Forum: Economic and Social Council

Issue: Developing International Antitrust Policies to combat the increased prevalence of Monopolies

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Introduction

Competition Law, known as Antitrust law in the United States is a set of regulations that aims to uphold the integrity of a market by limiting the power of extremely large firms aiming to maintain their market share as well as control. Antitrust laws are one of the ways that governments can intervene in free markets to correct market failures as well as consumer damage, and help promote the development of smaller firms, helping boost innovation and ultimately the economy.

Throughout most of history, competition policies have developed from the need to stop illegal business activities, with smaller and smaller regulations leading to increasingly complex regulations that are present today. This has caused a large portion of competition law to be developed regionally, leading to individual nations, mainly in the 20th century, focusing on market activities that are the concern of their state. However, with a constantly increasing number of multinational companies, as well as a deep fall in tariffs compared to the previous century, several monopolies have emerged in a few years that are dominating industries and cause innovation to stifle, or cause harm to the consumer. According to the OECD, cross – border mergers have increased by 250% - 350% since 1990, leading to a consistently large number of monopolies to be present in several markets, including technology, healthcare, petroleum, airlines and several more.

Whilst historically regulations have been the same and have consistently worked to provide the best solution to several anti – competitive problems, the fast – paced and changing nature of today's markets forces authorities to develop new regulations, steps and methods for investigation that are best created harmoniously with other affected nations. In the past 30 years, there has been a 600% increase in the number of global collaboration between

authorities to solve cases and expertise together, with 20 before 1990 compared to 120 today. However, this system is mainly present in some developed countries, and the large number of monopolies will force all authorities around the world to collaborate. Currently, there is not a fixed system for international competition to consult towards and lead to, mainly as nations disagree and focus upon several different aspects that lay different to the focus of others. Previous attempts to create unified bodies that administer global Antitrust law have not been successful due to several complex reasons that lead to the lack of collaboration between governments, as well as the lack of will to fund and wait towards the development of such regulations. Therefore, the report focuses on the reasons as well as aspects towards the development of international competition laws.

Definition of Key Terms

Acquisition

Acquisition is when a firm purchases shares of another, with typically 50% or more of the target firm being purchased resulting in the ownership by the parent firm

Anti – competitive practices / behavior

Anti – competitive practices are actions that large firms undertake in order to illegally drive out competition, including practices such as: Price Fixing, exclusive dealing, predatory pricing (dumping), patent misuse, etc.

Antitrust Law

Legislation against or opposition to anti – competitive behavior by a firm

Collusion

A secret Agreement between firms for illegal or deceitful purposes, mainly for removing the competition

European Commission

The European Commission is the executive branch of the European Union and is responsible for creating and implementing EU – wide laws

Exclusive Dealing

An arrangement between firms where a retailer is forced to purchase from only a single supplier (usually monopolies) and no other competing product is allowed

Federal Trade Commission (FTC)

The Federal Trade Commission is the competition authority of the United States of America that implements and investigates anti – competitive behavior by firms

Merger

An agreement that combines two existing firms into one new company

Monopoly

A company that controls an extremely large market share in the industry with a lack of competition.

Organization for Economic Co – operation and Development (OECD)

An Intergovernmental Organization with 37 members created to encourage global trade practices and systems

Patent Misuse

The use of a patent holder's right to restrict competition beyond enforcing the exclusive rights

Predatory Pricing (Dumping)

A pricing strategy whereby a monopolistic firm reduces prices beyond production costs for a short period of time in order to drive out competition

Price Fixing

An anti – competitive agreement between firms to buy / sell goods at a fixed rate

Key Issues

Specialized requirements for each state

Antitrust regulation is an extremely important part of free market nations with a large number of firms and economic movement. Beginning in the Roman Republic, the development of competition policy by implementing lawful actions upon individuals taking anti - competitive actions, stemmed the development of modern competition law, the outset of which the Sherman Law (1890).

Developing throughout the 1900s as markets evolved, antitrust / competition law was a firmly American as well as European regulation, with several other nations only emerging their own laws towards the end of the century. This change occurred mainly due to rapid deregulation in several nations, as well as the expanded growth of multinational firms. Furthermore, this growth can be narrowed into the 1990s and 2000s decades, where the increasing development of the global market caused 81 states to adopt competition laws, from a total of 120 present.

