

Introduction

The state-level promotional agencies, in particular the SIDCs, whose main role is to promote and develop medium and large scale industries¹, played the pivotal role in the spread of joint sector. While industrialisation of backwards areas, commercial exploitation of natural resources, entrepreneurship development, employment generation are the priorities of SIDCs, the initial proponents of joint sector visualised the sector to be mainly an instrument by which state would claim its share in the profits of the enterprises especially when the states own involvement was substantial. It was visualised that in the process it would also help to check furtherance of concentration of economic power in private hands without sacrificing growth.² The joint sector form was, besides acting as a check on trends towards concentration, expected to take care of the other public policy objectives through public representation in equity capital and management.

In this paper we shall review the experience gained in implementation of joint sector in respect of entrepreneurship development, social control over industry and regulation of concentration of economic power. Section - 2 deals with the characteristics of private promoters of JSEs. Section - 3 traces the involvement of LIHs and FCCs in the joint sector. Section - 4 presents the involvement of product monopolies in the sector. Section - 5 reviews the institution of nominee directors and their role on the boards of JSEs. Finally, Section - 6 deals with the resource mobilisation of the JSEs.

Out of the total 650 JSEs identified 301 have gone to public for raising equity capital from the capital market. The status of the remaining 349 companies could not be clearly ascertained as none of them are listed on any one of the major stock exchanges. Out of the 301 JSEs which went to the public, data on 26 JSEs could not be included in the detailed analysis as we could not get the corresponding prospectuses and other necessary details. The present analysis is thus confined to 275 JSEs which offered their shares to the public till the end of 1992.³ The 275 JSEs accounted for 85.33 per cent of the paid-up capital of the identified JSEs at the end of March 1989.⁴ The 349 JSEs did not go to public may be because, no private promoter was identified for the proposed JSE, or the venture

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1. Industrial Development Bank of India, Report on Development Banking in India 1993-94, IDBI, Bombay, 1995, p. 79. Their role in large projects has, however, been small due to the far smaller resources with the state level bodies in comparison with the All-India financial institutions.
 2. The ILPIC noted as follows:

Our recommendations about the refashioning of industrial licensing to make it more purposeful and effective, the reorientation and reorganisation of public financial Institutions and the development of 'Joint Sector' all stand together and are aimed at attaining the basic national objectives of growth with equity (emphasis added). See: ILPIC, op. cit., p. 197, para 8.64.
 3. However, all the companies which went public in 1992 were incorporate prior to 1992.
 4. The information regarding paid-up capital is available for only 519 out of the 649 JSEs. We have relied upon Government of India, Ministry of Law, Justice & Company Affairs, Directory of Joint Stock Companies in India: 1990, 1991 for the information on paid-up capital. Wherever latest information was not available, information for the latest year was substituted.

did not issue capital to public as it was a case of non-starter.⁵ It is also possible that the enterprise did not go public since the project was a small one;⁶ and/or the project did not progress to a stage when its shares could be offered to the public. As was mentioned earlier, non-government companies having Rs. 50.00 lakhs or more of paid-up capital represent a very important segment of the Indian private corporate sector. The JSEs which did not go public accounted for only about 3.75 per cent of the PUC and about 5 per cent of assets and turnover of the 262 JSEs falling in this category during 1989-90. This evidence further confirms the significance of the JSEs taken up for detailed study by us.

2 Broad-basing of Entrepreneurship

One of the objectives of planned economic development is that the process of growth and fruits of development should be shared by a large number of people instead of increasing inter-personal and inter-regional disparities.⁷ As a direct measure of tackling concentration of economic power, the industrial licensing system (ILS) placed additional restrictions on the operations of MRTP and FERA companies so that small and medium units would not face undue competition from the large ones and also that the comparatively larger financial resources and managerial abilities of the large companies and industrial houses would be used for development of industries needing large investments and sophisticated technology. Under the ILS, a number of industries were reserved for development in the small scale sector with the additional stipulation that the small scale units would not be owned or controlled by any other undertaking.⁸

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5. There indeed are some exceptions to this assumption. Pepsi Foods Ltd never came to the public and both the state government promoter (Punjab Agro Industries Corporation -- PAIC) and Voltas, the Indian partner have since withdrawn from the project. Agro Foods Punjab Ltd., another joint venture of Voltas with PAIC also did not come to the public. It was referred to the BIFR as it turned sick.
 6. New companies particularly those promoted by new and small entrepreneurs will not be attractive to the public unless the project makes some progress. Secondly, stock exchange listing guidelines also stipulate a minimum level of equity capital for enabling listing. There is no statutory obligation that every public limited company should get its shares listed with recognized stock exchanges. However, if a company wishes to enter capital market, it must get its shares listed with at least one stock exchange. In a joint sector company, the public offer will be the balance of the issued capital of the company after deduction of the capital subscribed by the public sector promoters and the private sector co-promoters subject to the condition that the public offer should not normally be less than 33.33 per cent of issued capital of the company. (See: The Delhi Stock Exchange Association Ltd, Facts & Figures: Indian Stock Market, New Delhi, 1982, pp. 119-128). The minimum size of issued capital for listing purposes varied from time to time. For instance, the listing guidelines stipulated in 1989 that the minimum issued capital of the company should not be less than Rs. 3 crores, of which a minimum of Rs. 1.80 crores should be offered to the public. (See: "Statutory & Other Regulations : Stock Exchange Listing", The Stock Exchange Official Directory, Weekly Replacement Service, 10(ii), Vol. 3, dated 21st August 1989).
 7. Government of India, Planning Commission, Third Five Year Plan, 1961, pp. 1-9.
 8. For a discussion on the licensing system and small scale reservation policy see: (i) Corporate Studies Group, Functioning of Industrial Licensing System: A Report, op. cit.; and (ii) S.K. Goyal, K.S. Chalapati Rao and Nagesh Kumar, "Small Scale Sector and Big Business", op. cit.

