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The role of competition law in in the Performance of public services

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Abstract

Public service, which is one of the important foundations of administrative law and is in the interests of public interest by the government. Due to developments in the role of the government efficient, it needs to create a competitive environment, as a result of public services the best and the lowest cost. Competition law is one of the important principles of public economic law, which is a set of rules and regulations aimed at maintaining and facilitating competition in the market and counteracting the emergence of anti-competitive practices. government's ability to provide public services foster require to competitive practices. Considering that taking into account the general interest, competition law will regulate integrity competition among the actors in the field of production and distribution, and economic efficiency, and ultimately improving public services and public welfare. In the study, while explaining the concepts of public services, competition law, it examines the effects of competition law on public service .

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1. Introduction:

Public service is one of the key components of public administration. In order to fulfil their obligations to their citizens all governments need goods and services. (Arrowsmith Public and Utilities Procurement ,2005) Public financial management (PFM) drives the performance of the public sector through effective and efficient use of public money. It is the system by which financial resources are planned, directed, and controlled to enable the efficient and effective delivery of public service goals. public procurement one of the key components of Public financial management.

public procurement is the purchasing by a government of the goods and services it requires to function and maximize public welfare. (See Arrowsmith and Trybus ,2003) The public procurement process should not be manipulated for the benefit of any organization or individual. Given that public procurement is funded primarily with tax payers' money. Public procurement is one of the government activities most vulnerable to corruption. Corruption in public procurement is widespread and particularly damaging to development objectives, as it undermines any state's duty to maximize the social and economic welfare of its citizens. The goal of this paper is analysis of the impact of of competition law to effective public service.

2. Competition:

Competition in the economy means overtaking and suppose that in the market, the unlimited number of merchants can not sell or demand goods that are effective in market prices. This mode is generally referred to as "Competition pure" or "Competition pure." It has the following characteristics: "There are many vendors; goods and services are sold similarly, and additional vendors are free to enter the market" (Farhang , Manuchehr: 1992)

Competition means a struggle or contention for superiority, and in the commercial world this means a striving for the custom and business of people in the market place: competi-tion has been described as 'a process of rivalry between fi rms . . . seeking to win customers 'business over time' ^{*}

3. Competition Law:

Gildenhuys (1988) indicates that the role of the state is based on four ideologies, namely the laissez-faire capitalism, socialism, the notion of the social welfare state and the notion of an economic welfare state. In terms of the laissez-faire theory, the primary goal of the state is to provide an enabling environment for free competition among the citizens. Due to unlimited human needs and wants, and limited resources to fulfil these wants, basic conditions for optimal market allocation are not fully met and resources available to any society are limited in their ability to produce economic goods by both quantitative and qualitative constraints.

^{*} See para 4.1.2 of the Merger Assessment Guidelines of the UK Office of Fair Trading and Competition Commission, CC2 revised and OFT 1254, September 2010, available at www.competition-commission.org.uk.

Competition law is ultimately a form of public law – ‘the law that governs the governing of the state’. It is, at the end of the day, an innately political form of regulation, one that cannot help but deal with much more than simply promoting the economic efficiency of the market.[†]

4. Public Service:

The primary goal of the state is to promote the general welfare of society. Aristotle (in Strong, 1963) argues that the state exists not only to make life possible, but also to make life good. The state's primary role is not only a political one, it also has moral obligations towards its citizens by providing services in making life good (Chambliss, 1954).

The public affairs is the cause of the existence of public rights and ties to human beings and justifies their administration of life together. The concept of public service is a strategic and fundamental concept of public law. Therefore, the concept of public service is not only less than the place of the concept of public authority, but it can be said that these two concepts are mutually reinforcing both. The undeniable basis is the general law. (Georgian Azandarian, Ali Akbar, 2011)

These services can provide a significant range of public services including education, health, treatment, road construction, social security, job creation, infrastructure provision, research centers, water, sewage, electricity, telephone, post, railways and damming, even Establishment of cemeteries, mosques, display halls, exploration and development of mines and oil and gas reservoirs, registration of births and deaths and items from this category. In modern governments, especially with the welfare state, these services were undoubtedly expected from the government; however, with the recent tendencies of privatization over the last few decades, this trend has been somewhat reversed, with all governments, despite lowering their ownership, As an alternative instrument, has added to the scope of its regulatory, regulatory, and oversight activities, but unknowingly, with all the slogans given to "transfer people to themselves", even in leading countries Privatizing and based on a system of free market economy and capitalism, this role of government is still preserved and only its modes of change Ten (Hadavand, 2010).