However, this sudden development caused each governmental body to focus toward developing regulations suited towards the economic situation of each individual nation, resulting in specialized competition laws. With the firm establishment and extent of the global free market in present times, firms with consumers in multiple states are often led into complicated procedures as well as prerequisites, causing complications in the outcome of the action taken, as well as the desired effect not consistently being produced to the market as well as consumers. Eg. In April 2015, the European Commission investigated Google Inc.'s Operating Software (OS) and pointed concern towards the fact that Google limits the growth of smaller apps through the pre-installation of Google's apps on the OS. Whilst Google wasn't required to change its OS and presence of pre-installed apps, a required change in this procedure might have caused inconvenience to some consumers, causing them to use different versions of the same product (they can use versions of the same product from different nations), which would ultimately cause the desired effect to not be produced. Therefore, competition regulators have been forced to bring forward results that are not sustainable in the long term: fines, tariffs, etc.

Furthermore, certain regulations can be suited towards the development of certain aspects in certain states, causing trade to help bring forward or solve any potential problems that can be presented with these aspects. These may be created by the governing body to address any concerns / lack of chance that may be presented to certain groups of citizens, firms or institutions. An example of this would be the 'Broad-based black economic empowerment'

implemented by the south African government since 1996 to empower the presence of African, Coloured and Indian people who are South African citizens in order to provide them equal opportunities at work and finances. Firms are therefore required to have a minimum of percentage of workforce from these minorities in order to be granted permits to operate in the state, and firms that are alleged of anti-competitive behavior can be granted lower / no punishments based on the extent of their minority workforce.

This serves as a great example of development of certain communities, with several other nations implementing similar laws based on their social as well as economic focus. However, common global practices as well as regulations will not be able to serve all communities in need with the required focus and may instead lead to the development of similar communities in other states that would be improperly benefitting from these.

Variations in Monopolistic Tolerances

With the current world order based on a firmly mixed - economy based approach – acting as a mixture of market and controlled economies – governments can and do exert certain levels of control on the market in order to satisfy certain political as well as social goals. However, the extent of control on the market varies by several nations, and therefore the thresholds for the extent of monopolization and market control for various firms. As an example, the EU's threshold for a firm's dominance (there is no certain concept of Monopoly by the European Commission, it is referred to as 'dominance') to be 40%, whilst it is 50% in the US, as implemented by the Federal Trade Commission.

The perspective of various states differs when assessing anti – competitive behavior. The European Commission assess the abuse of a firm's dominance through the parameters of:

- The numbers of competitors in the market
- Quality of the products
- Prices
- Presence of cartels
- Negotiation power

It can therefore be inferred that the EC asses its results based largely on the market structure, and on to a smaller extent the experience of the consumer. This can be contrasted to the approach of the Federal Trade commission as well as the Competition Commission of India's (the largest competition authority outside of USA and European Union) approach which focus on:

- Price
- Consumer experience
- Anti-competitive behavior
- Impact on smaller business and consumers

Looking at the above information, it can be reasonably inferred that the focus and approach by each administrator can largely differ on the same issues, an example of which is a lawsuit on Amazon Inc. by the EC in June 2020, accusing it of "abusive and anti-competitive use of third – party data". The Commission carried out a formal investigation from 2015, and once completed, accused Amazon of such behaviour. The United States' FTC on the other hand has currently not filed a case on this topic, and therefore chooses its tolerances in regard to Amazon's use of its power (data).

This does not indicate that an approach is wrong, but it is intended to indicate the vast differences between multiple parties. This issue is exaggerated to a larger extent due to the implementation as well as the power of data and intangible assets. Historically, antitrust has been motivated through the presence of a physical product or a clear service that directly serves the consumer, helping simplify opinions and therefore conclusions that various parties derive. However, the power of data in the modern age cannot be measured easily, as moral limits are not set standard. Large firms not only continue to grow larger not because of their products or services, but because of the large amounts of data they collect. The use of data collected by firms depends on the interpretation of each authority's knowledge, as well as the potential of impact that can occur. Therefore, deciding if it is ethical to use it or not can vary widely, as well as the extent of action that is required to be undertaken.

