets by strengthening the competition laws. It is important to promote good business practices that optimize retailer-supplier relations, protecting both sides.

Indonesia’s business competition authority has instructed Carrefour Indonesia, a subsidiary of Europe’s largest retailer, to sell its entire stake in a listed unit it bought in 2008 and pay a Rp25bn ($2.6m) fine.

10. Does Farming Contract need to be regulated?

This can be initiated by establishing or improving contract regulations as in the form of legal acts in the US and Argentina. Legal protection to contract growers as a group must be considered to protect them from ill effects of procurement practiced by supermarkets.

There are cases of legal protection given to subcontracting industries in Japan in their relations with large firms. These laws specify the duties (to have a written and clear terms contract with the subcontractor) and forbidden acts for the large parent firm. The

\[\text{http://dipp.gov.in/English/Discuss\_paper/FeedBack\_IVCA\_02August2010.pdf}\]
\[\text{http://www.ft.com/cms/s/0/1de5dd6a-c884-11de-a69e-00144feabdc0.html#axzz2F0jCIFDi}\]
latter include refusal to receive delivery of commissioned goods, delaying the payment beyond agreed period, discounting of payment, returning commissioned goods without good reason, forced price reduction, compulsory purchase by subcontractors of parental firm's products, and forcing subcontractors to pay in advance for materials supplied by the parent firm. These provisions are monitored by the Fair Trade Commission. Interestingly, most of the violations by parent firms were on the written form and clear terms of the contracts (Sako, 1992).

If contract farming is only an extension of the flexible production systems prevalent in industry to farm production, then it is only logical to extend such legal provisions with necessary modifications to farming contracts.

In farming sector per se, there is the Model Producer Protection Act, 2000 of Iowa State in the USA which requires contracts to be in plain language and disclose material risks, provides a three days' cancellation period for the producer to review and discuss production contracts with their advisors, provides for producers to be first priority lien for payments due under a contract in case of contracting agency bankruptcy, protects against undue cancellation of contracts by companies and prohibits 'tournaments' (contracts where compensation to grower is determined by his/her performance relative to others) (www.flaginc.org/pubs/poultrv/poultrvpts.)

The Indian model contract farming agreement under the amended Agricultural Produce Marketing Committee Act (APMC) 2003 is quite fair in terms of sharing of costs and risks between the contracting agency and the grower. But, it leaves out many aspects of farmer interest protection like delayed payments and deliveries, contract cancellation damages if producer made firm specific heavy investments, inducement/force/intimidation to enter into a contract, disclosure of material risks,
Competitive performance based payments, and sharing of production risks. Further, it is not known how far the model contract agreement will be adopted by the agencies unless it is a conditionality to avail of certain other incentives or policies. In Thailand, even after three years of its notification, the standard agreement was used only by two companies (Singh, 2005).

**Mechanisms like zoning**
Given the global and the Indian experiences so far, it is important to slow down food supermarket expansion by mechanisms like zoning, business licenses, and trading restrictions. There were many instances elsewhere where large stores were kept outside the city and far removed from traditional markets. Hypermarkets were not allowed within 3.5 km of housing estates or city centers in Malaysia. Indonesia prohibited hypermarkets within 500 meters of traditional markets, and large stores of more than 40,000 sqft were to be at least 2.5 kilometers from traditional markets (Srivathsan, 2007).

The practices of supermarkets both horizontal and vertical which give rise to Competition **concerns include cartels, joint purchasing agreements** by competing buyers, resale price maintenance, single branding i.e. buying from a single supplier which restricts opportunity for others, private label products, tying of purchase of one product to that of another product, exclusive supply agreements and certification schemes (Bukeviciute et al, 2009).
**11. Impact on Traditional Mom and Pop Stores**

The question is whether the traditional mom and pop stores will survive, co-exist or disappear from field?

The key advantage for the smaller players is the size, complexity and diversity of Indian Markets so the answer could be that a mom and pop stores co-existence with supermarkets.

If we look at the organized retail players, most of them have opened shop in the Metros, Tier 1 and Tier 2 towns. Very rarely do we find organized players in the rural areas and we have more than 70% of the population living in the rural areas.