5. The Impact of Competition law on the Provision of Public Services:

Services and things that are in need of the community and are done out of the power of individuals and the private sector and are made by the government or people's participation. The tasks of the government not only do not conflict with the contract and its participation with the private sector, but it is

[†] See, e.g., Lawrence S. Liu, "In Fairness We Trust? - Why Fostering Competition Law and Policy Ain't Easy in Asia" (October 19, 2004), available at SSRN: <http://ssrn.com/abstract=610822> (accessed July 12, 2012). See also

better done, and even the government can not do all economic, health and other matters. In government organizations, many different terms are used when referring to the buying of goods and services, from “public procurement” to “purchasing,” “contracting,” or “acquisition,” as well as many other variations.” (Byrne, 1999.), Given that the purpose of public actions is to oppose private individuals, not to make money and profits, but to provide public interest and public needs. World Bank (1995) argues that state owned procurement goods or services by government departments using public funds.

Efficiency in public procurement is of importance in ensuring that the best value for money is obtained by public entities. Ensuring the effective functioning of public procurement markets necessitates promoting effective competition among suppliers, including by preventing collusion among potential bidders(Robert D. Anderson, William E. Kovacic and Anna Caroline Müller,2010) Procurement of goods, works and services is sometimes portrayed as the combination of the three fundamentals:

- (i) Quality
- (ii) Time
- (iii) Price.

Competition is an essential factor in achieving this objective and promotes efficiency and effectiveness in procurement, discourages monopoly situations and avoids favouritism. It is believed that competition, as an economic principle, will ensure that suppliers will offer the best product at the best price. (Arrowsmith Public and Utilities Procurement ,2005) in the other words ,the purpose of such competition is to obtain the best product at the best price through the most cost-effective process Monopsonistic buyer power poses the same risks for competition and market players as a monopoly does. (Frank and Glass, 1999)

The idea that competition tends in most circumstances to generate lower prices and/or higher quality for a given price is one of the more basic propositions in industrial organization, the branch of economics that deals with industrial structure and performance the promotion of competition in public procurement markets has not received similar high-level attention as an aspect of international governance

competition, as an economic principle, will ensure that suppliers will offer the best product at the best price.(Arrowsmith ,2005) The provisions in general endeavour to ensure the equal treatment of all suppliers. competition policy (which includes merger control and ex post interventions in respect of prohibited practices) addresses the problem of market power indirectly – through the promotion of effective competition.

The recruitment and selection process in public service, either external or internal and regardless of the category/class of public servants, is clearly based on opportunity competition. The benefits of competition are lower prices, better products, wider choice and greater efficiency than would be obtained under conditions of monopoly. According to neo-classical economic theory, social welfare is maximised in

conditions of perfect competition[‡].

The purpose of competition is to obtain the best product at the best price through the most cost-effective process. Good public procurement practice requires a sound policy making and regulatory framework, and institutional structures and arrangements that will ensure the regulatory system functions effectively. Economic regulation therefore applies to sectors where structural conditions are such that competition is either non-existent or inherently limited to the extent that consumer welfare would in fact be damaged in the absence of any regulatory intervention. The deadweight loss associated with the profit maximising price and output of a natural monopoly is the classic example. Market failure arising due to the incentives of dominant firms to undermine interoperability in network industries characterised by substantial demand-side scale economies is another example.

Effective Public Services can only be improved by regulating the price downwards – through the application of an appropriate price control that maximises consumer welfare without causing irreparable damage to the regulated monopoly. *In order to establish a free competition in the relations of economic activists, protecting their rights and creating a balance in the market. The existence of a sound competition in the market of goods or services leads to efficiency, quality, innovation and price depression requiring the adoption of appropriate rules and rules that will This competition will remain on the market or strengthened. Competition law will compete with the relative adjustment of efficiency, equality, fairness, freedom of choice, on the one hand, to compete with the market and, on the other hand, prevent anti-competitive and exclusive conduct.* competition as far as is reasonably practical .

