A Global Competition Policy: A Role for Civil Society?

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Introduction

It is a truism these days to note that nation states exist within an international system where they are interdependent legally, economically, socially and politically. For example trading links between states require agreed standards in relation to the legality of contracts, the convertibility of currencies, safe production and distribution environments and political stability. This means that international competition, as part of that context is not something entirely extraneous to the state, even if there is no explicit commitment to a competition policy within that state. International competition can thus generate tensions within the nation state where there is inconsistency with state policy. In addition, where different sectors have differing capacities to engage with and respond to international competition this can also create tensions. These tensions create an opportunity for response by societal actors – government, business and civil society.

International Networks

Competition policy formation and implementation at a time of dynamic change can be understood by reference to what Lockwood calls system integration and social integration (1964). System integration focuses on the conflictual or orderly relationship between parts of a social system. Social integration on the other hand focuses on orderly or conflictual relationships between actors. By looking at social integration regard is had to how social relations cope with dysfunction in any social system for example the economic system. The issue then is how social actors respond to those limitations which in effect create opportunity for new social action (Morgan, 1999) with social actors both products of a pre-existing structure and also agents of change capable of changing and shaping that structure (Archer, 1996). There are contradictions in the international competition sphere. These include a failure to address anti-dumping measures, tensions between viewing competition as purely a market access issue and broader considerations of creating a competition culture, and tensions between international agencies requiring competition regimes to be introduced by weak states not having the resources or expertise to breath life into these measures. These contradictions create opportunities for a wide set of actors to respond to and shape the system. One response to these contradictions is the development of international networks.

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Such networks are also characteristic of another phenomenon of the last 40 years, which is the fragmentation of government both at the national and international level (Picciotto, 1996-97). This is often labelled as a move from government to governance with specialisation occurring across national borders. Specialisation can be seen as a response of the greater complexity of government and as leading to more efficient governance with experts developing and implementing policy. In order to overcome the bounded territoriality of their own powers, officials operating in the same functional spheres see the advantages of new forms of contact and cooperation. Networks can act as conduits for credible information flows, policy learning and policy transfer (Maher, 2002). International networks tend to evolve from information sharing by regulatory enforcers to the establishment of systems of standardisation (and that leads onto monitoring, control and sanction). Such a trajectory is apparent in the field of international competition with information sharing well established at the level of both competition and consumer law enforcement agencies with even the exchange of confidential information allowed (to some extent) under the US-Australia Competition Agreement of 1999.[1]

This greater specialisation and fragmentation in the competition sphere has led to a plethora of networks and committees internationally. This is partly a reflection of how several international agencies have an interest in the issue such as the OECD, UNCTAD and the WTO. It is also a response to the failure to develop binding multilateral principles and rules on competition where action in effect is taken at levels lower than that of international agreement between states. The emergence of networks in this sphere also reflects the extent to which competition law and policy is seen as *sui generis*, technocratic in nature and thus lending itself to functional international networks where participants share similar outlook, objectives and values. Below the level of the network, there can be an epistemic community (Stone, 1996) – a knowledge-based loose and very informal community - of academics, interest groups, parliamentarians, enforcement officials and antitrust lawyers who share a common understanding of what the nature and parameters of competition law is and indeed should be. It is this community which generates ideas and discussions some of which in turn are taken up by the policy network.

The specialisation of this community and the networks on competition re-enforce the perception of competition as both conceptuality difficult and sui generis as a policy area. The establishment of the International Network of Civil Society Organisations on Competition (INCSOC) challenges both of these assumptions by extending beyond the competition community to a wider set of actors. Given the incentive of seeking to render competition law and policy effective by providing a counterweight to the voice of business in policy formation and implementation, INCSOC is redefining the scope of the community (epistemic or a more tightly knit network). This is important. Even in the absence of any power to create laws, or without any formal institutional setting, networks can have an agenda setting- role and may frame the nature of the debate, and decide which ideas are currently 'in' or 'out'. A network such as INCSOC bringing in new social actors to the policy debate, thus can broaden the parameters of that debate or re-focus it so for example, the centrality of consumer welfare as an objective of competition policy is re-asserted. Ultimately, provided INCSOC can have a credible voice among other competition networks, it can act as an opportunity for those actors within it and in turn act as a constraint on them – in effect requiring them to work through the network rather than independently (Marsh and Smith,

[1] See also the US International Antitrust Enforcement Assistance Act 1994, 15 USC ss. 6201-6212.