An entrepreneur is generally defined as the one who has the vision to perceive opportunities, to innovate, to introduce new ideas and new technology, and bring about new combinations of factors of production and take calculated risks.⁹ Encouragement in general to entrepreneurship development combined with the instruments of licensing does not always yield the desired results. New entrepreneurs suffer from the handicap of not being able to find their way around the regulatory system unlike the established and large entrepreneurs. The ability to raise funds from the market is extremely limited for small and new entrepreneurs. Development banks and state level promotional and developmental agencies have, therefore, been engaged in identifying potential entrepreneurs, providing training and finance to new entrepreneurs. From the early 'seventies, financial institutions undertook promotional activities to help and assist new entrepreneurs in their endeavour to take up new and modern industrial projects. Technical Consultancy Organisations (TCOs) were set up by the All-India financial institutions in association with state level developmental/ financial institutions and commercial banks to cater to the needs of small and medium industries and new entrepreneurs.¹⁰ The primary objectives of the development institutions in this regard were to: (i) prepare project profiles and feasibility reports; (ii) identify potential entrepreneurs and provide them technical and managerial assistance; and (iii) undertake market research studies and surveys. The development banks also established a number of entrepreneurial development institutes and infrastructure to enlarge entrepreneurial base and to provide training to different kinds of management personnel in the country.

The joint sector has not been confined to large projects as was initially proposed by the ILPIC. The industrial policy announcement of February 1973 categorically stated that the joint sector would be used as a "promotional instrument for instance, in cases where state governments go into partnership with new and medium entrepreneurs in order to guide them in developing a priority industry".¹¹ As we have seen earlier, the size of projects and the nature of industry varied widely giving scope for entrepreneurs with different backgrounds and means to participate in the projects. In the absence of a well developed capital market, small and new entrepreneurs suffer from the disadvantage of not being able to raise risk capital from the market. Direct participation and the support of the state being available to such promoters, they may be in a better position to instill confidence in the general public. This will help widening the entrepreneurial base.

In order to understand the extent to which this objective guided the operationalisation of the joint sector concept, the background of the private promoters associated with JSEs which went to the public has been studied from the following angles: (a) type of promoter (e.g. individuals, LIHs, FCCs, etc.); (b) experience of the private

9. See: Report of the Committee on Small and Medium Entrepreneurs, *op. cit.* Also see for a detailed exposition on the concept of entrepreneur, P.N. Mishra, *op. cit.*, Chapter 4, pp. 95-111.

10. IDBI, *Report of the Development Banking in India 1993-94*, 1994, p. 84.

11. "Press Note on Industrial Policy -- Government Decisions", February 2, 1973, *op. cit.*, para 10.

promoter both in the same industry or otherwise; and (c) the nativity of the promoter. Companies registered under the MRTP Act and those having 25 per cent or more of foreign equity (FCCs) were classified under the large sector.¹² The classification of individuals and other groups turned to be a somewhat difficult exercise. While the joint sector agreement may get entered into with individuals, actual equity participation by the private promoters is generally taken up through companies controlled by the families of private promoters or groups of individuals. For classifying the private promoters as belonging to other local groups, we have gone by the criteria that (i) there should be other manufacturing companies in the group, or (ii) the promoters should identify themselves to be a group. No company of such groups should, however, be registered under the MRTP Act. The database on corporate affiliations developed at the Institute for Studies in Industrial Development was used extensively for this purpose. If the private promoter, or its(his) group company, including individuals, were already in the same line of business, they were classified as 'Experienced' in the same industry. For purposes of identifying nativity, we had gone by the addresses of individuals. This posed some problems in case of companies, more so, when these belonged to Large Industrial Houses and companies with multi-state operations. For purposes of this exercise, we have strictly gone by the registered office of the promoter company.

Table - 1 shows that joint sector projects attracted the attention of different types of entrepreneurs.¹³ Individuals formed the largest category with 110 JSEs and accounted for 40 per cent of the total JSEs studied. A notable feature of this category is that many of them were technocrats. It is also interesting to note that in about four-fifths of the cases (78 per cent), the individuals belonged to the state in which the project was located. Some of these entrepreneurs were from agriculture and related fields.¹⁴ This might have helped in mobilising savings from rural areas. It is also important to note that a majority of the individuals had prior knowledge of and experience in the industry in which the JSE was to operate.

12. The ILPIC defined the Large Industrial Sector as comprising of (i) Large Industrial Houses, (ii) foreign controlled companies and (iii) Large Independent Companies. For purpose of classifying promoter to be a part of an LIH we have taken note of registrations under the MRTP Act. It may be noted that while even companies belonging to Large Industrial Houses identified by the ILPIC got registered under the Act only over a period of time, certain new houses emerged since 1970 as also some went outside the purview of the Act after the asset limit for registration under the Act was increased from Rs. 20 crores to Rs. 100 crores in 1985. Similarly, there have been cases of take over and disinvestment by the existing MRTP companies which affected registrations and the house classification.

13. A similar conclusion was drawn by P.N. Mishra who noted that while private sector attracted entrepreneurs from business and related categories while joint sector attracted entrepreneurs from various occupations. He had also noticed that a large number of technically and professionally qualified entrepreneurs participated in joint sector projects. See: P.N. Mishra, *op. cit.*

14. J. Viswanatha Murthy, "State Industrial Development Corporations/State Industrial Investment Corporations and Joint Sector Projects: An Assessment of Operational Problems" in Majur C. Shetty (ed.), *op. cit.*, p. 81; and Ram K. Vepa, *op. cit.*, pp. 80-81 reported similar phenomenon.

Table - 1
Distribution of JSEs According to Private Promoters
Category and their Background

Category	Private Promoter Exper- ienced	Total	% Share in Total		Exper- ienced Col.(2) as % of Col.(4)	Same state Col.(3) as % of Col.(4)
			Belongs to same state	No. of JSEs under the cate- gory		
(1)	(2)		(3)	(4)	(5)	(6)
A. Large Sector	79		39	92	85.87	42.39
of which:						
(a) Large Indl. Houses (LIHs)			62	36	74	
(b) FCCs belonging to LIHs			9	2	9	
(c) FCCs	8		1	9		
B. Other Groups	44		24	56	78.57	42.86
C. Individuals	65		86	110	59.09	78.18
of which:						
(a) Technocrats			25	38	42	
(b) NRIs	4		1	7		
(c) Others			36	47	61	
D. Co-operatives	2		4	5	40.00	80.00
E. Others	4		6	12	33.33	50.00
Total	194		159	275	70.55	57.82

Note: Columns (2) and (3) do not add up to column (4) as these represent two different attributes. Since each of these were classified into two categories only, the other categories *i.e.*, inexperienced and promoters from outside the state have not been reported here to improve the readability of the Table. The percentages given in columns (5) and (6) have also to be read in a similar manner.

