

Capacity Building In Competition Agencies Of Developing Countries With Particular Reference To India And Special Attention To The Law Of Abuse Of Dominance

Professor Fox will speak about capacity building at competition agencies in developing countries. The first half of her lecture will concern the tasks, processes and structural conditions necessary for the agency to be an effective, credible enforcer with legitimacy and with the respect of all constituencies. This will include priorities that make sense in light of the particular context. The second half of her lecture will be devoted to substantive law, which is the core for which capacity is needed. Professor Fox will focus her substantive law comments on abuse of dominance.

The law on abuse of dominance is critical to effective enforcement. Also, it is helpful as a window for examining the question, what is harm to competition, and for thinking about the mission of antitrust in serving consumers. Of all aspects of antitrust law, the formulation of the offence of abuse of dominance is substantively the most controversial because it implicates the debate about protecting competitors versus protecting competition. Stated otherwise, this is the debate about levelling the playing field versus unleashing efficient competition that makes life tough for competitors. Abuse of dominance often involves the interface between antitrust and intellectual property, since intellectual property is frequently involved in strategic acts of dominant firms. Professor Fox will speak about these issues as problems of perspective facing young competition agencies. She will draw lessons from her analysis on the controversial monopoly litigations against Microsoft.