

Transcript of the Speech delivered by the Hon'ble Minister of State on the occasion of Inauguration of the National Conference on Economics of Competition Law.

Shri Devender Sikri, Shri Tapan Ray, Shri Augustine Peter, other Dignitaries who are here today, Ladies and Gentlemen. First of all, I want to congratulate you for hosting this conference, and at some level I am feeling a little envious of you, because you are going to spend the day working through these very interesting topics, and I will have to go off and do things that are not quite as interesting, enriching and stimulating. The topics that you have, I was going through, the agenda, are on exactly the right topics. They are very stimulating and very interesting topics, and I am glad that you are all getting together, very distinguished bureaucrats, economists, jurists, to go through this set of topics. **The one complaint I would have is rather than do this every two years, I think you should do this every year;** because I think these are very germane and vitally important topics to be engaging on.

I will touch on three things. **First** let me give you a personal anecdote about the Competition Commission and Competition Law. As Shri Peter was saying, it was in fact my father who in 1999 suggested that there should be a rethinking of competition law, and that a competition commission should be created. After he had announced this in the budget, he in fact came to the US for a visit for the IMF/World Bank meetings, and at that time I was in Boston working for McKinsey. And, as you know I had gone to Harvard Business School which of course has a number of very well-known economists and competition law experts that have worked for a long time on anti-trust policies. And, so when my father was coming to Boston and he called me up and said that you know I am coming, and I know that there are number of people at Harvard and MIT that are very knowledgeable on this topic, and I want to educate myself and understand how best to move forward.

So, when he came I actually organised a meeting for him with some of these anti-trust and competition law experts. And I think, that of course prompted some of his own efforts about how to actually get a commission of experts together and formulate competition law. And, it was quite interesting at that session because when I was at Harvard Business School, I was very fortunate to have Professor Michael Porter as one of my professors. And Professor Porter was there at that meeting and he provided some very good advice. He also has done a lot of work on anti-trust and competition law. So, in that sense, I have had a personal association with all of this for some time.

Let me touch on my first topic. And that is really around what is happening in terms of our economic philosophy and the role of markets; because when I start to talk about the role of markets, it really is very relevant to what you all are going to be discussing. Then I will talk a little bit about some of my own experiences associated with anti-trust and competition law. So, I would like to just touch upon that, and then I will offer some observations for you all as you think about this conference and your work going forward in competition law and anti-trust issues.

First, I want to tell you about how our economic philosophy, our economic thinking is evolving around markets. Now, as a government we have made it very clear that we are a pro-poor government. And, whether it is the Hon'ble Prime Minister, the Hon'ble Finance Minister, all of us of course constantly say that we have to be a pro-poor government. And I think every government in India needs to be a pro-poor government. All of us need to be pro-poor because it is our moral responsibility to ensure that we end poverty and destitution in India. That is our sacred moral responsibility. There's no question about it. Our policies have to be designed around it.

Now, because we are a pro-poor government, because all of us want to end poverty and destitution in India, we also have to be inescapably pro-market as well. And exactly, as Shri. Ray was saying, markets engender competition. Markets engender innovation. Markets engender productivity growth and economic growth;

but, only if markets work well. So, if we want to be pro-poor, and we want to be pro-market, then our markets have to work well.

Unfortunately in India, by and large, there is not a lot of trust in markets. I have of course been steeped in thinking of markets, obviously having gone to business school, and then worked in America for many years, and then been an investor. So I naturally tend to think of markets and naturally tend to think of industry structure. Obviously, having been taught by Professor Porter, the five forces and everything else, and industry structure, barriers to entry, barriers to exit, all of that is wired into my head.