These problems will consistently grow as the power of technological firms grows as well as the market's size. Disagreement on such topics and ideas will therefore result in the fundamental flaws within the decision-making body and therefore the lack of clear action to be taken.

Disagreements between and within nations

The creation of the International Trade Organization (ITO) was a milestone at the presented time and presented a foundation for modern multinational Trade. One of its agendas, when creating the Havana charter, was the presence of unified global antitrust laws, and ultimately reaching unified antitrust laws for all members. However, with the failure of the ITO, this agenda was left behind, even with the General Agenda on Tariffs and Trade (GATT). However, with the establishment of the World Trade Organization in 1996, the development of international antitrust was back on the agenda, with initial negotiations taking place at the Singapore Ministerial Conference. However, with development of clauses for over 8 years, the development of antitrust regulations was stopped, mainly as nations were not able to negotiate any mutual ideas, resulting in the subsequent action.

The reasons for the failures highlight the vast differences between government freedom of monopolies, and how economically competing can disagree on the presence of monopolies in a nation. Several partially / fully state – owned corporation in various nations are allowed to be monopolies to support individuals or certain levels of growth, and the implementation of global laws creates a single mediator, and therefore removes all freedom for individual to affect certain firms, and therefore may cause disagreement between nations. This was the main reason that the ITO failed to form together, due to disagreement by the United States Congress, resulting in none of the nations ratifying the Havana Charter.

The second reason for disagreement between nations is due to the difference between economic states of nations, with some nations being developed, developing or underdeveloped. Due to this, several developing and underdeveloped nations do not have the focus as well as harmony to collaborate, leading to several countries not representing any significant interest in the collaboration, resulting in the lack of widespread implementation. Several developing nations choose to have relaxed anti – trust laws in order to encourage large businesses increase their business placement and increase economic output.

The Final reason for the lack of international anti – trust efforts is the lack of public interest in the issue, which is partially due to the current world being accustomed to current monopolies existing for a long time. The lack of public interest often leads governments to not engage in the vast amounts of effort required to establish such a system. This has been the issue for the majority of history as all nations serve to solve issues in the attention of the public

domain. However, this outlook is recently changing as the public is increasingly engaging in the negative effects of current monopolies, as well as actions taken by government authorities to convict the firms engaging in anti – competitive behaviour.

Lack of Binding Laws

The existence of several bodies to bring forward international cooperation has been undertaken by several organizations that create forums, guidelines, as well as recommendations. Organizations such as the International Competition Network (ICN), Organization for Economic Co-Operation and Development (OECD), and several more institutions that highlight the development of international anti – trust laws only create non – binding laws that nations can opt out of in case of a change in the focus or change in the state. However, this increasing number of non – bound rulings often is a cause of governments failing to bring forward and collaborate towards a unified system, leading to the failure of serious attempts to collaborate towards such effort.

Whilst there has not been development on the front of strict laws with several nations, competition authorities have realized the power of collaborating together in an ever-increasing number of global firms is an extremely powerful tool and helps to collectively solve complex issues to the best of the public's interest. In these cases, the development of such authorities serves as a critical resource, as it spurs the requirement for collaboration as well as 'peer review'. However, the agreements between such authorities are often limited to Memoranda's of understanding (MOUs), which do not bring forward concrete collaboration as well as harmonization, causing the development of international competition law to stop.

Major Parties Involved and Their Views

United States of America

The **Federal Trade Commission (FTC)** of the United States government is the body responsible for the implementation of Anti-trust lawsuits in the United States and applies these to form the basis of the free market economy. The function of the Federal Trade Commission is mainly for three purposes:

- Enforcement of laws: The FTC has the power to bring forward civil suits into the federal court of the United states to suit adequate compensation towards violators of applicable laws. This includes the lack of procedural / legal following as well as the placement of fraudulent goods, and can often result in the parties being fined, detained or taken forward into further legal penalties.

- Investigation into anti – competitive behaviour: The FTC researches into market conditions to determine market structure and competition to determine the formation of monopolies as well as any anti – competitive behaviour that can be occurring in these. This includes the identification of cartels, predatory pricing, patent misuse and various other types of artificial barriers to entry. Once identified, it can take several steps to curb these problems, including implementing fines, legal penalties or splitting monopolies into smaller firms in order to increase competition.