Source: Based on the data generated from the prospectuses of JSEs which went to public for issue of capital. To this additional information like classification of private promoters, location, etc. was added wherever relevant.

Large industrial houses and foreign controlled companies were the second largest group with 92 JSEs. Smaller business groups accounted for 56 JSEs -- nearly one-fifth of the total. Partially speaking, one may treat the individuals and smaller business houses together due to identification problems as also their nature. In general, more than 70 per

cent of the private promoters had experience in the industry. Understandably, this percentage was considerably higher in the case of LIHs and FCCs at 85.

It would be useful to examine whether considerable differences exist among the States in the choice of private promoters. From Table - 2 it can be seen that while in the aggregate more than 57 per cent of the private promoters belonged to the respective states, some of the states relied heavily on local entrepreneurs. In the case of Andhra Pradesh, Punjab, Kerala, Tamilnadu and West Bengal 70 per cent or more of the JSEs were promoted in association with individuals/companies belonging to the respective states. This can be interpreted in two ways: (i) either the states preferred local entrepreneurs or (ii) they failed to attract outside investors which in other words would mean that the states were not attractive enough for large sector companies from outside the state. The states which had relied more on outside parties were: Uttar Pradesh, Orissa, Gujarat, Madhya Pradesh and Rajasthan. The case of Tamil Nadu is particularly interesting. While the share of outside promoters in the JSEs promoted by the state is low, in terms of numbers the state is in a position at fifth from the top.

Table - 2
State-wise Distribution of JSEs According to
Private Promoters' Nativity

S.No	State	No. of JSEs in which Private Promoter		Total	Share of local private promoters Col. (2) as % of Col. (4)
		belonged to the state	from outside the state		
(1)	(2)	(3)	(4)	(5)	
1.	Andhra Pradesh	31	3	34	91.18
2.	Punjab	27	6	33	81.82
3.	Kerala	9	3	12	75.00
4.	Tamilnadu	25	10	35	71.43
5.	West Bengal	7	3	10	70.00
6.	Bihar	5	3	8	62.50
7.	Karnataka	10	8	18	55.56
8.	Haryana	5	5	10	50.00
9.	Maharashtra	5	6	11	45.45
10.	Rajasthan	9	11	20	45.00
11.	Madhya Pradesh	4	7	11	36.36
12.	Gujarat	9	18	27	33.33
13.	Orissa	6	12	18	33.33
14.	Goa	1	2	3	33.33
15.	Uttar Pradesh	6	17	23	26.09
16.	Jammu & Kashmir	-	1	1	0.00
17.	Assam	-	1	1	0.00
Total		159	116	275	57.82

Source: Same as in Table - 1

It is thus evident from the above that joint sector form played an important role in creating and widening an entrepreneurial base. No clear relationship emerged between the relative level of industrialisation and preference for local entrepreneurs.

3 Joint Sector and Regulation of Concentration of Economic Power

Apart from curbing and preventing furtherance of concentration of economic power, it would be possible to use the joint sector for promoting social objectives such as promotion of industries in core sector, maintenance of price level, development of exports and encourage investment in research and development to improve future technological capabilities which might not have been actively pursued by the private sector without state participation. Thus, the joint sector was viewed as a tool for social control over industry without resorting to nationalisation.

In 1973, Government clarified the policy regarding participation of large industrial houses and foreign companies in the joint sector projects. It was stated that the joint sector will not be permitted to be used for the entry of larger houses, dominant undertakings and foreign companies in industries in which they are otherwise precluded on their own.¹⁵

As originally formulated, the joint sector was expected to be an effective instrument of controlling monopolies and concentration of economic power. In practice, however, the objectives had got diversified and states particularly appear to have treated this as a means of attracting industries to their respective areas. The Central Government after issuing the letters of intent/licences to the states, had practically kept itself outside this sector. Besides frequent complaints against the Central Government for neglecting the interests of particular states, especially those ruled by the opposition parties, there has been competition among the states to offer more and more attractive packages to private entrepreneurs and large industrial houses to set up industries in their respective states. It is apparent that state governments, though they were bound by the industrial policy as framed by the Central Government from time to time, did not share the philosophy with regard to containing concentration of economic power, irrespective of whether these were ruled by the same party in power at the centre or not.

On its part, implementation of the MRTP Act is reported to have suffered from many lacuna. Besides the fast growth in assets under the control of MRTP companies, non-registration of companies belonging to large houses under the Act, failure of licensing system in enforcing licensing obligations, successive relaxation of licensing provisions, the Central Government keeping out the MRTP Commission from the approval procedure and appropriating to itself the power to decide the applications under the Act and failure to invoke certain provisions of the Act were the main reasons cited in this regard.¹⁶ Indeed,

15. It implies that these companies can enter into joint sector agreements only if the product belongs to the Appendix - I group of industries. See the Press Note on "Industrial Policy -- Government's Decisions", *op. cit.*

16. See: H.K. Paranjape, "Curbing Monopoly: Plans and Pitfalls-I", *Mainstream*, Vol.XX, No.6,

studies show that registration under the MRTP Act did not adversely affect the growth of MRTP companies.¹⁷

We have already seen in the preceding section that the large sector occupied an important place in the joint sector with one-third of the JSEs which went to the public being promoted in partnership with them. Out of the total 650 JSEs identified by us, names of the private promoters were not known in 155 cases. When the remaining 495 JSEs were classified it was found that among the LIH category, the house of Birla (14) was involved in the largest number of JSEs followed by Tata (13), K.P. Goenka (11), Thapar (8), M.A. Chidambaram and J.K. Singhania (5 each). The top 25 MRTP houses together accounted for 71 JSEs. It is interesting to note that in terms of number of JSEs, the top two industrial houses, Tatas and Birlas, (ranked on the basis of assets) also occupied the top positions.¹⁸ (See Table - 3) It can also be seen from the Table that only a few top industrial houses took advantage of the joint sector route and thus one finds a considerable house-wise concentration. Among the other groups which floated multiple JSEs were: C L Anand, Banswara, Dalmia, Oswal, Soorajmull Nagarmull (Jalan) and United Group.

