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HOT ISSUES
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Welcome

This is the latest edition of "Hot Issues" from Burson-Marsteller's Global Public Affairs Practice. Every month, "Hot Issues" focuses on 10 new forthcoming legislative or policy issues that will impact business from around our global network of 130+ offices in Latin America, Asia-Pacific, Europe, Middle East, Africa and North America.

The public policy dynamics in each country, let alone a particular region can be very different, demonstrated by the different experts we utilize in the countries where we operate. Conversely, there are similarities and you can see this in some of the issues we have picked out.

Hot Issues are designed to give you a flavor of our global perspective and should any of the items raise particular interest with you please contact the designated person listed with that issue.

India: Debate on FDI liberalisation to allow greater market access for foreign retail firms

Recent public comments by Indian Finance Minister Pranab Mukherjee confirm that the Indian government is contemplating a potentially landmark liberalisation of foreign direct investment (FDI) regulations in India's retail sector. The current retail regulations strictly bar foreign companies from having a front-end retail presence and limit them to back-end wholesale and supply chain management – constraints cited as significant investment deterrents by many industry observers. The FDI liberalisation measures under discussion would significantly relax these limits, allowing foreign companies to own and operate front-end multi-brand retail outlets.

Experts say the Indian retail market offers tremendous potential for U.S. and European retail giants like Wal-Mart, Tesco, and Carrefour, many of whom have already expressed their support for the proposed regulatory revisions. India's retail sector is poorly developed and consolidated by western standards, and is mostly dominated by small local supermarkets and "mom and pop" *kirana* stores. Only a tiny portion (about one percent of India's USD 392 billion retail industry) of Indian retail business comes from "organised" retailers, and research shows this segment is likely to grow dramatically. Alongside a growing economy, rising incomes, and increasing consumer spending, industry observers expect this to mean massive opportunities in India for foreign retailers.

The proposed FDI liberalisations are facing stiff political opposition over fears that many kirana stores would perish if they have to compete with large multinational firms, endangering Indian jobs. Some officials and public commentators have also portrayed the debate as an issue of culture and values, arguing that kirana stores constitute an important part of India's cultural legacy and community identity, and that they should be protected from competition against large multinational firms.

The debate is being held against the backdrop of growing concern over dwindling foreign investment in India. FDI dropped USD 3 billion between 2009 and 2010, and the lack of sufficient FDI to meet Indian infrastructure needs and economic growth targets has been identified by the government as a serious concern. Advocates for FDI liberalisation argue that opening up retail FDI regulations is a logical move to inject industry expertise and technical know-how, lure new investors to India, and significantly boost investment and economic growth.

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Indonesia: Import restrictions on beef and live cattle remain as industry opposition grows

The Indonesian government has confirmed its intention to impose aggressive new quotas on imported beef, cutting previous import limits on packaged beef products by 60%, to 50,000 tonnes per year, and reducing cattle imports to 500,000 head annually from 700,000 in 2010. The 2011 quotas are a progression of previous import limits set in 2009 and 2010, but are attracting much more industry opposition due to the depth of the cuts.

If the current 2011 quotas remain unchanged, meat and live cattle exporters in Australia, New Zealand, Canada and the United States are all expected be negatively impacted. The countries' combined exports sustain nearly half of Indonesia's total beef consumption, and industry experts expect that demand will only grow in the coming years. Australian cattle breeders are expected to suffer the most dramatic impact. Australian boxed beef exports grew nearly six-fold between 2005 and 2009, and more than 80 percent of Australian cattle exports went to Indonesia in 2010.

First imposed in 2009, Indonesia's beef import quotas are the centrepiece of a broader government policy aimed at creating a self-sufficient domestic beef industry by 2014. Under the self-sufficiency policy, Indonesian officials hope to boost local production, cut imports to 10.4 percent of total beef consumption, and impose regulations to force greater segments of the industry supply line (and the jobs that come with it) to Indonesian shores. Analysts have warned that the policy is being rushed too fast for domestic production to keep up, and industry representatives say beef supplies may become scarce if the 2011 quota is not revised.