- Challenging mergers and acquisitions: The FTC investigates into challenging M&A's that can result in a monopolistic market that could ultimately result in an extremely high market share. It can therefore deny further processing of mergers/acquisitions.

The Antitrust division of the **Department of Justice (DOJ**), a part of the government of the united states, is the organization responsible for bringing anti-trust lawsuits into court and enforcing them in federal courts. Furthermore, for cases between firms regarding the enforcement of Antitrust law, the DOJ acts as a mediator and accepts cases between all parties in order to assert applicable laws.

European Competition Authorities:

The European Union operates a unified competition authority in order to unify commercial regulations in the European Economic Area (EEA). European Antitrust policy is highlighted under articles 101 - 109 of the Treaty on the Functioning of the European Union and highlights the basic outline for all antitrust policies. Nations in the EU can proceed to have national competition Authorities working simultaneously with the European Commission to enforce these laws on monopolies, including the infliction of fines, damage claims, splitting and/or additional legal action.

The European Commission administers markets based on a competition – based approach, with research into the level of competition, as well as approach towards analyzing the

opposition as well as market share. The authority operates similarly to the Federal Trade Administration and the Department of Justice, but the difference arises that the organization has the authority to fine as well as take legal action towards the accused firm, whilst the Department of Justice is required to take the accused firm into federal court.

United Nations Conference on Trade and Development

With a mission of 'Prosperity for All', the UNCTAD aims to encourage economic growth and cooperation amongst all its 195 members, with constant work towards the creation of a globalized economy with fairness and integration. It mainly supports developing nations to receive economic tools in order to equally and consistently grow, as well as provide technical and skill – based assistance for efficient economic functioning.

The UNCTAD empowers LEDC markets to increase innovation and serve consumers by increasing competition and guiding competition authorities in these nations to reduce anti-competitive behaviour. Its annual meeting of Intergovernmental Group of Experts on Competition Law and Policy (IGE), enhances the development of policies, agencies and capacity, as well as further developing global cooperation on anti-trust laws.

Furthermore, the Agency provides long – term technical assistance to developing competition policies and better analyzing market condition through its COMPAL and AFRICOMP programs. The COMPAL program collaborates with the governments of Central American nations, including the states of Bolivia, Costa Rica, El Salvador and many more. It's comprehensive research into the current market conditions in each of these nations, as well as techniques to solve these in the future. This information is shared between each of the member states to further enhance their understanding of potential issues and rectify these with maximum efficiency. Its AFRICOMP program learns from practices conducted in the COMPAL program and replicates these in states inside the African Continent

Technology Companies

The technological sector can be attributed as the single most important sector to economic growth in modern times; offering the highest potential out of all market sectors. The 4 largest public companies by market cap (2019): Microsoft Co., Apple Inc, Amazon Inc., and Alphabet Co., are all one of the most dominant players in their respective markets and create an oligopoly in the technological sector. Furthermore, several other technological sectors are dominated by one large company, many of which have received such drastic increase in market through takeovers of competitors.

Antitrust probes against these tech giants – mainly in the United States and European Union – has in recent times gained momentum due to their growing size and changing competition. The main issue regarding them is their large size, which can cause smaller firms to often reduce profits or even fall into losses if these firms' requirements aren't met, causing a lack of competition and therefore fall in innovation and development of new products. For example, Apple Inc. is under trial due to allegations from competitor Blix for suppressing their app 'BlueMail' in the Apple app store, causing a reduction in their downloads and therefore users, hurting their profitability.

These companies stand by the fact that they should not be committed towards wrongdoing, since their large size has not directly hurt the consumer through extremely high prices or shoddy goods. In fact, they argue that their large size allows them to deliver better products since these companies have large control over their parts and design and therefore, design goods better suited to the general public. However, prosecution has still occurred over these companies, the most notorious case of which is the Federal Trade Commission (as well as the Department of Justice) and Microsoft Inc.'s antitrust lawsuit in 2001.