For an understanding of the place of large houses in joint sector, paid-up capital, sales, assets or project size may prove to be better indicators than the number of ventures. However, for want of detailed information on all the identified JSEs, the exercise had to be confined, as earlier, to the JSEs whose shares were listed on the stock exchanges.

Table - 4 shows the private promoter category-wise distribution of total project cost of the 275 joint sector companies. While in terms of numbers, the large sector accounted for about one-third of the total projects, its share in project cost of Rs. 8,530.73 crores works out to be far higher at 57.52 per cent (Rs. 4,906.55 crores). In sharp contrast, the share of individuals who accounted for 40 per cent of the number of projects could barely cross 10 per cent of the total project cost. Other groups accounted for 18 per cent of the project cost, *i.e.*, slightly less than their share in numbers. The balance has been shared by co-operatives (3.70 per cent), and others (10.30 per cent).

(. . . continued)

October 10, 1981, pp. 10-16; H.K. Paranjape, "Curbing Monopoly: Plans and Pitfalls-II", Mainstream, Vol. XX, No. 7, October 17, 1981, pp. 17-25. Also see: S.K. Goyal, Monopoly Capital and Public Policy: Business and Economic Power, Allied, New Delhi, 1979, Rakesh Khurana, Growth of Large Business: Impact of Monopolies Legislation, Wiley, Delhi, 1981; K.S. Chalapati Rao, "A Study of Inter-connections Under the MRTP Act in the Context of Asset Limit Hike", Economic and Political Weekly, Vol. XX, No. 27, July 6, 1985, pp. 1132-1146; and Sachar Committee Report, *op. cit.*

17. Nagesh Kumar, "Public Policy, Marris Model and Corporate Growth in India", Indian Economic Journal, Vol. 32, No. 2, 1984, pp. 74-83.

18. These two houses have been occupying the top two positions right since the 'fifties.

Table - 3
Promotion of Joint Sector Companies by
Top Industrial Houses

Industrial House of JSEs involved by the House	Number Ranking of the House	Asset-wise
1. Birla 14	1	
2. Tata 13	2	
3. Goenka K P	11	22
4. Thapar*	8	5
5. J K Singhania	5	4
6. Chidambaram M A	5	10
7. Modi 3	8	
8. United Breweries	3	16
9. Bangur	2	18
10. Reliance	1	3
11. Bajaj\$	1	7
12. Hindustan Lever#	1	12
13. I.T.C	1	15
14. Kirloskar	1	19
15. Mahindra & Mahindra	1	21
16. Kasturbhai Lalbhai	1	25
Total 71		

Source: Classified from among the 650 JSEs identified by us.

Note: These sixteen are among the top 25 houses registered under the MRTP Act ranked according to their assets as on 31.3.1990. See: K.A.D. Sinha and Raj Behari, "A Review of Undertakings Registered Under the MRTP Act, 1969 (As on 30th June 1990)", *Company News & Notes*, Vol. XXVIII, No. 2, August 1990, pp. 1-7. We could not trace any JSE to the remaining nine houses.

* Includes Greaves Semiconductors Ltd which was taken over by the house.

Represents Stepan Chemicals Ltd which was taken over by the house.

\$ Excludes Girmar Scooters Ltd which became subsidiary of Gujarat Narmada Valley Fertilisers Co. Ltd.

Table - 4

**Private Promoter Category-wise Distribution of JSEs and
the Corresponding Public Issue Amount and Total Project Cost**

(Amount in Rs. crores)

Category		No. of JSEs	Public Issue Amount	Project Cost
(1)	(2)	(3)	(4)	
A.	Large Sector	92 (33.50)	1063.55 (50.30)	4906.55 (57.52)
a)	Large Industrial Houses (LIHs)	74 (26.9)	947.34 (44.80)	4584.62 (53.70)
b)	FCCs belonging to LIHs	9 (3.30)	71.37 (3.40)	197.23 (2.30)
c)	FCCs	9 (3.30)	44.84 (2.10)	124.70 (1.50)
B.	Other Groups	56 (20.40)	396.01 (18.70)	1535.19 (18.00)
C.	Individuals	110 (40.00)	314.72 (14.90)	898.76 (10.54)
a)	Technocrats	42 (15.30)	81.36 (3.90)	245.38 (2.90)
b)	NRIs	7 (2.50)	48.10 (2.30)	170.66 (2.00)
c)	Individuals	61 (22.20)	185.26 (8.80)	482.72 (5.70)
D.	Co-operatives	5 (1.80)	96.50 (4.60)	313.63 (3.70)
E.	Others 12	241.56 (4.40)	876.61 (11.40)	(10.30)
Total 275		2112.35 (100.00)	8530.73 (100.00)	(100.00)

Note: Figures in parenthesis indicate percentages to the respective column totals.

Source: Same as in Table - 1

While we have seen that large sector companies dominate the joint sector in terms of the project cost, it still needs to be studied to what extent large houses depended on the joint sector for their growth. In other words what is the share of joint sector in the growth of Large Industrial Houses in a specified period seen in terms of addition to the number of companies, assets and sales under their control. Yet another way of examining the issue is whether all the projects where government and the public financial institutions had a substantial share were implemented as joint sector projects as was envisaged by the ILPIC.