2000). It can also act as a constraint on other networks and actors by requiring them to acknowledge the issues raised by INCSOC.

Civil Society

The term civil society can be traced back to sixteenth century English political thought (Wood, 1990). Rather than define it, we will describe it. First, it is not official government nor is it commercial in nature. At the same time, the boundaries between the commercial and non-commercial and government and non-governmental are fuzzy at the edges (Scholte, 1999). Civil society can be seen as a collectivity of non-governmental, non-commercial more or less formal organisations (Scholte et. al., 1998). They pursue objectives that relate explicitly to re-enforcing or altering existing rules, norms and/or deeper social structures. The term encompasses huge diversity both in relation to organisational forms, membership, capacity levels, tactics and objectives.

A global civil society – which is what underlines the initiative in establishing INCSOC, is a much more recent phenomenon. Globalisation is a vexed term. Again, definition is difficult. Hay and Rosamond argue that once policy makers assume globalisation then they will act in manner consistent with it, whether or not it is absolutely verifiable. In other words, globalisation is a powerful rhetorical device and it can be used strategically (2002). The rhetorical force of globalisation is a characteristic of our time (Snyder, 1999). Scholte points to five visions of globalisation: internationalisation, liberalisation, universalisation, westernisation and deterritorialisation. Only deterritorialisation is new. Territorial location, distance and borders are no longer a determining influence and can be transcended. A global civil society thus addresses transworld issues; involves transborder communication; has a global organisation and works on the basis of supraterritorial solidarity (Scholte, 1999). The emergence of civil society at the international level has been facilitated in part by the emergence of global thinking; technological innovations (the internet as a mobilising force) and enabling regulations with bodies such as the EC Commission encouraging the participation of NGOs in policy formation. Also, as the boundaries of the state are redefined as a result of liberalisation with the state 'steering rather than rowing' (Osborne and Gaebler, 1992) this creates opportunities for civil societies to become service providers or even regulators. The redefinition of the state has as already mentioned led to fragmentation with regulation carried out by specialist parts of the state or indeed self-regulation with no involvement of the state. This reduces the potential for popular participation with people turning to other private bodies such as NGOs in order to secure a voice in relation to global governance institutions. Thus civil society networks at the international level can be seen as part of the phenomena of multi-layered and privatised governance. Civil society organisations are a response to the privatisation of regulation providing a forum through which citizens can acquire voice. At the same time, such organisations can become part of the regulatory state by themselves enforcing and monitoring standards (Scholte, 1999). Civil societies thus can both improve transparency and accountability of state actors but also can be inherently undemocratic themselves. In short, there is nothing inherently good about civil society – the way any particular organisation operates has to be assessed on its own merits in order to evaluate its role within a particular policy domain.

Scholte et al (1998) point to three categories of civil society: conformers, reformers and radicalisers. Within the context of engagement with the WTO, conformers can be seen as organisations that broadly accept the aims and activities of the WTO. Reformers accept the need for a global trade regime but seek change within that while radicals want to reduce the WTO's competences and powers or seek abolition – they seek transformation of the existing order. Consumer groups could best be seen as reformers. The concern is that the global trade regime has had a de-regulatory effect on firms. The increase in corporate power is such that it can threaten political power especially in weak states and hence needs to be located within an international competition policy that would address widely recognised problems of transnational cartels. It is important not to confuse categorisation with tactics. Reformists can adopt quiet tactics like lobbying and street demonstrations are not only the purview of radicals.