Many Industry experts though, feel that the reservations against the introduction of Multi-Brand retail are mostly misplaced. The successful deployment of 100%FDI in China is a case in point. Partial FDI in retail was introduced in 1992 in China. Subsequently, in December 2004, the Chinese retail market was fully opened up to utilize the enormous manpower and wide customer base available that has led to a rapid growth of the sector. Today, its retail sector is the second largest (in value) in the world with global retailers such as Wal-Mart, 7-Eleven and Carrefour comprising 10% of the total merchandise.

Multi-brand retail is expected to transform the retail landscape in a significant way: Firstly, the organised players would bring in the much needed investment that would spur the further growth of the sector. This would be particularly important for sustenance of some of the domestic retailers that don’t have the resources to ride out the storm during an economic slump such as the case with Vishal, Subhiksha and Koutons, which couldn’t arrange for funds to sustain their growth.
The technical know-how, global best practices, quality standards and cost competitiveness brought forth through FDI would augur well for the domestic players to garner the necessary support to sustain their growth. Indian has also been crippled by rising inflation rates that have refused to come within accepted levels. A key reason for this has been attributed to the vastly avoidable supply chain costs in the Indian food and grocery sales which has been estimated to be a whopping US$ 24 Bn. The infrastructure support extended to improve the backend processes of the supply chain would enable to eliminate such wastages and enhance the operational efficiency.

FDI in multi-brand retail would in no way endanger the jobs of people employed in the unorganised retail sector. On the contrary, it would lead to the creation of millions of jobs as massive infrastructure capabilities would be needed to cater to the changing lifestyle needs of the urban Indian who is keen on allocating the disposable income towards organised retailing in addition to the local kirana stores. These stores would be able to retain their importance owing to their unique characteristics of convenience, proximity and skills in retaining customers. Also, these would be more prominent in the Tier-II and Tier-III cities where the organized supermarkets would find it harder to establish themselves. FDI in multi-brand retail is therefore a necessary step that needs to be taken to propel further growth in the sector.

**12. Is it threat to Abuse of Dominant position**

- India should write laws to prevent foreign retailers like Wal-Mart from having a high concentration of business in the country.
- For example, in Argentina provincial lawmakers passed legislation that no business could control more than 30% of the market in one sector.
• **In Mexico**, where Wal-Mart gained control of more than 50% of the market in less than 10 years, they are evaluating laws to protect domestic businesses (AFL-CIO n.d.).

**Latin America**

• Eight countries- Puerto Rico, Costa Rica, Dominican Republic, Brazil, Uruguay and Chile-joined together to condemn “predatory practices’ and wrote national laws to prevent Wal-Mart from having a high concentration of stores in their countries. In Province of Sante Fe, Argentina lawmakers passed legislation that no business could control more than 30 percent of the market in one sector.

13. **Suggestion**

1. Presently, there is no distinctive regulatory framework for the retail sector in India. Regulation of the retail sector is largely in the purview of the state governments. So need there is need of an exclusive regulation to regulate to FDI in retail sector

2. India should write laws to prevent foreign retailers like Wal-Mart from having a high concentration of business in the country.

3. To maintain fair competition between supermarket and mom and pop stores, a mechanism of “ZONING” can be implemented.

---

15. Conclusion

Global experiences show that FDI in retail can sometimes negatively impact consumers and economy if corporate retailers adopt anti-competitive practices such as predatory pricing. In India, the Competition Act 2002 has provisions to check abuse of dominant position by major players, including predatory pricing. In the Act, dominant position is defined as “a position of strength, enjoyed by an enterprise, in relevant market, in India” (The Competition Act, 2002, No. 12 of 2003, pp. 9). To protect the interest of consumers, the Act can be further strengthened. For instance, the dominant position can be clearly specified, in terms of the market size of the retailers, as has been done in countries like Australia.

The regulatory body and the Govt. have to take care that due to entry of FDI in retail the market will not become a high concentration in the country And can make regulation to prevent foreign retailers like Wal-Mart from having a high concentration of business in the country.