

# **Promoting Competition for Sustainable and Inclusive Development in Bangladesh\***

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Keynote paper prepared for the seminar on

## **The Role of Competition Commission in Sustainable and Inclusive Development**

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# Promoting Competition for Sustainable and Inclusive Development in Bangladesh

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## I. Background

Competitive markets are widely regarded as a major force for driving economic growth, augmenting efficiency for enhanced productivity, and promoting consumers' welfare. Because of various imperfections, it is widely acknowledged that markets often cannot generate desired outcomes and need interventions. Effective Implementation of competition policy is one of the most recommended strategies for ensuring a healthy competitive environment.<sup>1</sup>

A set of policies and instruments that are intended to preserve and promote competition among market players are generally referred to as competition policy. In practical terms, it involves efforts at tackling cartels or other collusive practices affecting prices and other market outcomes; preventing mergers that could result in significant lessening of competition; and dealing with actions including state aid, which exert undue market power by one or small group of actors (White, 2008). Its major policy instruments include:

- a competition law, specifying rules to restrict anti-competitive practices;
- an enforcement mechanism usually backed by an authority;
- and competition advocacy raising awareness and advocating for reforms to improve competitive environment.<sup>2</sup>

Competition policy can act as a direct and indirect contributor to growth and inclusive development. Generally, competition is known to have a positive impact on total factor productivity and thus growth.<sup>3</sup> By lowering prices and improving market outcomes, it can help low-income households (Figure 1). It has been argued that good governance, macroeconomic stability, investment in human development, and social policies to protect the poor are important for promoting economic growth and shared prosperity, but they may not be enough to improve the welfare of the poor (World Bank and OECD, 2017). In this context, competition policy and its effective enforcement can play a critical role. Nobel laureate economist Joseph Stiglitz, thus aptly observes, "strong competition policy is not just a luxury to be enjoyed by rich countries, but a real necessity for those striving to create democratic

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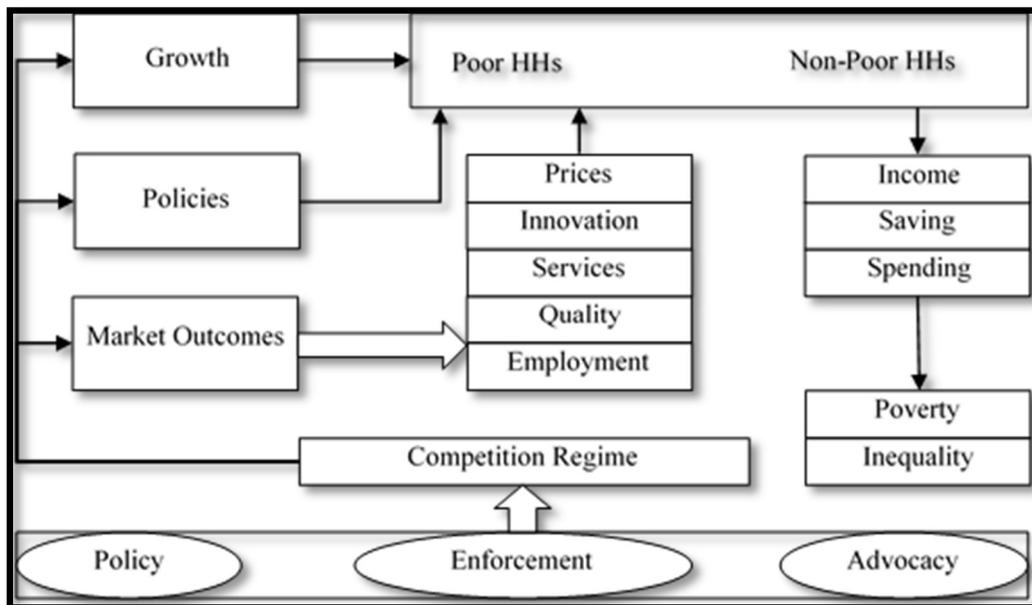
<sup>1</sup> Amongst others Mónago (2013) and World Bank and OECD (2017) provide detailed discussions on how competition policy can be a powerful tool for development and for complementing efforts for alleviating poverty and ensuring fairer distribution.