The 2011 import quotas are by far the most aggressive reductions to date. They are attracting criticism from both international and domestic industry representatives who say Indonesian production will not be able to meet the shortfall between import supply and local demand. The Indonesian Meat Importers Association (ASPIDI) has been particularly vocal in opposing the cuts, and Australian officials and industry representatives are lobbying in Jakarta to improve market access. Analysts believe there is a strong likelihood that the policy will be reviewed in the coming months if beef supplies become scarce and prices rise as predicted.

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China: Regulation tightens for rare earth industry, limiting supply and increasing prices

Chinese officials have announced a new tax on rare earth minerals effective from April 1. The announcement marks the second time in recent months that China has moved to slow its rare earth exports, following a decision in December to reduce exports by about a third in 2011. The measures represent the latest step in China's policy to develop, centralise, and increase regulation of the rare earth industry, and Chinese officials say further rare earth regulations will be released this year. Industry observers expect the taxes – along with further "detailed rules" and regulations promised by the government this year – to limit rare earth supplies and elevate prices with potentially dramatic implications for a wide number of international industries. Rare earth resources encompass a group of 17 different minerals that are crucial production materials for foreign companies in a wide range of high-tech fields, from consumer electronics, to green energy, medical equipment, and high-end microprocessor chips. China produces about 95% of the world's supply.

China's State Council has not provided details on the full range of rare earth regulations that will be released later this year, but Chinese industry sources say the government wants to decrease the number of rare earth mines from 123 to less than ten, cut processing plants from 73 to 20, bring control of the sector under as few as three state-owned businesses, and set rules to encourage foreign companies to build processing facilities and hire workers inside China rather than exporting the ores to plants offshore. According to officials, forthcoming regulations will be aimed at eliminating price-depressing competition, improving production coordination, and bringing mining pollution under control. Some industry experts warn they will also significantly increase prices and limit the flow of the resources.

The government has already imposed three successive rare earth export cuts since 2009 and lowered the export quota in 2011 by 35% from the 2010 level. China's rare earth export prices passed the USD 100,000 per tonne mark for the first time ever in February – up almost nine-fold from a year before – with export volumes lagging well below historical averages. Some analysts project that global rare earth demand will exceed supply by 40,000 tonnes annually unless new sources are found.

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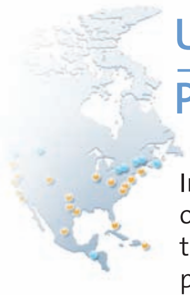

US: Consideration of severance taxes on natural gas from Pennsylvania's Marcellus Shale range

In an odd role reversal, Marcellus Shale producers operating in Pennsylvania are signaling a willingness to discuss a severance tax on the natural gas they produce, while newly-elected Governor Tom Corbett (R) is standing by a campaign promise to oppose all new taxes in the state. Pennsylvania, like other states, is facing severe revenue shortfalls this year. Corbett's recent budget message to the Pennsylvania General Assembly included draconian cuts in state support for social service and education programs, among others.

Natural gas production from the Marcellus Shale range in Pennsylvania is booming. Analysts have predicted that the volumes of natural gas present in Marcellus Shale equal all the oil in Saudi Arabia's fields. Legislators from both parties are calling for consideration of a Marcellus Shale severance tax to ease Pennsylvania's budget issues. In the fall of 2010, Pennsylvania did consider a severance tax and Marcellus Shale producers were willing participants in the discussions then, but an agreement could not be reached on the overall size of the tax, and on allowing for a lower tax rate for the first few years of a well's production to permit producers to recoup invested capital.

Formerly the State Attorney-General, Corbett is a fiscal conservative who made opposition to tax cuts and expanded state spending the core of his election campaign. Corbett has stated that he is interested in keeping the job and economic development benefits Marcellus Shale production brings to the state. He also noted that the Marcellus Shale range crosses multiple states and parts of Canada; producers could move to other production locations if Pennsylvania becomes a more costly production locale.

Corbett offered some limited support for what is being called a 'local impact fee', effectively a service charge that would provide funds for road and infrastructure repair in specific communities. But producers have expressed concern over such an approach since it could create a myriad of different fees across multiple municipalities. Their preference is a single state-wide severance tax that aligns with their positions on the size of the tax, and capital recoupment.