Microsoft Inc. was accused of monopolistic behaviour inside its Windows installed computers, which made it extremely hard for users to install third party internet browsers, forcing them to use the Microsoft provided browser Internet Explorer. Action against the firm reached a point where courts were about to force Microsoft to break-up into various smaller firms. However, this action was not undertaken due to flaws in the fundamental point of the debate itself. As stated before, Microsoft argued that their size allowed for better consumer experience (a point which was agreed forward by several consumers), but its competitors Opera Software Ltd., Linux OS and various competitors legislated against it anyways, ruling that the corporation was in violation of Sherman Antitrust Act of 1890. Ultimately, the action was

deemed void, but Microsoft was forced to make changes to the windows software in order to allow forward browser options.

Development of Issue/Timeline

Date	Event	Outcome
50 BC	Creation of the *Lex Julia de Annona*	The *Lex Julia de Annona*, implemented in the Roman Empire, acts as one of the first examples of competition law being implemented, an act at the time that seek to fine traders limiting corn supply lines
2 July 1890	The Sherman Antitrust Act is passed	Acting as the basis for modern anti – trust regulations, the US government passes the Sherman act which establishes regulations that "prohibits activities that restrict interstate commerce and competition in the marketplace"
15 October 1914	The Clayton Antitrust Act is signed into effect	The Clayton Antitrust act established in the United States highlights defines unethical business practices, anti – competitive behavior and labor rights
21 November 1947	The Havana Charter is signed by members	The Havana Charter signals the start of the International Trade Organization, an organization that aims to increase economic collaboration between nations, including principles of competition law.
1 January 1948	The General Agreement on Trade and Tariffs comes into effect	Signed by 23 nations while discussing in the United Nations Conference for Conference for Trade and Employment (UNCTE), the GATT acts as a replacement to the failed ITO which is not established

		due to lack of approval by the US government
30 December 1964	The United Nations Conference on Trade and Development is founded	The UNCTAD helped establish the stance of the UN in trade collaboration, and proposed the initial ideas for the establishment of international competition law
December 1980	The United Nations General Assembly adopts the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (The UN Set)	The UN Set is to date one of the only multilateral trade policies between member nations of the UN that provides a set of rules and practices that can be adopted to maintain and develop competition policy, and provides a framework for international co – operation as well as exchange of practices between member states, holding review conferences every 5 years to develop this as well as encourage collaboration
1 January 1995	The World Trade Organization is established by 123 nations	The World Trade Organization acts as the successor to the GATT, with comprehensive treaties and agreements to create an organization that establishes the presence of an international organization for nations to negotiate on trade disagreements
November 1997	The International Competition Policy Advisory Committee (ICPAC) is formed	The committee was created in the United States in order to address global anti – trust problems in the 21st century. It was disbanded in June 2000

27 February 2001	The hearing for Microsoft Corporation Anti – trust case is launched	The Case registered by the United States Department of Justice indicates the first modern case against a technology company
25 October 2001	The International Competition Network (ICN) is formed by 14 nations	Based on recommendations from the ICPAC and its final report, the ICN is established in order to greatly increase collaboration between competition authorities
November 2001	The World Trade Organization Ministerial Conference takes place in Doha, Qatar	The conference introduces the creation of international anti – trust laws to the members of the World Trade Organization, but ultimately does not convince them. The agenda is still open today.
September 2002	The ICN holds its first annual conference	The ICN holds its first annual conference for anti – trust regulations as well as discussions in Naples, Italy
27 June 2017	The European Commission files a case against Google Inc.	This case highlights the largest case ever held by the EC, involving 5 years of investigation and 3 separate allegations for anti – competitive behavior, including a fine of $2.7 billion, the largest by the organization

Previous Attempts to Solve the Issue

International Trade Organization

During the latter stages of the Great Depression, economies around the world were facing extremely high unemployment rates and dramatically reduced trade outputs. World War 1 left several nations with reduced financial security, coupled with inflating stock markets in the 1920s as well as decreased international trade, making it one of the worst economic recessions

in history and causing quality of life to plummet. Countries increased tariffs to recuperate the lost economic output, resulting in tariff increases from other nations as well, significantly reducing exports and causing further economic downturn. To combat this ever-rising issue, the USA proposed the creation of an international trade bloc, known as the International Trade Organization (ITO).

Completing the Havana Charter in 1947, the mission of the ITO was established and countries including the United States, Canada, Australia, France, Belgium, the Netherlands, and Luxembourg signed the treaty. The focus of the treaty was to establish an organization that regulates international trade, with several aspects of trade being standardized by member countries, including anti – trust regulations.