<sup>2</sup> According to UNCTAD (2010), competition advocacy is particularly important given its the interface with other economic policies.

<sup>3</sup> Amongst others, White (2008), points out that competition policy helps facilitate higher rates of domestic saving and/or increased consumers' spending capacity; it can promote efficient utilization of savings by channeling them into productive investments; by ensuring competition it can encourage productivity improvements and innovation; encourage entrepreneurship; and encourage efficient markets.

market economies”<sup>4</sup>. In the early-1980s, only 15 countries had enacted competition laws. This number increased to about 130 over the past three decades.

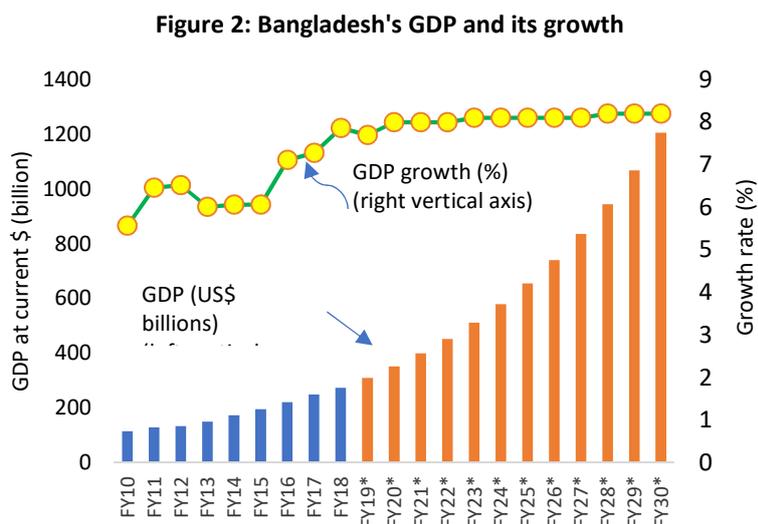
**Figure 1: Competition policy in action**



Source: Author’s illustration.

## II. The Need for A Strengthened Competition Policy Regime in Bangladesh

Bangladesh has made spectacular strides forward in its economic development. From a fragile socio-economic set up at independence, it has emerged as “development surprise”. Its economy has grown

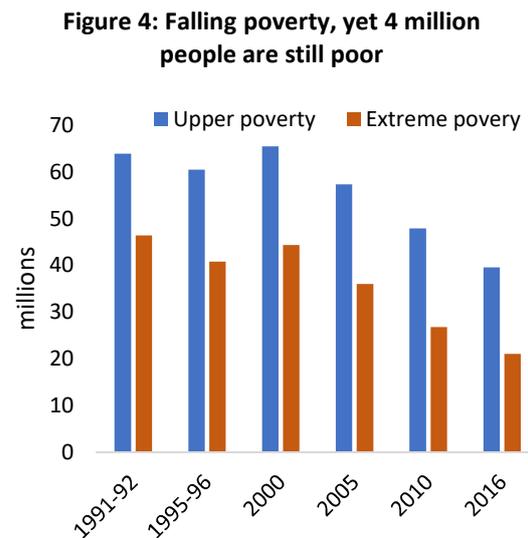
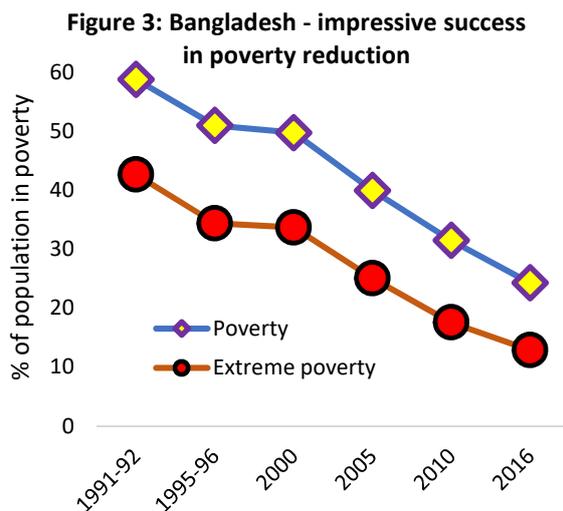