The clock is running on crafting a solution to the state's revenue needs. The Pennsylvania General Assembly must vote on the state budget by June 30. With few revenue-producing ideas in the hopper, the odd situation of the producers advocating a statewide tax while the Governor opposes it will continue throughout the spring.

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US: One-year after Gulf oil spill, seafood and tourism still looking to recover

The Gulf of Mexico oil spill has long been capped, but the accident continues to buffet a number of industries -- from oil to seafood to tourism.

Since lifting a moratorium on new offshore drilling permits in the deepwater Gulf last year, the administration has only recently started allowing oil companies to resume – and in one case begin – drilling. This comes amid continuing joblessness and economic woes in the Gulf states, along with rising prices for crude oil and gasoline. Companies have also found access to drilling in places such as Alaska difficult.

The Gulf seafood industry has also been hard hit, despite a lack of evidence of contamination. A marketing survey commissioned by Louisiana's seafood promotion and marketing board reported last month that about 71 percent of consumers polled nationally expressed some level of concern about seafood safety. And Louisiana's state tourism agency projects spending on leisure travel will fall by $691 million through 2013.

Amid these challenges lie an opportunity for oil and gas companies and state and local agencies to re-purpose their communications strategies, influencing federal policy to increase access to supply, put locals back to work and bolster consumer confidence.

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US: the challenge to the Nuclear Industry

In the wake of the incident at the Fukushima Daiichi nuclear power plant, the news cycle quickly moved from real-time coverage of the accident and the impact on the people of Japan to regional and local focus on and concerns about nuclear energy. As the story developed, it soon became apparent that there would be clear challenges to the nuclear industry as a whole in terms of public perception and continued acceptance and support of nuclear energy.

Notably, a Gallup Poll conducted pre and post tsunami showed a drop of 13 percent - from 57 percent to 44 percent - in support for nuclear energy as one of the ways to provide electricity in the United States.

The industry has moved quickly into rapid response mode to reassure customers, local communities, and shareholders that US nuclear plants are safe.

Messaging focuses on plants' robust design to withstand disasters as well as on the multiple redundancies in place to assure backup systems will work. This response was noted in particular by Michael Levi, a senior fellow for energy and environment for the Council on Foreign Relations, who said in an interview, "The nuclear industry has been responding as well as they can to the current situation. They have resisted the urge to be defensive. They have not engaged in policy debates yet. And they have made themselves the credible source for technical information."

Anti-nuclear advocates are already seizing the opportunity to cast doubt upon the use of nuclear power in the U.S energy portfolio. Looking ahead, the challenge to the industry will be to regain the support of the public that has been lost as a result of the crisis in Japan, and to educate and address concerns in a real-time manner through credible sources. Local officials and states are already conducting hearings on this issue and there are wider calls for additional reviews with the ongoing policy discussions at the federal level.

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Junk Food in Latam: An opportunity for self-regulation

By 2015 more than 1.5 billion people will be obese worldwide and in the face of this problem, the World Health Organization (WHO) has recommended that countries work to restrict and monitor the advertising of unhealthy food. Latin American governments are tackling the issue with different approaches but in general terms to date, local regulators have focused on prevention and the treatment of obesity as a public health problem, rather than placing restrictions on advertising or the sale of junk food.

While Argentina's Obesity Act in 2009 modified the Food Code and limited the level of trans-fat allowed in food to 2% of total fat, the City of Buenos Aires has taken it a step further by passing the "Healthy Kiosks Act", which forces school kiosks to include healthy food in their offer. Many other provinces are discussing similar initiatives and a possible next step will be a more draconian restriction of junk food.

In Brazil there is a focus on infant obesity and amid ongoing discussions around Resolution RCD no. 24/2010 by the National Health Surveillance Agency (ANVISA). The resolution establishes that food advertising must carry warnings about possible health risks in the event of excessive consumption of products with high levels of sugar, fats and sodium, and beverages with low nutritional levels. While no final decisions have been taken, a financial impact is expected because of a need to change packaging and product formulations.

In Chile, while further regulation on obesity does not seem to be a local priority right now, it remains on the political agenda as a public health issue.

In Colombia, the Association of Endocrinology recently released the results of a Colombian Family Welfare Institute (ICBF) study which established that half the population is affected by obesity. This scale of this problem will almost certainly lead to more regulation.