Consumer Groups and a Global Competition Culture

Developed Economies

Brown elsewhere has argued that consumer movements in developed economies operate in four (evolutionary) modes all designed to correct market failure (Brown and Panetta, 2000; Smith, 1993). First, correcting information asymmetry through product testing so as to improve consumer choice through informed decision. The problem was that in practice few products could be tested. This led to a change towards participation in policy debates and litigating as a means of changing business behaviour and highlighting notions of consumer rights. The aim was to pressure government to raise regulatory standards and was characterised by an adversarial relation between business and the consumer movement. Consumer groups then started to organise nationally, regionally and internationally with a view to becoming policy insiders. Information and knowledge could be exchanged with other consumer groups also interested in competition and consumer policy but often without the power, funding or legitimacy to enact the preferred policy alone (Bomberg and Peterson, 2000). It also created the potential for a voice on the international stage where global competition issues were gaining more currency. Networks were developed with other consumer groups and also with other civil society organisations like trade unions and environmental groups. Such networks allowed for the building of capacity. Outcomes from such internationalisation has been the categorisation of the consumer movement as reformist rather than radical and an emphasis on co-regulation (informal regulatory modes often involving codes of practice) which often give the relevant national consumer movement a role in monitoring and even enforcing standards. Finally, relations with the business world have changed as co-regulatory modes have developed with a blurring of distinctions between business and consumer advocates. Nonetheless, adversarial politics can operate in some contexts but not others e.g. consumer groups operated adversarially in relation to GM businesses during the GM debate.

Each mode can be seen within a regulatory framework with consumer organisations seeking to participate in standard setting (not just in relation to particular products but more generally in relation to business environment), monitoring those standards and enforcement. Engagement with business and government allows consumer groups to influence the policy agenda, to highlight the importance of maximising consumer welfare within competition policy and to argue for institutional and structural forms

which will facilitate the operation of an effective competition policy e.g. through the establishment of an independent competition authority with safeguards against both regulatory and political capture.

Developing Economies

The operation of consumer groups in developing economies differs. Because product testing is dependent on a large enough middle class to pay for the information generated the absence of a sizeable middle class in many developing economies renders this mode of operation redundant. The development of global consumer networks may in the long term allow for sharing of product information (similar to information sharing between regulators), but given the information is a form of revenue there is an issue of how the costs and benefits of testing would be shared. Participation in policy debate by consumer groups leading to policy change is possible in developing economies with Consumers International recounting examples showing how consumer groups were instrumental in achieving fairer electricity prices in El Salvador, Chad and Zambia (2001). Thus while there is still a problem in relation to resourcing, innovative and resourceful action can influence the policy debate. Litigation has been a less conspicuous form of policy influence given the less developed nature of the court systems in many developing states. Organising internationally is dependent on being organised nationally – a dominant or umbrella organisation is necessary to build links internationally. Also, one dominant organisation is more likely to have the resources to participate to some degree at the international level. International participation by consumer groups from developing economies gives those organisations 'voice' at the level of international policy formation and debate so their concerns which may well differ from those of developed economies at least reach the agenda and have some chance of being considered. Participation in the regulatory process through developing co-regulatory methods and engaging in standard setting, monitoring and enforcement is not so far a characteristic of consumer groups in developing economies. There is capacity for policy learning and policy transfer in relation to new forms of regulation partly as a result of information sharing through international networks – both those of business and consumer groups. Finally, working with business is as necessary in developing economies as in OECD countries and can be most easily achieved with those transnational companies already accustomed to engaging with other consumer groups in other countries. Participation in networks can provide information on the nature of such engagement, those companies most likely to engage and realistic goals for such engagement.

Resourcing – to varying degrees – is a common issue for all consumer groups but is particularly acute for those in countries with low GDP. Here, external aid may be possible with a number of countries willing to foster civil society generally including consumer groups e.g. a USAid program for El Salvador expressly refers to fostering consumer groups (USAid, website) and AusAID provides funding to civil society organisations (AusAID, 2002). Such aid can prove problematic for consumer groups that are advocates of policy change and as such the partner governments may not be willing to see them receive funding. On the other hand, concerns with the partner government may make direct contributions to domestic NGOs more satisfactory for the donor government (NORAD website). In the context of competition policy, capacity building through technical assistance is a key issue for developing economies. It is worth asking to what extent such technical assistance could or should

extend to consumer groups in order to strengthen their capacity to act as policy advocates and co-regulators of any fledgling competition regime so as to ensure the effectiveness of such a regime.

The Nature of Competition Policy

Competition policy is not an end in itself but a means to an end, that has to be defined politically – that definition drawing on highly influential economic theories that either focus on rivalry (Adam Smith), market structure (Harvard School), entry and exit barriers (Chicago School), repeated transactions (game theory) or the importance of innovation (evolutionary school) (Cook et al, 2003: 3). Round sees it as part of the social contract with governments negotiating it with all stakeholders in the political social and economic arenas (8, *). Such a view redefines competition policy as more than technocratic, highlighting the extent to which the choice of which economic theory to adopt overall or in any particular decision is a political decision (Frazer, 1992:5). In the words of van Miert, one-time EC Commissioner for competition, competition is politics (Wilks and McGowan, 1996: 254) and as politics, is an appropriate forum within which consumer groups and other civil society organisations can and should participate.