Note: \* indicates projections.  
 Source: Author’s presentation using data from BBS and the Bangladesh Delta Plan 2100

on average at an annual rate of 5.6 percent for the past three decades or so, with the comparable growth rate for the past 10 years being more buoyant at 6.3 percent. This means a mere \$35 billion economy of the mid-1990s has grown to a sizeable \$275 billion today (Figure 2). During the same time, per capita income registered more than a five-fold rise from \$320 to \$1,715. The dependence on foreign aid declined from around 8 percent of GDP in the 1980s to just

<sup>4</sup> Stiglitz, J. (2001). *Competing over competition Policy*, (2001) <https://www.project-syndicate.org/commentary/competing-over-competition-policy>

around 2 percent. In the mid-1990s, while more than half of the population lived on less than the nationally determined poverty line income, it fell to 24.3 percent in 2016 (Figure 3). Compared with many other countries at a similar stage of development, Bangladesh has made faster progress in various social and human development indicators.<sup>5</sup> The rising per capita income enabled Bangladesh in 2015 to move up into “lower-middle income” from “low-income” economies as classified by the World Bank. It is firmly set to graduate from the group of least developed countries (LDCs) by 2024.<sup>6</sup> If the growth performance is maintained, by 2030 it will be amongst world’s biggest 28 economies in terms of GDP measured in purchasing power parity (PPP) dollars.<sup>7</sup>



Source: Bangladesh Bureau of Statistics (BBS).

Notwithstanding the impressive achievements, for Bangladesh to sustain high economic growth as part of its inclusive development strategy, tackling inequality remains a challenge. Close to **40 million** people still live in **poverty** (Figure 4) and another **30 million** are considered **‘vulnerable’** given the risks and uncertainties they face in slipping back to poverty due to any modest loss of income from any sudden shocks.<sup>8</sup> Along with this, equitable prosperity confronts a major challenge in the face of rising overall income and consumption inequalities. The income share received by the bottom 40 percent of the population has steadily fallen from more than 17 percent in the 1990s to 13 percent. The same

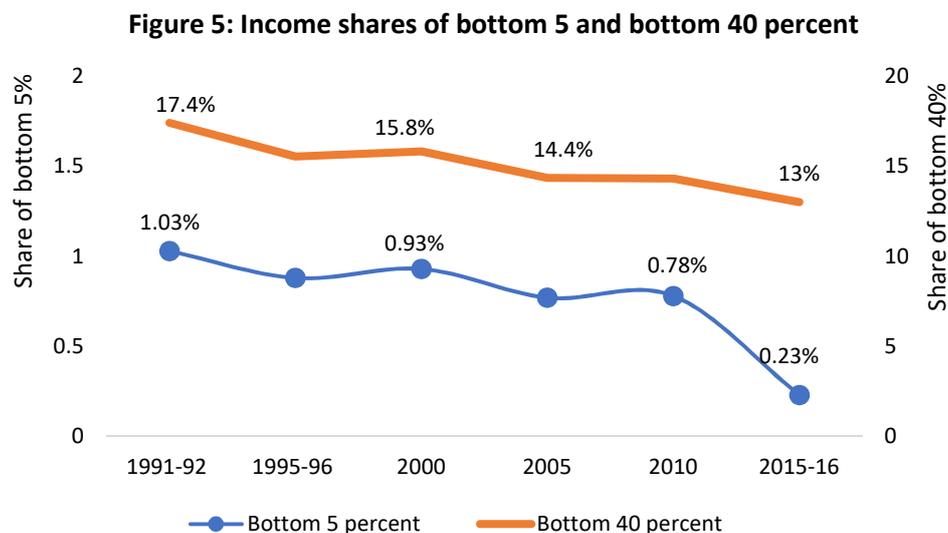
<sup>5</sup> A summary of Bangladesh’s major socio-economic achievements leading to graduation from LDC status can be found in Razzaque (2018).

<sup>6</sup> Unlike income classification of the World Bank, LDC graduation requires a country to meet development thresholds under at least two of the three pre-defined criteria (of per capita income, human asset and economic vulnerability) in two consecutive triennial reviews. There is also a provision for the ‘income-only’ graduation rule under which, if the 3-year average per-capita gross national income of an LDC has risen to a level at least double the graduation threshold, the country could be eligible for graduation regardless of its situation under the other two criteria.

