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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
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Global Forum on Competition

**THE PROMOTION OF COMPETITIVE NEUTRALITY BY COMPETITION AUTHORITIES -
Contribution from Bangladesh**

- Session III -

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This contribution is submitted by Bangladesh under Session III of the Global Forum on Competition to be held on 6-8 December 2021.

More documentation related to this discussion can be found at: oe.cd/pcnca.

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The Promotion of Competitive Neutrality by Competition Authorities

– Contribution from Bangladesh –

1. Bangladesh Competition Commission (BCC) addresses competitive neutrality through Section- 15 & 16 of Bangladesh Competition Act, 2012 through ensuring level playing field for all the players in the market. Regulatory framework and effective monitoring are key to level playing field. BCC intends to identify some tools and frameworks, non-enforcement actions, raising awareness enforcement to address competitive neutrality.

1. Types of distortions BCC is concerned with:

- Offering undue advantages to some state owned enterprise.
- Providing benefits/privileged to some enterprise.
- Uneven liberalisation and sector regulation can distort market competition.

2. Specific tools to address anti-competitive state actions:

- Conducting advocacy program with state enterprises and others relevant players.
 - Monitoring bid-rigging in tender restrictions, predatory pricing
 - Restricting supply and distribution Agreement.
 - Restricting Abuse of dominant position; Merger and others anti-competitive agreement)
2. BCC is not addressing competitive neutrality through other policies or laws

3. Role of Competition Authority:

- Establishing similar competition disciplines as private enterprise.
- Restricting generalization of SOE.
- Formulating framework for SOE and other private enterprises to establish competition neutrality.
- Formulating competitive neutrality policies.

4. Specific tools to address anti-competitive state actions:

- Promoting eliminating adverse effect on competition and c sustainable competition.
- Inquire investigation and complaint of its own.

- Impose administrative financial penalty.
 - Adopting structure and governance rules.
 - Good corporate governance principled.
3. BCC applied competition law to all enterprises in its jurisdiction in an equal manner.

5. Practical difficulties that may limit the scope of BCC's intervention:

- Limitation of land in some particular cases.
 - Limitation of financial and technical resources.
 - Lack of corporate governance principles.
4. Bangladesh Competition Commission (BCC) has analysed financial industry from a competitive neutrality perspective.

6. Reasons why BCC has selected the financial sector

5. During this Covid-19 pandemic Bangladesh government has declared stimulus packages for the poor citizen to ensure development of economic and health sector. BCC think in order to ensure the proper utilization of stimulus packages, we need to ensure the competitive neutrality in the financial sector.
6. In some particular cases regulatory frameworks undermine competitive neutrality.
7. BCC think the state owned transportation; utility services providers enjoy uneven trade liberalization with the advance of getting preferential treatment, favourable tax treatment and excessive compensation by the state authority.
8. BCC has analysed whether public procurement framework in its jurisdiction to assess whether it may distort competition.

7. Tools to promote the competitive neutrality

- Stopping Bid rigging in public procurement with the implementation of e-gp.
 - Conducting advocacy programs with public purchasers.
9. BCC has also analysed whether public procurement procedure in its jurisdiction have distorted competition in practice. BCC in co-operation with public purchasers promoting competition and conducting advocacy programs.
10. BCC is not involved in the design or implementation of public support measures.
11. BCC is using the following tools to ensure competitive neutrality:
- Laws and regulations
 - Effective implementation of Bangladesh Competition law.
 - Enhancing monitoring program.
 - Imposing Administrative and Financial penalty.

- Public service
 - Conducting advocacy program
 - Publishing circulars; research report and findings for the people.
 - Industrial policy
 - Restructuring and privatization of the state owned enterprise.
 - Establishing the subsidy to state owned enterprise.
12. BCC is facing the following challenges when trying to protect the competitive neutrality:
- The impact of Applying law has sometime gone beyond BCC to another jurisdiction.
 - The lack of obligation is sometimes visible to others regulatory body and government organization.
 - Quasi-judicial consideration of the implementation of law is unusual.
 - Other jurisdictions sometimes challenge competition authority in court.
13. BCC is not facing any undue state pressure when scrutinising the conduct of a state influenced activity or entity.
14. In some particular cases BCC is facing difficulties:
- When there is only one supplier or distributors for a particular product/service.
 - When to require the balancing the multiple policy goals.
 - When it is the national champion.
15. Sometimes other public authorities, such as sector regulators, entrusted with powers to address competitive neutrality distortions.
16. By the following ways BCC is co-operating on competitive neutrality distortions:
- Sharing competition related policies and best practices.
 - Additionally the reason of market failure due to lack of competition neutrality and finding the common interest against the distortionary effect of the lack of competition neutrality.