Competition and Trade

There is some confusion as to the relationship between competition policy and trade policy and competition policy and consumer policy. Competition policy is not trade policy. The former is primarily concerned with the regulation of private market behaviour that harms consumer welfare while trade laws are concerned with correcting public actions that aim to protect domestic firms by ensuring market access. Competition policy is usually domestic in nature (though this is about to change), is intended to maximise economic efficiencies and is enforced by judicial branches of government. Trade policy on the other hand has long had an international dimension to it is enforced through international organisations and is grounded in diplomacy to a much greater degree (Epstein, 2002, 345).

Competition Policy and the Consumer

The notion of the consumer lies at the heart of much economic theory on competition with the maximisation of consumer welfare the raison d'être for much competition law. In a competitive market, goods and services are produced at a right price and quality, in the most economically efficient manner such that consumers receive the goods they want at the most competitive prices. Thus consumers are the ultimate beneficiaries of an effective and well thought out competition law. This was summed up (if not over-stated) recently by the Australian Treasurer, Peter Costello where he noted that 'I sometimes think it would have been better if we had called it consumer policy, frankly because competition is a bit of a long word. But at the end of it, competition is all about the consumer….'[2]. Competition law has the potential to bring considerable benefits to consumers but an appropriate and effective competition regime is the quid pro quo for the realisation of such benefits and without it, there is a risk of inefficient market behaviour.

[2] 2 June 2003 in a speech honouring the retirement of Allan Fels as Chair of the Australian Competition and Consumer Commission.

Competition and Consumer Policy

The inextricable link from consumer to competition policy runs in the other direction: from competition policy to consumer policy. Competition policy is concerned with promoting competition as a means of welfare maximisation and is characterised by prohibitions on restrictive arrangements and abuse of market dominance and structural controls in relation to mergers to avoid undue market concentration. Recently, it is allied to liberalisation of markets such as utilities, transport and communications, which historically were characterised by state monopolies. It does not address the relationship between the individual provider and the end consumer. A consumer protection policy is needed for this. Such a policy addresses issues of deception in relation to quality, characteristics or price. It takes account of the power relationship between the supplier and the ultimate consumer that arises out of information asymmetries and is more pronounced where the consumer is ill informed or otherwise socially disadvantaged. Where consumer policy seeks to ensure the individual consumer is well informed and can secure redress where deception has occurred or where goods or services have failed to meet certain standards, this bolsters the broader operation of competition law. It takes competition law down to its most micro level by ensuring that competitive advantage is not secured through provision of shoddy goods or services or deception as to the nature of those goods or services. This levels the playing field so the consumer chooses to deal with that business that best meets their needs. The firm that is most competitive on price and quality can then attract the most consumers. There is no advantage in seeking to dupe the consumer. By giving consumers rights of redress (such as in the UK context rights to a full refund where the goods sold are not of merchantable quality) and/or an avenue of complaint such as a consumer protection agency, they become regulators capable of monitoring and helping to secure the enforcement of certain minimum fair trade standards which underpin a competition regime. In short, a consumer protection law turns the disadvantage of an inclusive and disparate group – consumers – into an advantage as the consumer as regulator becomes omnipresent. Consumer protection without a robust competition law makes little sense, as there is no guarantee that the consumer is receiving the best good or service for the relevant price. It is the combination of competition and consumer law that ensures the benefits of the market ends up with the consumer. This link between consumer welfare and competition is most powerfully addressed where consumer protection and competition laws are enforced by the same agency. A unitary agency is a powerful indicator to the general public that consumers benefit from competition without those consumers having to engage with the niceties of competition policy and law. For those agencies without a consumer protection function, they have to cross the additional barrier of persuading consumers that competition law can and does benefit them (Maher, 2003). In this regard it is noteworthy that the Australian Competition and Consumer Commission is invariably referred to as "the consumer watchdog" in the media whether the story is about a competition regulatory action or about correcting misleading advertising