<sup>7</sup> This is based on a projection exercise carried out by the PriceWaterhouseCoopers as can be found at: <https://www.weforum.org/agenda/2017/02/a-prediction-the-worlds-most-powerful-economies-in-2030>

<sup>8</sup> The National Social Security Strategy (NSSS) defines vulnerable population as those who are living above the national poverty line but have per capita income less than 1.25 times the national (upper) poverty line.

share for the bottom five percent of the population has got squeezed to just 0.23 from 1 percent (Figure 5).<sup>9</sup>



Source: Author's analysis using data from Bangladesh Bureau of Statistics.

Because of rising inequality, the impact of growth on poverty is falling. It has been estimated that during 2005-10 a one-percent GDP growth was associated with 1.8 percent fall in moderate poverty and 1.5 percent fall in extreme poverty. But, between 2010 and 2016, the corresponding rates fell to 1.2 and 0.8 percent, respectively (Khondker, 2018). According to one recent analysis, if the growth had been more equally distributed, poverty incidence during 2010-16 would have fallen by an additional percentage point (Hill and Endara, 2019).

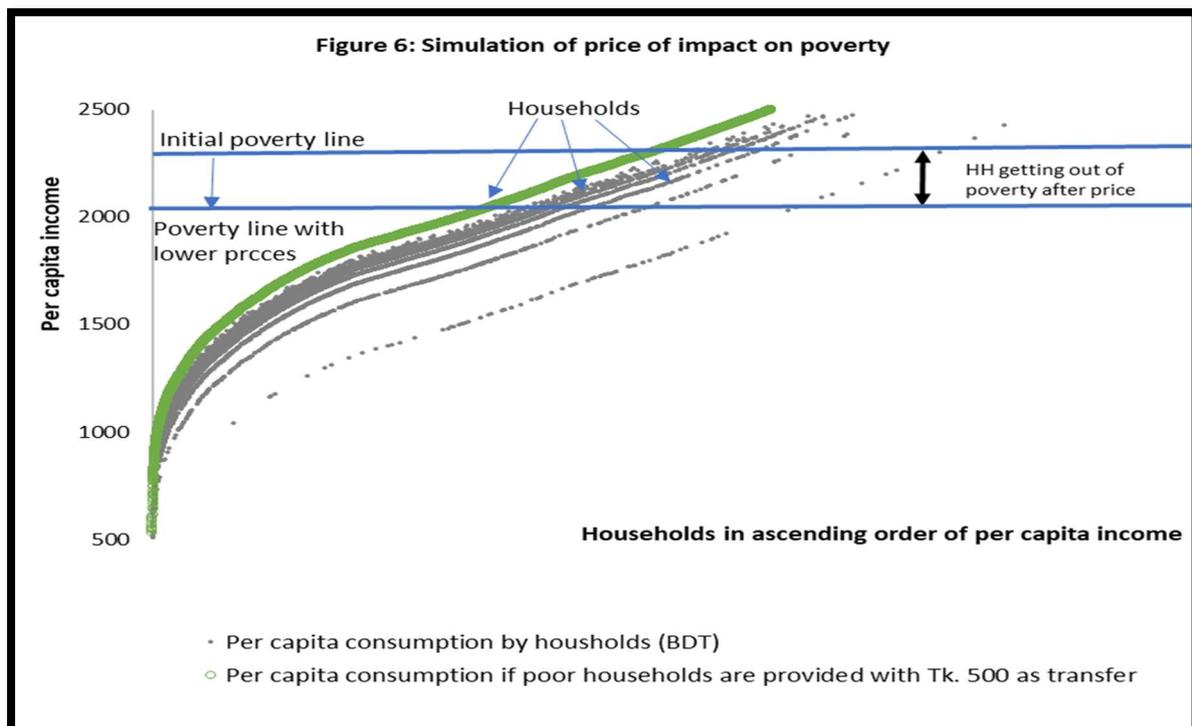
It is true that policymakers strive for achieving higher economic growth and addressing the concern of rising inequality through various measures. However, one potentially powerful instrument that can help with both the objectives – competition policy – should be put to more proactive use. There is a general recognition of widespread and rising burden of non-competitive effect. For example, while the middle and affluent consumers' class in Bangladesh is on the rise, it has been estimated that Bangladeshi consumers have to pay 70 percent above international prices for buying consumer goods in the domestic market with resultant excessive costs estimated at more than \$14 billion (Sattar, 2018). This shows the opportunity costs in terms of savings for investment as well as increased demand for additional goods and services.<sup>10</sup>