However, the organization was never formed due to the lack of interest by all members, as well as a lack of harmony between all members. This lack of interest begun by the lack of ratification by the United States' government, where the congress declined to follow the terms of the organization with opposition from multiple members of the congress. It was ultimately never ratified, and therefore resulted in the United States not taking part in it. This led to all other member states to lose their interest in the program, resulting in the cancellation of the proposed policies.

The policies of the treaty were then turned into the General Agreement into Trade and Tariffs (GATT), where only a selected number of policies were chosen by members, of which Anti – trust law was not a part.

World Trade Organization

The World Trade Organization acts as a successor to the International Trade Organization and the GATT, with 123 nations signing the treaty to form the World Trade Organization in1994, replacing the GATT. The World Trade Organization acts as an organization where member states can meet together to form trade agreements as well negotiations. Furthermore, member states can create trading systems as well as laws that can serve as economic practices for harmonic and more efficient trading, as well as discuss principles that must be followed upon in order to evade potential economic problems.

International Anti – trust law development began discussions at the 1996 Ministerial Conference in Singapore, before which the presence of anti – competitive issues was discusses

on a case by case basis. However, ministers at the conference decided to set up working groups in order to investigate and establish the presence of multinational antitrust regulations. The working group named 'Working Group on the Interaction between Trade and Competition Policy' (WGTCP), begun its research into the establishment of potential multinational anti – trust regulations, a move that the Havana Charter intended to cover but failed, and a move that was intended to be added in the GATT but also failed. Crucially, any regulations that would have been needed to pass would require the support of all member states. These findings were intended to be reviewed as a possibility at the 2001 Ministerial Conference in Doha, Qatar. At the conference, the competition question was put at agenda, with its principals being defined in paragraph 25 of the Doha Ministerial Declaration, which stated as follows:

"In the period until the Fifth Session, further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. Full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them"

It was a clear step towards development of international competition regulation; however, this step has not been taken and there have been no solid actions taken by members with help from the WGTCP. The lack of agreement between developing nations and other members, meant that the focus of future conferences was often diverted away from this issue. The issue was that, as stated in the Key Issues section, developing nations are not often willing to invest money and effort to develop strict antitrust regulations, and often allow local large business to engage in certain levels of anti – competitive behavior in order to encourage economic growth. Since then, competition regulations have never been on the agenda, and whilst several members engage towards it, the lack of fruition as well as interest by governments leads to the lack of growth for this concept.

International Competition Network

With constantly increasing numbers of multinational companies, it is extremely important for collaboration between national authorities of various states as well as non – governmental parties to take place at the highest level in order to create rigid solutions towards

anti-competitive behaviour. To bring forward this ideology, a specialized venue was created through recommendations from International Competition Policy Advisory Committee (ICPAC) in 1997, where national competition authorities, non – governmental agencies and economic experts can join together to conjoin ideas in order to implement new worldwide regulations and practices.

Acting as the world's 'go – to' anti-trust event, the network's annual conference since 2009 invites hundreds of experts globally to attend and discuss points about tackling cartels, mergers , unilateral conduct, etc. The network acts as an informal platform for members to collaborate and contribute multiple ideas as well as solutions towards presented problems and build forward towards common International anti-trust regulations.

The International competition network has served as an extremely viable platform in recent years for international collaboration between authorities in order to discuss potential problems as well as rules and guidelines that can be followed by member states as practices to further develop anti – trust regulations and update them to serve the standards of changing multinational companies. Constantly increasing collaboration between anti – trust regulators, particularly between the FTC and ECA, has been helped particularly through the ICN, and therefore has helped take unanimous action on similar matters on the same companies, allowing a simpler process for firms as well as consumers, as well as more comprehensive decision making.

However, with its goal to create International anti – trust regulations, the ICN has not been successful with its goals, particularly due to the presence of non – binding regulations compared to binding ones. Nations, as covered before, are not willing to develop complex anti – trust regulations and the rules as well as guidelines present in the ICN being non – binding creates opportunities for nations to follow steps that often support their intention, causing the development of international anti – trust to stall.