But, I will tell you that when I work in this system, in the government system in India, I find for policy makers here thinking about markets is not natural. Thinking about process is very natural. Thinking about rules is very natural. But, thinking about markets and in a sophisticated, nuanced way about markets is not common. Are markets working, or not working? What are the distortions in the market? What is competitive behaviour like? How is competitive behaviour going to change? How is industry structure going to evolve? Are we creating markets where there is sufficient return on invested capital? Are we creating economic value added in markets, or not? If companies are not able to generate sufficient return on invested capital, why would they ever invest? Why would you ever see free and fair competition? And that interplay between markets, rule making, competition, market entry, market exit, all of that sophisticated, nuanced thinking about markets, I find in policy making in India, is lacking to some extent. And, that's why, what you all are going to do, have to do, is so important. Because we really have to improve the sophistication, the manner in which we think about these markets.

Now let's take what we are trying to do just now with NPAs, what SEBI is trying to do, what RBI is trying to do; we are all trying to get many of these markets to work better. We are trying to prevent a lot of the gaming that happens in these markets. A lot of the perversion and manipulation of rules to favour certain players and not other players. As Dr. Rajan has said and I have also written about; the nature of crony capitalism in India, the manner in which bureaucratic rules are used

to distort markets, and then, generate rent seeking by one player versus another player, all these practices is rampant. And that is why the role of regulators, the role of RBI, SEBI, and the Competition Commission of India becomes so important.

Because, there is an asymmetry here, to start to use some market terms, there is an asymmetry. And the asymmetry frankly is between industry players and the bureaucrats. Many times, industry players will come and ask you to make certain changes. Bureaucrats won't fully understand the rentier aspects of that, which is you change one simple rule a little bit here and something else happens there. Who thinks through market conduct, profitability, industry structure, and unfair advantage for a particular player? I don't find that happens enough. I don't find that in this system, policy makers think about markets. That is extremely important, and unless we start to think that way, unless people who are senior and important decision-makers begin to really understand exactly how these markets will work, what the distortions will be, and how rules will come in and impact these markets, we are not going to have markets that people will trust. And unless we have markets that people can trust and know that they are well regulated competitive markets, it will be very difficult for us to pursue an economic philosophy that is pro-poor and pro-market. We cannot do that, because people will say, well, the market is not working properly, it's a rigged market, and certain people are being favoured, and are benefitting disproportionately. So, getting markets to work is absolutely crucial and vitally important, and of course, all that you are going to be doing over the next two days in your sessions is very important in that regard.

Now, I want to switch from that, which is why what you all are doing is so vitally important to my own experience in the anti-trust arena. You know, I cut my teeth in business strategy, and in all of this, in the early 90's and late 90's, and those were years of great ferment in anti-trust. Those of you who follow competition law or the nature of competition will know that that's the time when technology and increasing returns came to prominence. Are you all familiar with the idea of increasing returns? So I was one of people who did a lot of pioneering work on increasing returns with Brian Arthur and with McKinsey. And that is a paradigm shift in the way we thought about competition, platforms, aggregators etc. How do you end up giving

unfair competitive advantage to platforms? How does that happen? What is the power of increasing returns and network effects in doing that? And it was very fascinating, because once you get into that it's very rich set of topics relating to markets, competition and regulation.

When I was in McKinsey, I worked on a major Tech merger. They were our client for a long period of time, and I ran the merger process. And that was a big anti-trust matter at that time and went through a very serious examination by the FTC, because of this whole issue of increasing returns and unfair advantage and so on. And so, I had to work quite closely with lawyers and strategists at that time, and the FTC, to really think through whether this was going to result in a competitive disadvantage to other players in the market because of this merger.

Thereafter, after the merger, the Microsoft anti-trust suit started. And I spent several years involved in that Microsoft anti-trust suit to understand how these technology markets evolved, and as far as policy making is concerned, what is it that the US government, the FTC, and others would impose as restraints on a monopolistic player like Microsoft. So, that was a very interesting and fascinating time in this whole area of anti-trust. And, for an engineer like me, seeing how engineering factors really start to drive these kinds of phenomena, and then the implications for public policy and for competition law, was actually very interesting.