<sup>9</sup> Economists use a measure called the Gini coefficient to express overall situation of inequality. For Bangladesh, the coefficient has increased from 0.458 in 2010 to 0.483 in 2016, providing evidence of rising inequality. Another popular measure of inequality, the Palma ratio, shows the ratio of the richest 10 percent of the population's share of gross national income divided by the poorest 40 percent share. This ratio has also increased from 2.503 to 2.933, vindicating rising inequality.

<sup>10</sup> In a 2005 survey undertaken by the Bangladesh Enterprise Institute (BEI), respondents mentioned widespread practices of anti-competitive practices involving collective price fixing, monopoly, bid-rigging, discriminatory dealings, exclusive dealings, entry barriers, tied-selling, etc. (Saieed, 2014).

Lower-income groups are particularly prone to anti-competitive behavior by firms and regulative restrictions (World Bank and OECD, 2017). As they have to spend a greater part of their income on basic goods and services, any anti-competitive practices in these markets will have a disproportionately higher impact on them. By removing inefficiencies in those markets that are particularly relevant to them, competition policy can have a more direct impact on the level and distribution of household welfare. In the longer term, effective competition should boost overall economic growth (through the entry, growth, and expansion of more efficient firms, as well as higher productivity) from which lower income households will be able to benefit more.

It then follows that competition policy enforcement can complement poverty reduction measures such as social protection spending by the Government of Bangladesh, comprising about 13 percent of the national budget or about 2 percent of GDP. Many of these schemes are direct cash transfers to the poor, who tend to use the assistance provided on basic goods. Dealing with anticompetitive behavior in these sectors is important to prevent these transfers from leaking to firms or other actors in the form of anticompetitive profits. Furthermore, if competition policy can help lower prices of goods and services consumed by poor households this can have a very robust impact on their welfare. A simulation exercise using BBS data shows that if prices of necessities fell by 10 percent along with a rise of monthly government transfers to poor households by TK 500, more than 16.5 million people from around 4 million households would be lifted out of poverty.<sup>11</sup> This would also imply the poverty headcount ratio to fall from currently 24.3 percent to 14 percent with also an estimated impact of reduced income inequality.



Source: Author's simulation using BBS Household Income and Expenditure Survey 2016 data.

<sup>11</sup> As mentioned above, the government is already providing social protection support to many poor and vulnerable households and there are plans for increasing the coverage and allowances. Therefore, the consideration of increasing the transfers by Tk 500 per month is quite a reasonable one.

Bangladesh can draw lessons from the overwhelming international evidence showing the importance of competition policy in promoting inclusive growth.<sup>12</sup>

- Using cross-country data, it has been shown that after taking into consideration of such factors as macroeconomic environment, financial market development, and political stability, the impact of the intensity of local competition on per capita income lies in the range 2 – 12% (Mónago, 2013).<sup>13</sup>
- Evidence on India, based on the variation in regulatory environment across states, finds competition policy elements in product markets to have a significant impact on labour and total factor productivity and thus on economic growth (Conway et al., 2008).
- For OECD countries, the estimated impact of competition policy on TFP growth for a large number of industries is found to be positive (Buccirossi et al., 2013).
- Similarly, a report by the Australian Productivity Commission quantifies the expected benefits from competition reforms as an annual gain in real GDP of 5.5 percent and consumer welfare gains by AU\$9bn<sup>14</sup>.
- In the case of Croatia, eliminating anticompetitive regulation in energy, telecommunications, and transport would be associated with an increase GDP per capita by 1.35–2.77 percent (De Rosa et al. 2009).<sup>15</sup>

In addition to growth effects, there is also ample evidence of competition policy having positive impact on consumers' welfare and pro-poor outcomes, and failure to apply it resulting in adverse consequences particularly for poor households.