The composition and asset size of LIHs for the period since enactment of MRTP Act is known only through the registrations under the MRTP Act. We have noticed that a number of large house joint sector companies were not registered under the Act even though these were promoted by companies registered under the MRTP Act. One of the main reasons for the non-registration appears to be that while there is limit of 25 per cent on the share holding of private promoter in a joint sector enterprise, which is also the minimum required for establishing inter-connection under the MRTP Act,¹⁹ large houses restricted their share to 24 per cent of the equity possibly to avoid inter-connection with MRTP companies and thus keeping themselves out of the purview of the Act.

As on June 30, 1990, there were 1,811 undertakings registered under the MRTP Act.²⁰ The total assets of these undertakings as per the estimates of the Department of Company Affairs were Rs. 56,775 crores. Out of these, 36 enterprises were promoted as joint sector companies at one point of time or the other. The combined assets of 36 companies were Rs. 3,395 crores or 5.98 per cent of the total assets of the MRTP undertakings. Thus at the aggregate level the share of the joint sector turns out to be a small one. However, it appears that certain houses have relied upon joint sector route to a large extent. These were: M.A. Chidambaram, Raasi, Chowgule, Modi and Thapar (See Table - 5). Single Large Undertakings and Single Dominant Undertakings, however, have to be treated as a separate category. Thus in the overall it appears that the objective of controlling concentration of economic power cannot be said to have been achieved as much of the large industrial sector remained outside its purview.

This, however, does not mean that large houses did not avail assistance of the public financial institutions. This issue can be looked from yet another angle. Have all companies whether belonging to large houses or not, been treated as JSEs whenever the share of Government and PFIs turned out to be substantial in the risk capital? This does not appear to be the case as only 4 out of the 96 large private sector companies in which 25 per cent or more of equity was held in this manner were JSEs. Some of the important ones in this regard are: TISCO, TELCO, DCM and Escorts.²¹

19. Till the amendment of the Act in 1985, the corresponding share was one-third.

20. "Directory of MRTP Companies as on 30/6/90" published in Company News and Notes, Vol. XXVIII, No. 2, August 1990, pp. 1-37 (separate pagination).

21. For a list of large companies with atleast 25 per cent equity by public financial institutions see: S.K. Goyal, "Privatisation of Public Enterprises: Some Issues for Debate", in Ayub Syed, op. cit.

Table - 5

**Relative Importance of JSEs for Different
Large Industrial Houses**

(Amount in Rs. crores)

S.No	Name of the House	Assets of Joint Sector Companies registered under the Act	Total Assets of the House Assets of	Share of Joint Sector Cos. in Total the house ((2)/(3)) x 100
(1)		(2)	(3)	(4)
1.	M.A. Chidambaram	992.41	1051.59	94.37
2.	Raasi	143.93	243.12	59.20
3.	Single Large Undertakings	911.25	4385.05	20.78
4.	Chowgule	43.44	334.56	12.98
5.	Single Dominant Undetakings	203.35	1648.32	12.34
6.	Modi	124.59	1192.32	10.45
7.	Thapar	180.65	1762.52	10.25
8.	Birla	679.56	6971.98	9.75
9.	Goenka	32.16	570.00	5.64
10.	Best & Crompton	9.43	192.98	4.89
11.	United Breweries	16.03	715.71	2.24
12.	Kasturbhai Lalbhai	8.54	478.52	1.79
13.	Shaw Wallace	4.45	253.51	1.76
14.	Asea Brown Boveri	1.39	142.22	0.98
15.	Tata	43.01	6681.38	0.64
16.	V Ramakrishna	0.78	232.53	0.33
All MRTP Undertakings (including the others)		3394.97	56775.20	5.98

Source: Based on data provided in "Directory of MRTP Companies as on 30/6/90" published in Company News and Notes, Vol. XXVIII, No. 2, August 1990, pp. 1-37 (separate pagination).

Note: (1) House-wise assets have been calculated from the Directory. The asset figures differ slightly from the house-wise assets as on March 1990 published in the same issue of Company News and Notes.

(2) Strictly speaking Single Large Undertakings and Single Dominant Undertakings should not be treated as a House.

It may be further useful to examine whether all the projects receiving substantial assistance from the financial institutions were treated as belonging to the joint sector. We have compiled a database of new projects assisted during 1970-71 to 1988-89 containing information on guarantees, loans and underwriting commitments of banks as also the total project cost.²²

Table - 6 shows that in 881 cases the projects were not brought under the joint sector even though a substantial portion of the project funding (26 per cent or more) was met by public financial institutions. To see if the situation improves at higher percentage levels, we have examined the position at 33.33 per cent and 50 per cent levels. Even in cases where the share of public institutions exceeded 50 per cent of the project cost, a vast majority of them were implemented in the private sector only. The position did not improve even when we excluded bank loans and guarantees. Out of the 389 projects in whose case the assistance formed 50 per cent or more of the total project cost, only 52 (13.37 per cent) were termed as joint sector ones. It can thus be seen that in whatever manner one looks at, the joint sector could have occupied a substantial part of the Indian scene if only there was general adherence to the initial thinking.

We have seen earlier that the large sector accounted for more than half of the total project cost of the JSEs. This was considerably higher than its share in the number of projects indicating that the large sector projects involved heavy investments. Table - 7 shows the distribution of JSEs according to different ranges of total project cost. The period has been broadly divided into four sub-periods. Most of the larger projects (Rs. 5 crores and above project cost) were set up after 1979. Indeed, practically all the projects with Rs. 10 crore or more of investment came up during the 'eighties. There is a large gap between the project sizes before 1980 and afterwards. A majority of the large projects each with Rs. 10.00 crores or more of investment, were promoted by LIHs and FCCs. The large sector became active in the joint sector during the 'eighties more so, after 1985.

The joint sector was not confined to promoting indigenous technology or entrepreneurs. Some of the joint sector projects were established by foreign controlled companies and there are a few others where the SIDCs have directly entered into collaboration agreement with the foreign collaborators. The important cases in this respect are Noble Explochem Ltd., and Dyn India Ltd., Noble Explochem is a joint venture between State Industrial Corporation of Maharashtra Ltd (SICOM) (28.00 per cent participation in equity) and AB Bofors, Sweden, Dyno Industries A/S., Norway, and Swedish Fund for Industrial Cooperation with Developing Countries (together holding

22. This database, being maintained by the Institute for Studies in Industrial Development, has been generated from Industrial Development Bank of India, Projects Assisted by IDBI during July 1964 - March 1989, Bombay, 1989.