Possible Solutions

Field Hearings for Monopolistic Investigations / Outcomes

An issue with several nations in today's world is the lack of public information on the presence of anti – competitive behavior is due to the lack of information passed by the government after investigations. This causes the general public to often ignore such aspects of the economy and encourage the presence of monopolies, leading to the creation of a growing problem. This causes local agencies and politicians not taking the most decisive actions due to the lack of public interest not leading towards any favorable voting, leading to several mergers as well as collusions to be ignored.

Releasing information about the findings of investigations to the public, as well as keeping field hearings by economists as well as experts outside the government in order to attain feedback will greatly help increase the viability as well as efficiency of solutions for consumers, and greatly support the presence of healthy competition within several markets. Furthermore, If successful, these hearings can be taken to consumers / individuals impact by the alleged firm in order to attain more comprehensive detail on the scenario as well as assess the problem through the view of multiple stakeholders.

This example has been placed in history, with the establishment of the Temporary National Economic Committee (TNEC) in the United States from 1938 – 1941, with testimonies from 552 people from its 3 years stint presence that comprised of several citizens, stakeholders of various markets, as well as the general public in order to lay findings towards the creation of its final report in 1941 comprised of various economic stimuli to be taken forward including competition law. The TNEC represented short – term as well as long – term changes in US business administration that were needed to be assessed, with several recommendation being published by the committee in order to solve these potential issues. However, the Great Depression took away the interest in the general public to resolve long term business practices, leading to little impact or influence.

Creation of a Singular Competition board

The correct enforcement of anti – trust law is dependent on two factors – the presence of comprehensive investigation as well as information and the creation of a responsible authority with the appropriate tools as well as decision making present in order to correctly implement appropriate legal action on the accused. In order to create International Anti – trust laws, a board of economic and business experts, lawyers and inter – governmental officials that contribute towards the creation as well as implementation of competition laws. Administered by the UN, the board will set out a comprehensive market research in order to create suitable laws

that fit with the ideologies of every nation and create collaborative laws that suit the needs of modern times. Crucially, the presence of members will be formed through a trade agreement, with all decisions being binding.

The positive aspect of such a board is that developed as well as developing nations can join in it without large problems, mainly as the cost of maintaining a national competition authority will be significantly reduced or even eliminated, allowing for consumers and stakeholders in all nations to benefit from a decrease in the number of monopolies, including low pay workers in LEDCs.

Regulation of Essential Industries

As discussed above, Technology Giants have risen to Monopoly status through constant mergers and Acquisitions that allows them to control extremely large portions of consumer data and ultimately market share. However, the monopoly problem is not only restricted to the Technology sector, but the healthcare and various other essential service sectors. The Global healthcare sector in 2018 was worth $8.452 Trillion, with Compound Annual Growth Rate (CAGR) at an estimated 8.9% yearly until 2022, an estimated valuation of $11.908 trillion. Whilst it consists of several small players, with the largest 10 companies only consisting of 7.2% market share. However, certain nations, notably the United States with the highest per capita healthcare costs and extremely expensive private healthcare. An example of these is the market of ventilator suppliers, where 2 companies control 98% of the entire market, and consistently drive up prices, causing healthcare to become unaffordable for almost all citizens.

In order to stop this monopolization, markets providing essential services with monopolies should either be heavily regulated or taken completely under government control in order to increase innovation and decrease prices. This will ensure that needs are presented as merit goods to the public so that the development of the general society takes place, and consumers unable to afford these goods, especially in LEDCs, are able to receive appropriate treatment and care.

Implementation of Formal Trade / Collaboration Agreements

The implementation of international competition requires immense time and research, mainly due to the large complexity of such laws. Meanwhile, cross border mergers and acquisitions have consistently been increasing, with projections from the OECD stating that there will be 66% more cross – border M&As in 2030 compared to 2011. This indicates that the

number of cartel formations as well as multinational monopolies will consistently rise, leading to potential damaging effects to their respective markets. But whilst such occurrences have been taking place since the 1990s, the large increase in current projects suggest severe negative effects that world governments and stakeholders cannot ignore.

A solution to this is the establishment of Trade agreements between nations to support competition enforcement in a more rigid system and result in increased collaboration. This will allow much increased and effective decision making through the expertise of all parties on all cases, not only ones that affect certain states, as it occurs today. The estimate from the same OECD report shows that collaboration would increase the number of prosecutions by 92 – 162% by 2030.

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