A well-functioning and sound public procurement system is dependent on its legislative and institutional structures to which the horizontal policy, legal and institutional environment manages to accommodate the specific needs of that system. This environment includes, among other elements, external audit, financial control, budget rules and planning, administrative and civil service laws, competition law, commercial law, labour law, and environmental legislation. Procurement procedures are chosen with a view to ensuring effective competition and timely and efficient proceedings taking into effective Public service.

Consumer welfare, which is specifically concerned with gains to consumers as opposed to society at large, is also maximised in perfect competition § . A related benefit of competition is that it may have the dynamic

[‡] See Asch Industrial Organization and Antitrust Policy (Wiley, revised ed, 1983), ch 1; Scherer and Ross Industrial Market Structure and Economic Performance (Houghton Mifflin, 3rd ed, 1990), chs 1 and 2; Lipsey and Chrystal Economics (Oxford University Press, 12th ed, 2011)

[§] See Bishop and Walker, paras 2.17–2.19; Van den Bergh and Camesasca, pp 62–69; Csereš 'The

effect of stimulating innovation as competitors strive to produce new and better products for consumers: this is a particularly important feature of high technology markets. competition goods and services will be produced at the lowest cost possible, which means that as little of society's wealth is expended in the production process as necessary.

Several different objectives other than the maximisation of citizen welfare in the technical sense can be ascribed to competition law. Essential purpose of its should be to protect the interests of consumers, not by protecting the competitive process itself, but by taking direct action against off ending undertakings, for example by requiring dominant firms to reduce their prices. It is of course correct in principle that competition law should be regarded as having a 'consumer protection' function :ultimately the process of competition itself is intended to deliver benefits to consumers.

one of the fundamental principles of administrative law and in line with the provision of Public interest comes from the government. Therefore, public services need a mechanism through which the government and public institutions can better handle public affairs, but in order to be more efficient, it needs to create a competitive environment, as a result of public administration the best and the lowest cost.

It is always possible that economic activists by collusion, the formation of cartels, the closure of vertical contracts, monopolization, the abuse of other efforts of competitors and in general unfair practices, while disturbing the market balance, consumer rights and other activists Economics. Regarding the importance of regulating and controlling market relations, the purposeful rules of public law should be established with the nature of the economy in order to provide social goals and interests such as economic efficiency and the guarantee of free competition.

Therefore, in order to protect the whole society against monopoly practices And anti-competitive and supporting specific and specific sectors of the economy, competition law is a set of regulations designed to maximize social benefits and prevent anti-competitive practices in the economy. The duty of this law is to prevent actions that lead to disruptions to competition. Indeed, competition law is a branch of economic rights that regulates government economic behavior and is the most important means of social monitoring of the economy. (Ghamami, Seyed Mohammad Mehdi, Ismaili, Mohsen: 2010)

Competition law is a set of mandatory rules and regulations that important and facilitates competition and prevention. From anti-competitive practices, monopoly prohibition, economic efficiency and, ultimately, welfare enhancement.

Conclusion :

Public service is the main element of public affairs. In the public service theory, first, the legitimacy of a state is dependent on the provision of public services, and secondly, this theory is based on the establishment of a particular legal system, namely, public law. Because public services are in the public interest, therefore, in the decisions taken, the public interests and needs of the community must be preserved.

There are always a lot of buyers and sellers in the market for similar products, since merchants and service providers are more profitable, and non-competition leads to monopoly and virtually total value and service is more than real value. In fact, vendors are seeking maximum profits in selling goods and services. In order to facilitate and clarify competition in order to provide public services, governments must enforce rules and regulations, and the right to compete is a set of rules and regulations aimed at maintaining and facilitating market competition and Confronted with the emergence of antitrust enforcement. Due to its relationship with the economy, competition law regulates integrity competition between production and distribution sectors and increases economic efficiency and, ultimately, welfare. In other words, the right to compete is an instrument for establishing a healthy and free competition in the relations of economic activists, protecting their rights and creating a balance in the market. The existence of a integrity competition in the market of goods or services leads to efficiency, quality, innovation and lower prices, but such The process requires the adoption of appropriate rules and rules that will maintain or strengthen the competition in the market. The competition law will compete with the relative adjustment of efficiency, equality, fairness, freedom of choice, on the one hand, to compete with the market and, on the other hand, to prevent behavior Anti-competitive and exclusive.

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