Transcript of the Keynote Address delivered by Shri Arvind Subramanian, Chief Economic Advisor (Ministry of Finance), Government of India, on 2nd March 2017 in the Inaugural Session of National Conference on "Economics of Competition Law" at India Habitat Centre, New Delhi

That competition is important for an economy is incontrovertible. It induces change, it brings in dynamism, it brings in new technologies, it offers more choices to consumers, it reduces prices. We need more competition, that much is unassailable. Ken Arrow, one of the greatest economists of all times, received the Nobel Prize for establishing the important of competition in a market economy. The question then becomes how do we achieve it in an emerging market economy like India.

Before we consider this problem, allow me to make a few points. Firstly, we have to understand that being pro-business is not the same as being pro-competition. We cannot achieve a competitive market economy by favoring business. Giving support to certain industries is pro-business, but is not pro-competition because it is not necessarily good for the consumer. This distinction comes up in competition law – avoiding cartels, avoiding subsidies etc.

Secondly, we have to distinguish between trade policy and competition policy. The two are extremely complementary in certain sectors. Trade policy can be seen to determine competition policy. If the economy of a country is entirely open, everything is tradeable, and if everything is tradeable, everyone in the market is competing – this obviates the need for a competition policy. So trade policy is one of the best ways of ensuring competition in the tradeable goods sector. Pushing the frontier in keeping the Indian economy open is essential for guaranteeing competition in this tradeable goods sector. However, in the non-tradeable goods sector, trade policy is not enough by definition. We might see a change in this as services become more and more tradeable, and become more vital to international competition. It is an important fact to note here that, as the Economic Survey for 2016-2017 showed, the Indian economy by some metrics is more open than the Chinese economy. This is a great achievement for India.

Thirdly, entry and exit are both important for competition. We have made great strides in allowing entry. If we study the latest figures of FDI, we are receiving 70-75 billion dollars of FDI on an annualized basis. To give some context to this number, China received 100-110 billion dollars in FDI at the peak of its 10.5-11% growth boom. We are not very far away from achieving that. Where we have made great strides in entry, due in a large part to the efforts of the government on ease of doing business, we have lagged behind in making exit easy. Exit does not happen quickly enough in the Indian economy, and this impedes competition. Let us have no illusions about this. The fact that we have too many uncompetitive fertilizer plants means that the government has to spend, and competition in the fertilizer sector is affected. Notice, for example, the private sector is exiting the fertilizer sector. Another example of exit impeding competition is what we call the twin-balance sheet problem which today is all the legacy of the bad assets we have from the past. Companies will have to fail. This is something we have not been able to let happen as well as we ought to have. Exit is the most significant problem in sectors like civil aviation, and public sector banks. This is where I think that the Bankruptcy Law that the government has enacted is also going to be very important in facilitating exit.

Fourthly, and this is the final analytical distinction I will make, privatization vs competition or privatization vs entry. I think for a long time we were very enamored by privatization as a way of achieving competition. The experience of countries around the world, especially Russia and China, has taught us that privatization per se is not the solution to competition. When China sold off its assets, it led to an oligarchy, and privatization turned out to be far from a solution. Similarly, many of Russia's problems today go back to the privatization era and the emergence of an oligarchy. India, however, is different in this regard. What India did 20-25 years ago was that instead of completely privatizing, it allowed entry as a way of achieving competition partly. The aviation sector and the public sector banks benefitted a lot from this, because the existing firms improved because of competition.

Having said all this, regulation is the final pillar to ensuring competition. This is where our Competition Law and its enforcement by Competition Commission becomes very important. I foresee that competition and law is going to become very vital for conceptual reason – with technology and digitization, we see that the marginal cost of producing information is zero. This is the paradox of the modern information economy – because marginal costs are zero, fixed costs are going to be recovered. This means that we need restrictions, property rights, exclusivity, and so on. Competition law and competition policy enforcement will become very important.

At large, regulatory institutions in India are still a work in progress and we are yet to attain the kind of maturity we need to. Our lack of capacity is a crucial problem. The only way to address this is to build the requisite capacity by building a body of knowledge, learning to use data better, adopting and adapting best practices internationally. Another crucial hurdle in the attainment of maturity relates to our existing political and economic systems. Simply put, our political and economic systems have not matured themselves in order to ensure a more balanced approach to intervention and problem solving. We take recourse to blunt instruments, bans, restrictions, etc. In the area of competition policy, we need to move on to analysis and nuanced interventions when problems arise instead of resorting to blunt instruments. For this to be a possibility, our political system needs to attain maturation. This also means that regulatory institutions should be independent and free from political interference. Lastly, and this is a socio-political point, is the fact that we have become a highly litigious society. Usually, most problems go to litigation, then go to appeal and then get stacked. If we are to inevitably become more litigious, then we cannot have delays. Justice delayed is justice denied. The delay arises due to the fact that there seems to be a prevailing sense that everything must be adjudicated by the Courts and the Supreme Court in particular, which means that the higher courts are burdened with more cases than they should be handling. So the two step puzzle becomes: how do we make our country less litigious? If we are going to be more litigious, how do we expedite things? These are the challenges that the regulatory institutions of India, particularly the Competition Commission.

With these thoughts, I wish the Commission all the very best wishes. I hope for the Competition Commission of India to be established as one of the regulatory institutions that can really change the economic landscape of India.