Table - 6
Distribution of Joint Sector and other Projects
According to the Share of Public Financial Institutions
in Project Cost (New Projects Assisted by IDBI:
1970-71 to 1988-89)

Share of Public Financial Institutions in Project Cost (%)	Non-Joint Sector	Joint Sector	Total No. of Projects (2) + (3)
(1)	(2)	(3)	(4)
(i) All Assistance*			
26% and above	881	190	1071
33.33% and above	634	128	762
50% and above	353	56	409
(ii) Excluding bank loans and guarantees			
26% and above	880	190	1070
33.33% and above	631	128	759
50% and above	337	52	389

* Includes direct assistance by IDBI and other public financial institutions under the project finance scheme, bank loans and guarantees.

Source: Based on the database of the Institute for Studies in Industrial Development generated from Industrial Development Bank of India, Projects Assisted by IDBI during July 1964 - March 1989, Bombay, 1989.

Table - 7

Distribution of JSEs in Different Ranges of Project Cost

(Project cost in Rs. crores; Current Prices)

Project Size Range	Number of JSEs and project cost in different periods												
	Up to 1975					1976-1979		1980-1985		1986 & after		Total	
	No.	PC	No.	PC	No.	PC	No.	PC	No.	PC			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)			
1. Less than Rs. 5 cr.	20	38.36	39	81.67	34	96.54	15	47.81	108	264.37			
2. Rs. 5 to 10 cr.	1	5.25	10	62.59	31	225.45	26	193.98	68	487.27			
3. Rs. 10 to 25 cr.	2	34.90	1	19.60	11	173.65	40	630.29	54	858.44			
4. Rs. 25 cr. & above	1	74.90	2	89.16	11	912.86	31	5843.74	45	6920.65			
(Large sector projects in Rs.10 cr. & above range)	1	23.50	2	67.76	13	397.12	31	4244.44	47	4732.82			
Total (1 - 4)	24	153.41	52	253.01	87	1408.49	112	6715.82	275	8530.73			

Note: PC= Project Cost; and No.= Number of JSEs.

Source: Same as in Table - 1

23.89 per cent of the equity capital). The JSE between Punjab State Industrial Development Corporation Ltd, (26 per cent) and N.V. Philips, Netherlands (25 per cent) is also a case in point. Glaxo (two ventures), London Rubber Co. (I) Ltd. are among the FCCs in India which used the joint sector route to expand their operations.

The foregoing discussion leads us to conclude that the joint sector was not used as an instrument of checking the concentration of economic power to any significant extent and that many projects which satisfy the criteria suggested by the ILPIC to be treated as constituents of joint sector were implemented as private sector projects. The situation could not have been otherwise in view of the vagueness surrounding the concept of joint sector and the relative importance given to its promotional role. The observations of Inoue appear to be quite relevant in this context:

In the policy of 1970, the importance of the joint sector was reemphasized, but its intention and precise role was not clearly stated. ... Though the policy of 1970 does not seem to have been clear enough to produce any substantial effect, it was different from the explanation of the joint sector in the Dutt Committee's report. In the committee's opinion, the joint sector would include enterprises set up through public and private investment and the state taking an active part in direction and control. This had to be clarified in the industrial policy issued in 1973 which put more emphasis on the promotional aspects of this part of the policy, ... The government seemed to have tried arming itself with vagueness to keep its political position safe on the matter of the joint sector.

... Another reason why the licensing policy of 1970 renewed the argument for the joint sector might have been to tackle the criticism that institutional financing had given more preference to large industrial groups. The government felt compelled to show its intention to check this tendency and to prove that it stood against them.

By imposing conditions on substantial institutional financing going to joint sector projects, the government could publicly prove that it had expanded its controlling power over large industrial groups.²³

Two points need to be elaborated here in the context of social control over industry. One, if the objective was to share in the prosperity of the ventures in the form of dividends and capital appreciation, after these stabilised their operations it is not necessary for the project to be brought under the joint sector. Even if it is not called a JSE, the objective could be served if the assistance was in the form of equity participation. This could be also achieved, if the loans were converted into equity, a common practice in the private sector.²⁴ The institutions would be at a disadvantage if the projects were to get delayed and eventually turn sick. In which case, they may even lose the capital unlike the

23. Kyoko Inoue, *op. cit.*, p. 46.

24. Even though, the policy on conversion of institutional loans into equity has been withdrawn, the possibility of such agreements getting entered into for mutual convenience cannot be ruled out.

case where the involvement was in the form of loans only.²⁵ Second, to have a check and a close monitoring on the management of assisted companies, the institution of nominee directors could be an effective means.²⁶ It is understood that as on 31st March 1986, out of 1,300 companies assisted by the institutions, nominee directors were appointed on the boards of 1070 companies. Even in the case of 324 MRTP companies assisted by them, in as many as 288 companies nominee directors were appointed.²⁷ Nominee directors can be placed on the boards of all large-sized companies and which are strategically important from the national economy point of view irrespective of whether these had any public share holding or not. It has even been suggested that "all large sized corporate entities, irrespective of the fact of today's classification as 'private sector' and 'public sector' be declared as constituents of sector of national importance. There should be intensive monitoring of these companies with a view to bring in professional managements".²⁸ Yet another question that arises is if the existing audit provisions are enough to ensure that public policy guidelines were adhered to. For instance, if an enterprise established higher than the licensed capacity the auditors could make a specific remark in their report. But is there any effective mechanism to follow up the auditors' reports? How independent is the profession of auditors? These are all related issues and need objective discussions at policy making levels.