- For example, South Africa experienced a decline of approximately 27 percent in prices of health care products after an antitrust intervention by the authorities (OECD 2003).
- On the other hand, consumer welfare loss for Mexico due to weak competition in the telecommunication sector has been estimated at an average of about US\$26 billion per annum over the period 2005–09, equivalent to 1.8 percent of yearly GDP (Stryszowska (2012).
- Again, an analysis of excessive market power in Mexico for a range of basic products finds the net consumer welfare loss for the poorest groups being 20 percent higher than that for the richest groups (Urzua, 2013).
- Overall, World Bank and OECD (2017) estimates show economic harm caused by cartels that are already detected in developing countries is substantial as the affected sales to GDP can reach up to 6.38 percent, while excess profits resulting from unjustified price overcharges

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<sup>12</sup> World Bank and OECD (2017) provides a useful collection of several analytical and empirical exercises generating evidence from a large number of developing and developed economies. This section of this paper makes use of some of the results reported in the publication.

<sup>13</sup> The 2007 Global Competitiveness Report by the World Economic Forum also found the evidence of local competition on per capita GDP.

<sup>14</sup> This is based on CUTS (2019) with the reference to the report as DAF/COMP/GF/WD(2013), p.1.

<sup>15</sup> As the energy sector is closely linked to widespread economic activities, developed country governments are very serious about assessing anti-competitive practices in the sector as well as taking actions in eliminating antitrust violations in wholesale energy markets. There is evidence of the European Commission's applying punitive actions against spot power exchange cartels and for abuse of dominance (<https://www.bclplaw.com/en-GB/thought-leadership/energy-sector-antitrust-risk-highlighted-eu-fines-power-exchanges-for-anti-competitive-practices.html>).

reach up to 1 percent of GDP. If the consequences arising from the cartels that are not detected yet, the total damage could be at least four times larger.

As Bangladesh economy is rapidly growing, failure to ensure a competitive environment could result in massive economic consequences. Major cartels prosecuted in developing countries since the mid-1990s include a variety of products and services, the demand for which is also growing apace in Bangladesh. These include, among others, bricks, cargo transportation, cement, energy, health care, cable tv services, generic drugs, security guard services, transportation, steel, bank interest rates, cooking oil, salt, plastic pipes, freight forwarding, sugar, internet service, sand and construction materials, soft drinks, etc.<sup>16</sup> Along with cartels, there are many other forms of anti-competitive practices. The experience from the developing countries would thus suggest the need for putting in place an effective competition regime.

### III. Salient Features of the Current Policy Regime

Bangladesh's competition policy regime is relatively new. The Competition Act was enacted in 2012 (Act No. XXIII of 2012) to ensure competitive environment and to prevent, control and eradicate anti-competitive practices. Under this Act, the Bangladesh Competitive Commission was established, clearly delineating the duties and functions of the Commission.

The prohibition/regulation of three broad anti-competitive practices that have been specified in the Act are: anti-competition agreements (section 15); abuse of dominant positions (section 16); and anti-competitive combinations (section 21). Anti-competitive agreements are defined as direct or indirect collusions in respect of production, supply, distribution, storage, acquisition or control of goods or provision of services, which causes or is likely to cause an adverse effect on competition. These include, amongst others, price fixing arrangements, bid-rigging agreements, market share/allocation agreements, tie-in-sale arrangements, exclusive supply and distribution agreements, etc. Section 15 also specifies that the prohibition/regulation will not apply in protecting intellectual property rights [section 15(4) (i)] and protecting the right of any person to export goods [section 15(4) (ii)].<sup>17</sup>

Types of abuse of dominant positions are mentioned in section 16, which includes unfair or discriminatory conditions in purchase or sale of goods and services; limits or restricts production of goods and services or technical or scientific development relating to the goods and services; actions to restrict market access by others, etc. Abuse of dominance could result in such practices as charging excessive prices over intellectual property rights, price discrimination, predatory pricing to deter market entry or eliminate competition. Finally, section 21 deals with combinations that can cause adverse effect on competition. These combinations include mergers, acquisitions and consolidation schemes.<sup>18</sup> The Act (section 22) also stipulates that if an anti-competition arrangement is committed outside of Bangladesh causing adverse effect in the relevant market within the country, the Commission can enquire into the matter in accordance with laws and rules of both the countries. With

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<sup>16</sup> See World Bank and OECD (2017) for details.

