Competition Policy and Comparative Corporate Governance of State Owned Enterprises

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SOEs and Government Support Lead to Different Outcomes

- These differences affect performance:
  - Incentives are different than private firms (Alchian, Demsetz)
  - Corporate governance and competition are substitutes (Stigler)

- Conclusions:
  - Good corporate governance mechanisms for SOEs minimizes bad management both ex ante and ex post – some SOEs are better managed than others
  - Competition Policy can reduce distortions of SOEs and state supports
Overviews

- Private firms
- SOEs
Private vs. Government Ownership of Firms - Internal Controls

<table>
<thead>
<tr>
<th>Internal Controls</th>
<th>Private</th>
<th>Public (state owned)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporate form</td>
<td>Yes</td>
<td>No, but sometimes a modified yes</td>
</tr>
<tr>
<td>Managerial Ownership</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Managerial Pay</td>
<td>Yes</td>
<td>Not so well</td>
</tr>
<tr>
<td>Board Oversight</td>
<td>Yes (but sometimes problematic)</td>
<td>Yes (but generally problematic)</td>
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### Private vs. Government Ownership of Firms - External Controls

<table>
<thead>
<tr>
<th>External Controls</th>
<th>Private</th>
<th>Public (state owned)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market for Corporate Control</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Equity</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Debt</td>
<td>Yes</td>
<td>Sometimes</td>
</tr>
<tr>
<td>Market for Managers</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Bankruptcy</td>
<td>Yes</td>
<td>No</td>
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SOE Corporate Governance

- Incentives matter in institutional design
- Some SOEs have efficiency rationale and transparency mechanisms with good boards
- The more a government treats an SOE like a private firm, the more it behaves like a private firm
- Corporatized forms of governance should yield better outcomes ... but do not always because of flaws in institutional structure
Competition and SOEs

- How SOE behavior is different than private firm behavior
  - Revenue maximization instead of profit maximization as SOE Goal
  - SOE Incentives to Raise a Rival’s Cost
  - SOE incentives to predatory price
    - Predation tests are cost based... but what are the appropriate costs?
Antitrust Predation Cost Based Tests

- Marginal Cost
- Average Variable Cost
- Average Avoidable Cost
- Long Run Average Incremental Cost
Antitrust Tests Across Jurisdictions

- No separate test for SOEs
- SOEs generally win in predation tests
  - Benefits of government ownership not imputed into costs
  - Benefits of government regulatory bias not imputed into costs
Institutions Matter

- Administrability
- Domestic Regulatory Capture
- Can domestic institutions alone remedy SOE problem?
  - WTO – a disaster on this issue
  - FTAs – equally problematic
  - BITs
  - Soft law
Recommendations

- Corporatization of SOEs
- Improved corporate oversight
- Increase competition
- Improve corporate governance
- Privatization
- Create an effective antitrust test (with cost imputation), see seminal work of Sidak & Sappington (2003a, 2003b)
  - Cost imputation has potential problems
  - Cost test may not be easy to administer given institutional weakness of the judiciary and regulators
- One size does not fit all - different solutions based on different sectors and different types of SOE problems needed