4 Joint Sector and Product Concentration

The Monopolies Inquiry Commission (MIC) viewed concentration of economic power in two ways: one, country-wise concentration (sometimes called finance monopoly)

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25. For instance, in the context of disinvestment by public sector promoter, it was argued:
... the co-promoter or the public would be interested in purchasing the shares hitherto held by the corporation only when the unit earns in which case the withdrawal of equity would deprive the Corporation of its source of revenue. Since the Corporation would be obliged to retain its equity in a sick unit, whether assisted or joint venture, it has to bear the share of the losses of sick or losing units. The policy of withdrawal from profitable joint ventures would ultimately result in losses for the Corporation, though it may augment its resources by widening its promotional activities. It is, therefore, necessary that the policy of withdrawal of equity should be adopted with discrimination.
See: K. Ramakrishna Sarma, Industrial Development of Andhra Pradesh -- A Regional Analysis, Himalaya Publishing House, Bombay, 1982, pp. 305-306.
26. There are varying opinions on the need for nominee directors to protect the interests of the government and public financial institutions. For instance, in his evidence before the Public Accounts Committee of the British Parliament regarding the role of nominee directors, the Secretary (Industry) opined that " ... in most cases the necessary information could be obtained from contacts with the company and through monitoring activities without appointing Government directors". See: Gabriele Ganz, Government and Industry, Professional Books, Oxon, U.K., 1977, p. 59.
27. Lok Sabha Secretariat, Twenty-Seventh Report of Committee on Public Undertakings (COPU) 1986-87: Nomination of Directors by Financial Institutions, 1987, p. 3.
28. S.K. Goyal, "Nature and Growth of the Indian Corporate Sector", op. cit., p. 30.

and two, product-wise concentration (product monopoly).²⁹ The MRTP Act sought to regulate both types of concentration.³⁰ In the previous section we have discussed the functioning of joint sector in respect of the large sector. It was observed that out of the 275 JSEs, in 194 cases the private promoter was already having experience in the same industry (see Table - 1). This was more so in the case of the large sector involvement.

There can be different ways of interpreting this experience. One, since the private promoters were already experienced in the area, the chances of the project becoming a successful venture are high. Probably, that was the reason why the SIDCs preferred such entrepreneurs. Secondly, if the entrepreneurs are already operating in the area, it may lead to further strengthening of the hold of the existing manufacturers over the market. However, it cannot in any way be said that increasing product-wise concentration was a policy objective particularly when there were specific provisions under the MRTP Act to regulate product monopolies. A third implication could be that the private promoter may be using the output of the JSE for his own use (as raw materials or components) or the output may be marketed by the promoter in his own brand name. In such a situation, while the JSE may feel comfortable with an assured market, it may not be able to acquire its own independent identity in the market place. The JSE would have little scope to grow on its own and thus would continue to be an appendage to the private promoter. Also while product concentration would not increase in this case, the share of the existing producers of the raw material component may get adversely affected as they lose a large consumer.

When the promoter himself becomes the consumer or distributor/marketer of JSE's output, the regulatory system is more likely to fail. The comparatively small share of the private promoter means the resultant losses for him will also be smaller which in fact he may try to make up to the maximum possible extent by suitably pricing the output purchased by him.

In practice, we have noticed that certain dominant undertakings and other large house companies which were denied permission to expand or to enter into a product, took advantage of the joint sector to achieve their objective. The relevant cases are described in detail in Annexure. In general, one sees an attempt by the large sector to consolidate their position with the help of JSEs. The cases of GLS lamps (Phillips); Carbon black (Phillips Carbon Black); two-wheelers (Bajaj Auto); aluminium foils (India Foils); welding equipment (Indian Oxygen); and asbestos cement products (Hyderabad Industries Ltd)

29. See: MIC Report, *op. cit.* p. 33-34.

30. Under the MRTP Act a single dominant undertaking is identified as the one which has a market share of one-fourth or more in the production or distribution of a product or service and also has assets of not less than Rs. 1 crore. (Section 20 b(i)). Interconnected dominant undertaking is the one where a company along with its inter-connected undertakings controls at least one-fourth market share of goods and services of a particular description and their combined assets amount to not less than Rs. 1 crore (Section 20 b(ii)). Dominant undertakings could also be large by themselves or along with inter-connected undertakings in which case they will also be registered under additional provisions 20 a(i) and 20 a(ii) respectively.

illustrate how in these industries the joint sector was used by the dominant companies to expand their operations. A few other important cases where the private promoters belonging to Large Industrial Houses attempted to consolidate their position with the help of joint sector companies promoted by them were: (i) Gujarat Instruments Ltd promoted by Taylor Instrument Co of (I) Ltd of the Birla House (the company was earlier covered under FERA); (ii) Vindhya Telelinks Ltd. promoted by Universal Cables Ltd. (Birla); (iii) Ipihel Refractories promoted by Tata Refractories Ltd. (Tata); (iv) Ipitata Sponge Iron Ltd. promoted by TISCO (Tata); (v) J&K Cigarettes Ltd., promoted by Golden Tobacco Co. Ltd., (Dalmia); (vi) Upcom Cables Ltd. promoted by Asian Cables Co Ltd. (Goenka); (vii) Orissa Synthetics Ltd., promoted by Straw Products Ltd., and J.K. Synthetics Ltd., (JK Singhanian); and (viii) NICCO Orissa Ltd. promoted by National Insulated Cable Co Ltd. (NICCO) (See Table - 8).

While on the one hand it can be argued that the very fact that a company is in the joint sector implies that it cannot operate like a normal private sector enterprise and the mal-practices like abuse of market power and siphoning off of profits cannot be undertaken by it. This, however, implies that all the control mechanisms are in place and these function in the envisaged manner. In a situation when the joint sector company leaves the marketing functions to its private collaborator and more so when it is not anticipated that a JSE would continue to remain in joint sector for all times to come, the chances of increasing market concentration, provided other things remaining the same, are quite high.

5 Role of Nominee Directors on the Boards of JSEs and Social Control over Industry

The Industrial Licensing Policy Inquiry Committee (ILPIC) suggested that when the financial institutions sanction assistance to private sector on a significant scale, the projects should be termed as joint sector ones with proper representation of the state in the management. For this purpose, the committee felt it necessary to create a suitable well-trained managerial cadre of full-time public directors who will represent the state on the joint sector industrial concerns. Appointment of their representatives by the public financial institutions on companies' boards was not a regular practice until the ILPIC's recommendations.