<sup>17</sup> The reference is given only to export "goods" and nothing is mentioned about services.

<sup>18</sup> In a merger, the acquired company ceases to exist and becomes part of the acquiring company. In a simple acquisition, the acquiring company obtains the majority stake in the acquired firm, which does not change its name or legal structure. Finally, consolidation creates a new company.

already an substantial **import** volume – close to **US\$50 billion** – growing strongly, this can also be an important area of anti-competitive practices that might need **attention**.

One important feature of the Competition Act is that it allows the Commission to inquire into anti-competitive practices based on receipt of any complaint or own its own initiative [section 8(b) and 8(2)]. Thus, **proactive** initiatives by the Commission are within its mandate. Another salient aspect of the Act is the recognition of the need for interactions with other statutory bodies and specifying the authority of the Commission. Section **14(1)** states, “When any person raises any objection that any course of proceeding of any statutory body or any decision of such body is contrary or likely to be contrary to any of the provisions of this Act, such statutory body may, on its own motion, refer the issue, suspending the continuation of the proceeding to the commission for taking proper action on it.”

The Act provides guidelines for how complaints, inquiries, and punitive actions will be conducted (Chapter IV). Provisions for review of orders of the Commission and appeal procedures are also stated (Chapter V, section 29 and 30).

It is however important to recognize that given the scope of the mandate of promoting a competitive environment, the Commission’s work cuts across various policy arenas. For example, **trade** and **industrial policies** do have a direct influence on the competition regime in the country. Again, fiscal and monetary policies and sector-specific reforms have also profound implications. How the outcomes arising from these existing policies interact with the overall ambition of the competition policy regime is something that deserves serious consideration. The other issue is coordination and potential conflicts with sector-specific regulators.<sup>19</sup>

The Competition Act quite appropriately emphasizes on raising awareness. In specifying duties, powers and functions of the Commission, it states one task as to “take necessary plan of actions for developing awareness among the people about the matters relating to competition by the way of dissemination, publication and other means [section 8 (g)]. It further mandates the Commission to develop mass awareness by conducting research, seminars, workshops and other means [section 8(h)].

#### **IV. Way forward for Bangladesh**

International experience suggests convergence in the scope, coverage and enforcement of competition laws and policies worldwide (UNCTAD, 2010). This is due to such factors as (a) adoption of liberal policies and growing awareness about the importance of competition policies in promoting efficiency and thus more productive utilization of resources, (b) greater emphasis on consumer welfare, (c) the universal condemnation of collusive practices, and (d) a more prominent role for competition authorities in advocating competition principles in the application of other governmental policies. From these perspectives, it follows from the above that the existing Competition Act provides an important basis for developing a proactive competition regime in Bangladesh.

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<sup>19</sup> For example, Afroz (2012) poses the question, how would the SEC or the BERC would envisage their regulatory roles vis-à-vis the Competition Commission?

In any dynamic economy, the task for Competition authorities can be quite involved given the interlinkages and interactions of different factors (including the national objectives of industrialisation and economic development promoting certain sectors) with the issue of competition. This is further exacerbated by the need for using economic frameworks in combination with empirical evidence in determining anti-competitive practices. Developing specialised knowledge for certain sector-specific complex issues is a prerequisite for effective regulation. Consequently, many countries have different agencies dealing with certain sectors.<sup>20</sup>

Developing a modern and proactive competition policy regime therefore may be considered as work-in-progress through sustained **capacity building** in some identified priority areas and expanding the scope gradually. It has been argued that countries at different level of development and governance capacities require different types of competition policies (Singh 2002). That is, a one-size-fits-all approach will be inappropriate. As it may not be possible for a developing country like Bangladesh to incorporate all aspects of competition policy, a staged approach may be helpful.<sup>21</sup> At an early stage of implementation, competition authorities need to strengthen capacities and build the **trust** of the public. This can be greatly aided by placing concerned actions on those practices that clearly hinder competition. Given the national priority of **inclusive development**, there should also be efforts in dealing with those anti-competitive practices that disproportionately affect **poor and vulnerable** households.