The Mexican Government has banned all television advertisements that promote junk food in shows for children. Experts are also considering an excise tax on high-calorie foods, which would have a greater impact on the entire sector and set a precedent in the region.

The regional regulatory situation represents an opportunity for food companies to become part of the solution to the obesity issue. Industry self-regulation strategies and strong educational campaigns to promote a healthy and balanced diet should be put forward if the sector is to counter restrictions that impact business, such as advertising bans, sales restriction or specific taxes. With obesity now a major public health concern in many Latin American countries, traditional industry arguments such as being a strong tax contributor, employment creator and investor in the economy are unlikely to be enough to deter regulators.

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UK: The fight against cartel offences

The UK Government has announced that it will undertake an overhaul of the competition regime in effort to speed up market investigations and make it easier to bring criminal prosecutions for cartel offences. The proposal will see the merger of the Office of Fair Trading (OFT) and the Competition Commission in a new Competition and Markets Authority.

The shake-up will see changes to the system for cartels and lower the threshold for criminal prosecutions by removing the need to prove dishonesty. This would make it easier to secure convictions in serious cases. However, there are concerns that the amalgamation may lead to a large rise in the number of probes.

Another key proposal is the question of whether the UK should move towards a mandatory notification system for companies involved in large acquisitions or mergers. The UK currently runs a voluntary system, allowing companies to choose to alert the authorities or take the risk of a merger being examined if there appear to be competition issues. Such a move could increase the regulatory scrutiny and drive up business costs of many mergers.

The Department for Business, Innovation and Skills (BIS) published a consultation on the proposed reforms in March, which is due to conclude in June. The merger will require primary legislation, which is likely to be brought forward in the next parliamentary session.

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Germany: Rethinking its energy mix

The nuclear catastrophe in Japan led to a re-evaluation of energy policy in Germany. Assessing the situation in Japan, the federal government announced a three month moratorium for seven older nuclear plants and safety assessments for all German nuclear plants. Against the background of the expansion of the operation period of nuclear plans initiated by the government in last autumn, some consider it as a signal for a revision of the energy policy in Germany.

The discussion on energy supply dominates the political agenda. With the Green party winning the regional elections in the former conservative stronghold of Baden-Wuerttemberg, Chancellor Merkel's coalition government missed the last chance to regain a majority in the Upper House of the German Parliament (Bundesrat) until the next federal elections in 2013. It also started a debate within the coalition on how to change the energy mix faster than initially intended.

Meanwhile, German engineering and automotive industries are expecting energy shortages due to lacking base load supply from nuclear power plants. However, renewable energy stocks are highly demanded, especially in the wind energy sector. In the long run, the government will have to find a new strategy to achieve the CO_2 emission saving targets of the EU, should Germany dispense its total CO_2-free nuclear power quicker than originally planned. In turn, the demand for electricity network expansion and control as well as for renewable energy technology is likely to rise, especially in the wind energy sector (offshore wind parks).

The final decision on the fate of nuclear energy and the future energy mix in Germany is expected for the second half of the year. Alternatives to nuclear power are lignite power (possibly with CCS to sequestrate carbon emissions), gas power (mainly Russian gas), cogeneration with biomass and other renewable energy sources. A mix of energy sources is a likely outcome.

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EU: 2050 Plan on the Future of Transport opens the door to clean technologies

The European Commission has published its vision on the future of EU Transport by 2050. This roadmap plans to cut CO2 emissions by 60% and to introduce important structural changes that will transform the transport sector in Europe. This is an ambitious plan considering that a quarter of EU CO2 emissions currently come from transport.

Of the 40 concrete initiatives for the next decade, the EU plans to ban conventional fuelled cars within city centres by 2050, cut shipping emissions by 40 % and promote the use of low carbon fuels in aviation up to 40%. Finally the EU wants to shift 50% of passengers and freight for journeys below 300km to rail or waterborne transport.

This White Paper will be reviewed by the European Parliament and Council Member States as of April-May 2011. Legislation will then follow to ensure proper implementation of these targets through a set of measures such as increased taxation or investments.

This White Paper will be reviewed by the European Parliament and Council Member States respectively in April and June 2011. Legislation will then follow to ensure proper implementation.

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