

**Keynote Address**  
**Delhi Economics Conclave**  
**December 12, 2013**

Hon'ble Minister of Road Transport and Highways Mr. Oscar Fernandes, Secretary Arvind Mayaram, distinguished ladies and gentlemen,

1. I am thankful to the Department of Economic Affairs for inviting me to be one of the speakers at the closing session of the Conclave. It is indeed a privilege to address such an eminent gathering of thinkers, academicians and policymakers.

2. The theme of the session is Infrastructure Financing and Corporate Governance. I am sure Shri Venkatesh will cover the entire bandwidth of infrastructure financing. I will confine myself to Corporate governance, more specifically corporate behavior in a market economy with a fair degree of competition.

3. Let me begin by saying that the dominant intellectual tradition of development economics, which until recently highlighted the role of state intervention through the establishment of protectionist barriers and monopolies at the expense of markets, is now passé. An increasing reconciliation between development economics and competition economics, if I may say so for want of a better term, is taking place.

4. This change of the instrument of development was underscored by no less than the Hon'ble Prime Minister of India at the recent BRICS International Competition Conference in Delhi. He said:

*.. "Growth, development and poverty reduction are the most important challenges that our governments face. To meet these challenges, governments look for a sound architecture of policy in which the beneficial effects of markets can be maximised by action to prevent market failure. The development of a sound Competition policy is an essential element of such an architecture. Anti-competitive behaviour deprives markets of their ability to deliver efficient results and hurts the poor most of all."*

5. The centrality of regulatory institutions in this new development paradigm is the cornerstone of modern public economics. It emphasizes 'public interest' theory of regulation and is based on the assumption that governments are capable of correcting these market failures through regulation. Even though the Chicago critique of public interest regulatory theory places heavy reliance on private ordering and courts to correct the failures of the market process, a more nuanced position is generally accepted globally.

6. The quality of institutions in general have a strong bearing on competitiveness and growth. It influences investment decisions and plays a key role in the ways in which societies design mechanisms to distribute the benefits and bear the costs of development strategies and policies.

7. Stressing the importance of institutions Daron Acemoglu and James A. Robinson in their highly acclaimed book "Why Nations fail?" argue that the key differentiator between countries is "institutions." Nations thrive when they develop "inclusive" political and economic institutions, and they fail when those institutions become "extractive" and concentrate power and opportunity in the hands of only a few. They write:

*"Inclusive economic institutions that enforce property rights, create a level playing field, and encourage investments in new technologies and skills are more conducive to economic growth than extractive economic institutions that are structured to extract resources from the many by the few."*

A well implemented Competition Law, Ladies and gentlemen, is one such inclusive economic institution essential for corporate governance.

8. Competition law is a fundamental part of the ground-rules of a market economy. Its three basic elements aim to combat:

anti-competitive agreements, anti-competitive mergers and abuse of market power.

9. The objective of most competition laws is to protect competition as a process, thus enhancing efficiency in economic activity and promoting consumer welfare. However, competition law is usually not concerned with wider economic and social objectives such as poverty reduction. That said, anti-competitive business activities affect the poor of society relatively more severely. The reason is simple: it is the poor who bear the heaviest burden of anti-competitive behaviour such as price fixing and other market distortions.

10. Standard microeconomic perspective of the effect of competition on consumers is straightforward: Competition drives markets toward the equilibrium of supply and demand, eliminates inefficiency, and eventually results in prices that are equal to the most efficient firms' marginal cost. If a market is less than perfectly competitive to begin with, then greater competition should bring about lower prices, higher output, better quality, and possibly more innovation. These results are generally to be expected in all markets, not just essential goods and services markets, and they **benefit all consumers, including impoverished ones.**

11. The original Competition law in India was the Monopolies and Restrictive Trade Practices Act of 1969. This was based on the command and control economic architecture of those days. It was a direct instrument for moderating the growth of big business. It also had no provision for regulation of combinations. Indeed, that was not necessary because the control was exercised ex-ante through the route of industrial licensing and such like government approvals. The new Competition Act which is being enforced from May 2009 is based on the post-liberalisation philosophy of promoting competition rather than curbing monopolies. The law is ownership neutral and applies to all types of enterprises. It has provisions for imposing penalties and also has a statutory provision for breaking up enterprises, if considered necessary by the Competition Commission.

12. During the last four years or so, the CCI has received over 400 matters alleging violations of Sections 3 and 4 of the Act relating to anticompetitive agreements and abuse of dominance in sectors as diverse as stock exchanges, travel, real estate, pharmaceuticals, mining and entertainment. Penalties have been imposed where warranted. With regard to mergers and acquisitions, around 150 proposals have been decided so far.

13. Ladies and gentlemen, the thrust of the law is basically to ensure a culture of competition and good corporate behavior.

It need hardly be emphasized that the benefits of market and competition can only percolate in an institutional framework of good corporate governance. Otherwise, private barriers could well substitute the erstwhile government barriers to trade and prevent improvements in social welfare.

14. Good Corporate governance is critical, for instance, in the public procurement market. The liberalization of procurement markets, through the elimination of needless and unfair restrictions on the competing suppliers, result in value for money. This can augment governments' ability to invest in social and physical infrastructure.

15. Let us not minimize the fiscal importance of this. Public Procurement accounts for 30 per cent of GDP in India. Major departments like defence, railway, power telecom and aviation spend about 50 per cent of their budget on procurement. This expenditure is higher than the expenditure of most of the State Governments.

16. Let me briefly turn to the role of physical infrastructure and growth. Many of these critical infrastructure inputs sectors are under producing due to lack of competition resulting in shortages which compromise the competitiveness of the Indian Industry. Infrastructure sectors where competition has thrived

due to the competitiveness of the downstream sectors dependent on them have flourished.

17. The worst hit infrastructure sector due to lack of competition is the power sector where capacity shortages have caused constraints to economic development. The control of infrastructure i.e. the wires by a dominant firm gives rise to access issues to the generating companies which are potentially competitive.

18. Managing such infrastructure in an openly accessible manner permits a wide range of downstream producers of private, public and non-market goods to flourish. Wheeling charges and cross-subsidy surcharges act as deterrent for open access. It is indeed difficult to convince a monopolist to share his asset in distribution as he enjoys the dual role of network operator and of a supplier assigned to the distribution licensees. This conflict of interest requires to be removed by separating carriage from content.

19. Ladies & gentlemen, let me conclude by saying that Competition Law can promote business dynamism and ensure that competitive pressures between firms make them achieve productive efficiencies. It is only then that competitive capitalism can be harnessed and become the engine of India's structural change and growth. Corporate governance and compliance programmes are, in a way, the supply side

response to ensure that this is truly achieved and growth impulses strengthened in the process.

Thank you, ladies and gentlemen.