Now, obviously that whole area has evolved, this has become a major aspect of competition law now, whether it is in the US, in the European Union and elsewhere, in India and around the world, I can tell you that the whole area of platforms and aggregators even in India is a matter of vital importance for competition law as well. So, it's certainly something that I am sure many of you will be discussing, I know it's on the agenda. That's my own personal involvement in this area as a strategist and as an investor. **That was my second point** which is trying to explain to you how quickly this field can evolve based on my own personal experience.

Now, I will just leave behind a few thoughts, a few observations, as to how you might want to evolve your discussions and your work, going forward. Global practices in this area are evolving, to my mind, very quickly, and because we have

companies that are working across jurisdictions, whether it is Google being looked at in the European Union, or in the US at FTC, it's the same company you are going to have to deal with here. And so I think whatever you evolve as far as competition law is concerned, as far as your case law is concerned, is going to have to be very closely aligned with what's happening globally.

And so, Shri. Sikri, Shri. Chawla and others were telling me that you are already working very closely with the US, with the European Union, which are the other major jurisdictions in competition law. But the more you do that, and the more we evolve, how are we going to look at these issues in India? And Lafarge-Holcim is, of course, a great example of that. But we are going to see many of these situations that may emanate from outside of India but we are going to have to take a position and figure out a point of view here in India. And I can tell you as somebody who has to then deal with the investors, who then come and complain about processes, that there are a lot of concerns about that. It was so easy to do this in the US, so easy to do this in the EU. But in India it's been so much more difficult; and then we get, obviously a lot of criticism about red tape and a lot of bureaucracy.

I am imploring you all that rather than have India be viewed as a laggard in this area, which I refuse to accept and I am sure you all feel the same way, my fervent request to all of you is let's be seen as a leader in this area. Why can't we be seen as a leader? I mean there is so much expertise, so much talent, so many good people here. Why can't India be seen as a leading jurisdiction when it comes to competition law? And, it's a very important area as well. Because of India's specific economic conditions, the manner in which the markets work is not the way in which they work in the European Union or the US.

We are a developing market after all. And again this is a concept that was developed at Harvard by my friend, Professor Tarun Khanna about institutional voids. Are you familiar with Institutional voids? The idea of institutional voids in markets? Obviously, it's the idea of markets not working perfectly well because there are lot of institutional backstops in well-functioning markets, that don't exist in developing markets. And so developing markets just are not as well developed, obviously as

markets in the West. And if that is the case then how should competition law work? I think that's a very interesting issue. We simply don't have the safeguards and the sophistication that markets have there. But in that context how should competition law work?

If we can really develop that body of work, and that case law, and all of the thinking around that, then people will really look to us as leaders in Nigeria, in Vietnam and in Indonesia. They will look to us, and I am sure they already do. So, let us truly aspire to be a leader in this space, and really think about competition law in a developing market context, in the Indian context, and really push that thinking, and be really able to offer to people who are looking at these issues in India, and there are billions and billions of dollars at stake in many of these issues. A very clear roadmap as to how their own issues will be dealt with in India. So, I think that's really incumbent on you all.

And there is a final **point** I will make and then I will stop. The final point I will make is that you absolutely have to build up a community of experts in this area. Whether it's the Competition Commission of India, whether it is in terms of the solicitors, the lawyers, the jurists, as well as the economic experts in the consulting firms. There's a whole industry that does competition law in the US, and we have to develop a similar eco-system in India, and we have to do it with the policy-makers, the bureaucrats, and so on. And so, I would also recommend to you all that apart from doing this type of seminar it is important to do workshops with different stakeholders. For example, bring together Joint Secretaries in various Ministries and have a good training session on this set of issues so that they are sufficiently sensitised around this. Bring in some global experts, have them go through case studies. I think at Harvard and elsewhere the case studies that they've developed on this set of issues are very nuanced and that really helps you think through exactly how some of this plays out. You really have to build that community of expertise here in India if we need to be global leaders. I am sure this will be a great start towards doing that.

Thank you very very much for giving me an opportunity to speak to you. It has indeed been a pleasure. Thank You.