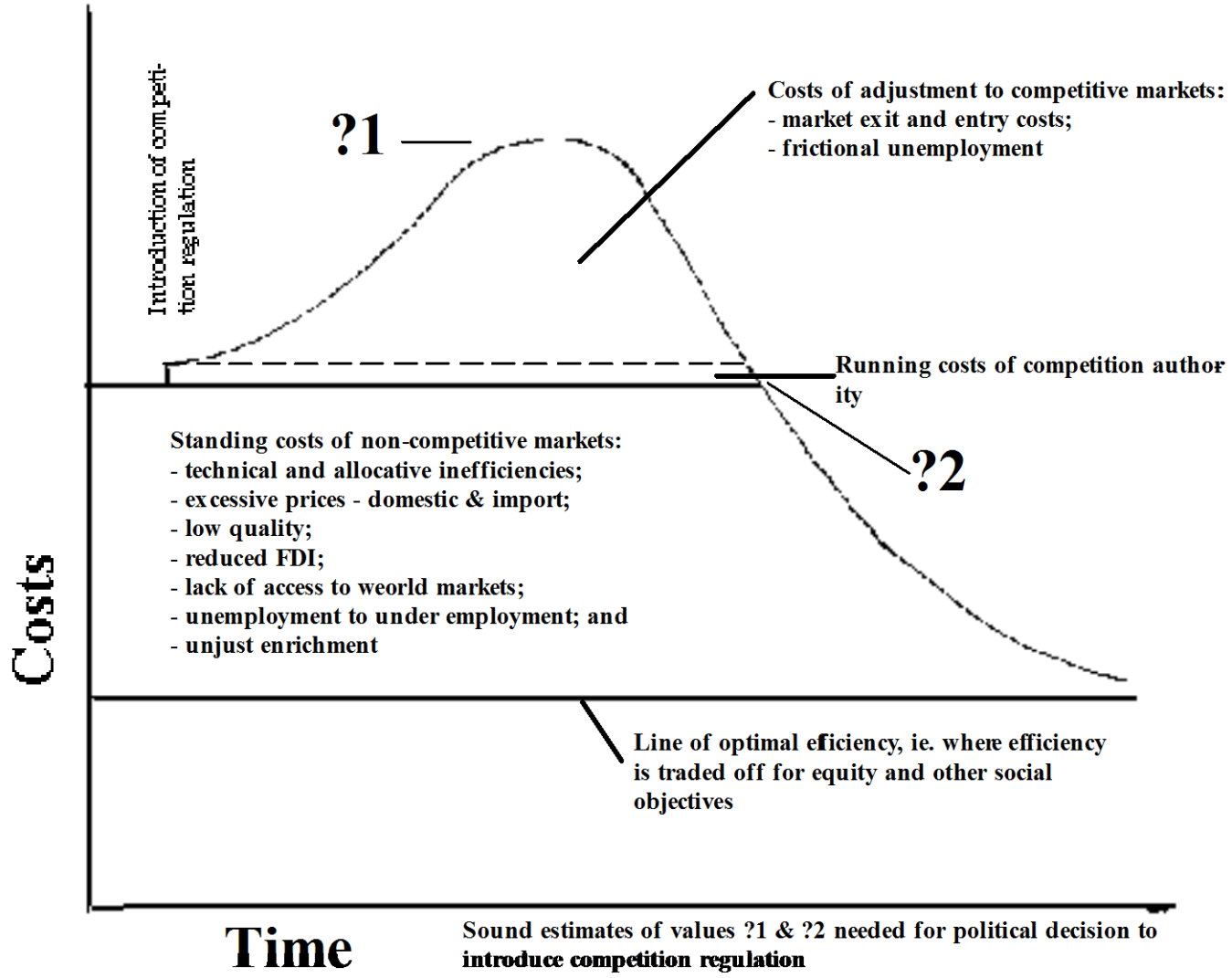
This coupling of the two policy spheres is another important dimension to the issue of embedding competition policy within an economy and suggests a role for consumer groups as policy advocates. It also suggests that, given the link between competition and consumer policies, consumer groups have a role to play not only in advocating the adoption of consumer protection laws, but also in promoting an effective competition regime. In fact informed consumers form a vital link in the development

of an effective competition regime as an important adjunct to competition agencies, especially where those agencies have severe limitations on resources.