The sequential approach however does not imply that the initial focus should only be in traditional areas, e.g. in those sectors in which today's developed and/or advanced developed countries had experienced much of anti-competitive practices at their early stage of development. For example, because of technological revolutions, many service sectors are growing rapidly.<sup>22</sup> Competition related issues with them could be a relatively new phenomenon both in advanced and developing countries. However, given the significance of the sector, even developing countries like Bangladesh may need to develop capacities to promote competitive environment in these sectors.

The cross-country evidence of widespread presence of anti-competitive behaviour could indicate that the severity of the problem in the context of Bangladesh has perhaps gone largely unnoticed because of lack of **analysis** with serious consequences inflicted on the economy and consumers. Under this very likely circumstance, the scope of the work of the Commission is truly enormous.

In going forward, the need for institutional and capacity building of the Competition Commission can be hardly overstated. There is the concern of resource constraints of competition authorities not only in Bangladesh but also in many other developing economies. However, considering the potential gains

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<sup>20</sup> For example, the key regulators in the UK include OFWAT for water monopolies, Ofcom for telecommunications and broadcasting, FCA for financial services, Rail Regulator for Railways and Ofgem for energy.

<sup>21</sup> According to such a staged development policy, tackling horizontal cartels and competition advocacy have been suggested to be the focus in the first stage followed by mergers and vertical combination in the second stage. More involved reform measures and advanced overseeing are suggested for the third stage (Kurokochi, 1999).

<sup>22</sup> According to Peter (2017), one of the most prominent issues in the competition policy discourse today is the rapid change in markets, led by technology, innovation and disruptions.

from ensuring a competitive environment, competition-related capacity building should be given a priority. It is not about the capacity building of regulatory authorities only, the overall knowledgebase and expertise within the country on the relevant issues must be developed for effective implementation of the policy regime. It is in this context that the Commission can play a vital role by generating demand from research, advocacy material and other informed inputs. In the absence of rigorous economic analysis behind the cases under investigations, any decisions might be considered as discretionary in nature, affecting confidence of the stakeholders. It is one of the areas where the Commission can proactively engage with the universities, research institutes and other think-tanks to start generating knowledge products, exchanging ideas and identifying scope of research and policy work. While the Commission can demand resources from the Government for undertaking specific research and analysis, its intent to be benefited from such work can also help universities and other research think tanks mobilise resources from various donors and international channels.

In implementing competition policy, political economy factors must be given a serious consideration. Competition brings benefits to consumer groups and to many firms that do not/cannot actively pursue their demands for reforms facilitating their market access and business growth. On the other hand, vested interests favouring status quo can be well-organized to make authorities vulnerable to their pressure. It is thus critical to mobilise support for competition policy through advocacy. For this to be achieved, raising mass awareness amongst potential beneficiaries such as small and medium size enterprises, consumers, and civil society groups is extremely important.

Competition advocacy is also needed to sensitise the government as a whole including various ministries, departments and other regulatory bodies. Within its mandate, the Commission should be able to freely review, provide comments and make recommendations for bringing changes in any proposed laws and existing practices that would contribute to overall competition environment in the country.

## V. Conclusion

Building on a solid track record, Bangladesh aspires to achieve higher economic growth with shared prosperity and sustainable development. The government is strongly committed to reducing poverty and inequality so that all population groups including those that are currently among poor and vulnerable can meaningfully benefit from the growth and development process. This commitment is reflected in Vision 2021, the Perspective Plan of Bangladesh 2010-2021 and in the 7<sup>th</sup> Five Year Plan FY16-FY20. Notwithstanding the spectacular success of the country, inclusive development remains a policy objective to be seriously pursued along with growth acceleration. Effective implementation of competition policy can be a complementary means for attaining these goals.

The Competition Act in place contains many useful provisions for promoting competitive environment. However, what is perhaps most important at this stage is to build capacity for effective implementation of the Act. The level of awareness surrounding competition-related issues among all stakeholders, including the government, private sector enterprises, academics and researchers, consumers' groups and the general civil society is limited. Given its importance in achieving improved economic efficiency and distributional outcomes, it is high time to strengthen the Competition regime in Bangladesh.

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