Competition Policy and Institutional Linkages

As well as a dependency between consumer protection and competition policy, there are further dependencies to be seen institutionally in the way competition policy can be embedded within an economy. While it is customary to talk of the need for independent competition regulators in order to ensure an effective competition policy, we want to highlight three dependencies inherent in the implementation and enforcement of competition policy. These are the dependence of the competition agency on business to treat competition law seriously and to engage meaningfully with the regulator. This cannot be done in isolation and requires relevant powers from government – not to mention resources. Ideally, a form of co-regulation can emerge with business seeking authorisation for codes of practice, mergers, and other transactions. The competition agency is dependent on civil society constituencies notably consumer groups but also trade unions and women's groups as grass roots advocates that can inform their constituencies of the benefits of a competition law and promote the change of culture that the adoption of such a policy requires. It is dependant on the media to take notice of its actions and inform the general public of what it is doing and of the existence and operation of the competition law. There is the co-dependence of each of these actors – business, regulators and civil society organisations on each other transnationally. Competition agencies rely on each other in relation to cross-jurisdictional enforcement matters; in relation to fostering a competition culture among domestic businesses which will then be carried into their export trade; and more broadly in relation to policy learning, bench marking and sharing good practice. Business and civil society organisations similarly communicate across boundaries with benchmarking and policy learning occurring. In short, regulators avoid becoming lonely regulators in two main ways. They look to fellow agencies overseas and can – through effective consumer and business advocacy – turn consumer groups in particular into co-regulators and secure co-operative compliance from business. Business and consumers can also act as advocates of policy at the time of introduction of a competition policy where the short to medium term costs of adjustment can be considerable. The more civil society organisations are persuaded themselves of the benefits of a well-constructed competition regime, the easier it will be to bear the costs of transition and to embed that regime politically, socially and economically. The following diagram attempts to graphically represent the transition costs and ultimate benefits of the introduction of competition policy and to show the uncertainties confronting public policy decision-making.

Costs, benefits and uncertainties of introducing a competition regime



Sound estimates of values ?1 & ?2 needed for political decision to introduce competition regulation

Regionalism and a Global Competition Culture

While participation in international networks is important for civil society organisations, business and government especially at the moment where an international competition regime is under discussion, it does not preclude and in fact could be enhanced by regional co-operation. The EU provides the most durable example of regional trade integration. In the competition sphere, competition norms were included in the 1958 treaty at a time when Germany was the only country with a competition regime. The 1990s were characterised by a process of alignment where member states voluntarily and beyond their treaty obligations, chose to adopt competition laws closely modelled on those in the EU (Maher, 1996; Drahos, 2000). Choice was more limited for the countries of eastern and central Europe (Fingleton et al, 1995). Nonetheless, they have benefited from extensive technical assistance both from the EU and from member states. Even the UK competition laws are now very closely matched to those of the EU. And at the start of this year, enforcement of EU competition law was changed markedly creating a two-tier system with either EU or national law applying and giving national competition agencies and courts the power to apply EU law.[3] The change reflects growing trust between agencies and the maturation and embedding of competition law not just at the supranational level but also at the national level. This experience has to some extent made the EU a relatively enthusiastic proponent of multilateral competition principles. There are a number of lessons to be drawn from this experience.

First, the embedding of a competition regime within an economy is essential for its effectiveness. This does not imply that a radical change is not possible – just that it needs careful management. For example the Competition Act 1998 moved the UK from what was often described as a voluntary competition regime into a prohibition competition regime. This was managed by having the Act signed into law but delaying its commencement date by over a year to allow detailed guidelines (drafts of which could be commented on), to be issued as to how the Act would operate (Maher, 2000). The Act has now been amended to include criminal sanctions and the potential of barring a person from being a director for up to 5 years and the institutional structure has been radically altered so the competition agency is now more independent.[4] This transition was assisted by the fact that there was some familiarity for bigger businesses with the EU rules and a readymade body of law to draw on by way of example.

Second, moves towards regional convergence are easier where there is agreement on key competition principles. Again, the EU experience is telling here. Articles 81 and 82 of the Treaty are short statements and hence relatively easy to agree on, leaving the detail to be worked out in the courts and by enforcement agencies. It is easier to achieve consensus and to use such principles as models rather than agree on detailed statutory provisions where every word needs to be dissected. Such broad principles also allow scope for national variation. This can muddy the waters a little in terms of

[3] Regulation 1/2003 on the Implementation of the Rules on competition laid down in Articles 81 and 82 of the Treaty [2003] OJ L1/1, 4 January 2003.
[4] Enterprise Act 2003.

legal consistency but we would argue this is a small price to pay for the embedding of competition norms nationally.

Third, regional convergence facilitates regional trade. Businesses operate nationally within a competitive environment and hence find it easier to compete regionally. Where the regulatory (including the competition) regime is similar, the costs and uncertainty of trading regionally are reduced. Small open economies (such as Ireland in the EU) have introduced competition rules as a means of improving competitiveness and as an important signal to domestic industry and foreign investors.

Fourth, immediate, one-size-fits-all competition laws are unlikely to work. The pressures to develop competition laws may be extraneous and largely driven by developed economies (in particular the EU), but regional development of norms allows for flexibility, capacity building and policy transfer across a region with shared economic and geo-political interests. What we see in the EU context is a slow, gradual development of a commitment to competition principles and the way they are enforced – a commitment that emerged in tandem with increased trade. A regional response can thus look to an agreement in relation to broadly drawn competition principles and/or enforcement issues.

In the East Asia region, the PECC advocates principles of comprehensiveness, transparency, accountability and non-discrimination in the development of competition policy. Similar principles are found in the APEC competition law with policy options including the establishment of an autonomous competition agency, rights of due process and appeal and timely and efficient enforcement. Round suggests that economies should be free to choose their own competition policy but that in this globalising world, they need to be sensitive to the regional spillovers from their choice (*). There should be some consistency on the worst anti-competitive practices while recognising that beyond these, different economies at different stages of development will have very different competition policy concerns. Nonetheless, he emphasises the importance of consistency in treatment of any given form of behaviour as the eventual goal of regional co-operation being of the view that there is little hope for the emergence of an efficient, integrated regional economy without some sort of regional agreement on competition and consumer policy. He sees the adoption of competition laws being necessary for developing economies seeking to protect themselves from domestic and international abuses of market dominance. In fact, he goes so far as to suggest that the issue is not whether a regional approach will be forthcoming but when it will be achieved with what goals, based on what models in what form, as a result of what sort of consultation, with what focus and with what sorts of enforcement. A first step is a common understanding on general principles such as those articulated by APEC and PECC.

Such a regional approach is not inconsistent with the emergence of a competition regime at the level of the WTO especially if there is an emphasis on enforcement. A competition agency with regional offices could be established with a role in capacity building in the region with developed countries providing financial assistance. While technical assistance is very much to the foreground in the debates on internationalisation, there will be an ongoing need for such assistance and capacity building long after agreement on any competition principles. A regional office, like the EU Commission in the early years, could act as competition agency for the region.

There may or may not be national agencies but where they were, a co-operative relationship would exist between the two agencies. The existence of a regional competition facility would to some extent formalise existing networks and create a competition agency for those states where none exists. Costs would be shared. It could liase with international bodies and assist in advocacy, policy learning and implementation. In effect, it could be the hub in the centre of a regional network of competition and consumer policies and laws, acting as a facilitator and information conduit for the region. Membership could be optional with participating states all represented on its governing board. A mechanism for involvement of business and consumer interests would be desirable also.

Conclusion

The internationalisation of competition policy and law is characterised by networks, reflecting the specialisation and fragmentation of government. These networks form a policy community that helps to set the agenda and shape the emergence of any new global competition regime. To ensure that any international norms are effectively embedded at the national level, it is important to ensure social integration and an important dimension to that embedding process is the involvement of civil society organisations – in particular consumer groups - in the development and implementation of competition law. Participation of civil society can be at the international level both in helping to shape the debate but also in allowing information sharing both between consumer groups and between those groups, competition agencies, governments and business. Such participation reflects the interplay of the notion of the consumer in competition policy and between competition and consumer policy. It highlights the interdependence of business, consumer groups, regulators and government in securing effective and appropriate competition norms. Internationalisation is likely to lead to the introduction of competition policies at the national level but there may also be a complimentary role at the regional level. This could take the form of a regional agreement on competition based in part on APEC principles or a variation of the EU. A regional competition authority is also a possibility with states opting to participate with the agency acting as conduit of information and resources and, where there is no national regime, acting as regulator. Whatever form competition policy developments take and at whatever level, there is a role to be played by consumer groups in particular. This perhaps is not that contentious. What needs to be further explored is the extent to which other civil society organisations can and should engage with these debates.

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