The directors representing any of the financial institutions, whether by the all-India or the State level institutions or the Government are termed as 'Nominee Directors'. The appointment of nominee directors got institutionalized with the issue of guidelines for conversion of loan into equity by the Government in June 1971. The guidelines stipulated that the number of nominated representatives on the Board of any assisted concern should be determined by the institution concerned, in consultation with the IDBI, taking into account the nature and scope of the aggregate institutional assistance and importance of the project.³¹

31. Twenty-Seventh Report of Committee on Public Undertakings, *op. cit.*

Table - 8

**Select List of Joint Sector Companies Promoted by
Large House and Foreign Controlled Companies
In their respective Area of Operations**

Product/Private Promoter(s)	Joint Sector Company
(1)	(2)
Industrial Explosives	
IDL Chemicals Ltd (FCC)* Chemicals Ltd	(i) Rajasthan Explosives & Chemicals Ltd (ii) Eastern Explosives and
Caustic Soda Grasim Industries Ltd (Birla)	Bihar Caustic & Chemicals Ltd
Arc Welding Equipment Indian Oxygen Ltd* (FCC)	Maharashtra Weldiads Ltd
Refractories Tata Refractories Ltd (Tata)	Ipitata Refractories Ltd
Asbestos Cement & Products Hyderabad Industries Ltd (Birla)*	Malabar Building Products Ltd
Aluminium Extrusions Indian Aluminium Co. Ltd (FCC)*	Orissa Extrusions Ltd
Aluminium Foils India Foils Ltd (FCC)*	Light Metal Industries Ltd
Wires & Cables Universal Cables Ltd (Birla)	Vindhya Telelinks Ltd
National Insulated Cable Co Ltd (NICCO)	(i) Telelink NICCO Ltd (ii) NICCO Orissa Ltd
Asian Cables Ltd (KP Goenka)	(i) Upcom Cables Ltd (ii) Karnataka Telecables Ltd
Lamps Peico Electronics & Electricals (Philips - FCC)*	Punjab Anand Lamp Industries Ltd

(Contd...)

Product/Private Promoter(s)	Joint Sector Company
(1)	(2)
Electric Fans Crompton Greaves Ltd (Thapar)	Goa Electricals & Fans Ltd
Two-wheeler Scooters Bajaj Auto Ltd (Bajaj)*	Maharashtra Scooters Ltd
Bicycles Hero Cycles Ltd (Munjal)	Gujarat Cycles Ltd
Dyes & Pigments Colour Chem Ltd (FCC)	Vanavil Dyes & Chemicals Ltd
Carbon Black Philips Carbon Black Ltd (K.P. Goenka)*	(i) Gujarat Carbon Ltd (ii) Asia Carbon Ltd
Rubber Contraceptives London Rubber Co. (I) Ltd (FCC/TTK)	Lorcom Protectives Ltd
EPABX Ballarpur Industries Ltd (Thapar)	Northern Digital Exchange Ltd
Sponge Iron Tata Iron & Steel Co. Ltd (Tata)	Ipitata Sponge Iron Ltd
Automobile Components Tata Engg. & Locomotive Co. Ltd	Automobile Corp. of Goa Ltd (Tata)
Oil Engines Kirloskar Oil Engines Ltd* (Kirloskar)	Swaraj Engines Ltd
Hotels ITC Hotels Ltd (FCC)	Gujarat Hotels Ltd
Instruments Taylor Instrument Co. (I) Ltd (FCC/Birla)	Gujarat Instruments Ltd

(Contd...)

Product/Private Promoter(s)	Joint Sector Company
(1)	(2)
Circuit Breakers Hindustan Brown Boveri Ltd (FCC)	National Switchgears Ltd
Industrial Gases Asiatic Oxygen Ltd (Soorajmull Nagarmull)	Bihar Air Products Ltd
Synthetics Straw Products Ltd (JK Singhanian to which JK Synthetics* belongs to)	Orissa Synthetics Ltd
Pesticides Excel Industries Ltd*	Punjab United Pesticides & Chemicals Ltd
Automotive Gears Bharat Gears Ltd (Raunaq Singh)	Raunaq Automotive Components Ltd

Note: * These companies were registered under the MRTP Act as dominant companies. Though ITC was also registered as a dominant undertaking it was held to be dominant in cigarettes industry. House affiliations of the private promoters are given alongside in the brackets.

Source: Same as in Table - 1

The revised guidelines of 1981 stipulated that "the institutions, as a rule, should appoint at least one nominee on the board of every company where sanctioned loan is more than Rs. 1 crore". The guidelines issued in March 1984 increased the limit of assistance for this purpose from Rs. 1 to 5 crores.³² Financial institutions were expected to appoint their nominees on the boards of all MRTP companies. In non-MRTP companies, nominee directors were to be appointed on a selective basis, on the following conditions: (i) when the unit is likely to become sick; (ii) the institutional share holding is more than 26 per cent; and (iii) the institutional stake by way of loans/investment exceeds more than Rs. 5 crores.

Nominee Directors on the boards of assisted companies are expected not only to safeguard the interest of the participating institutions but also to serve the interest of sound public policy. They are expected to play an active role in the deliberations of the Board and see that the projects are implemented within the time frame with no cost overruns and on sound commercial principles. If any undesirable practice is prevailing in the assisted companies including any abuse of power and privileges by the private promoter, it should be brought to the notice of the Board and his nominating institution. It is also expected that the Nominee Directors need to provide adequate feed-back to the institutions concerned on the affairs of the companies. Their actions and suggestions should lead to better management, effective functioning of the Board, improvement in productive efficiency and continued growth of the assisted company.³³

Nominee directors are of two types, namely official nominees and non-official nominees. Official nominees are appointed out of the senior technical and managerial staff of the financial institutions. The officials appointed are required to discharge such functions in addition to their normal duties and no official is appointed in more than four assisted companies. Besides officials, the institutions appoint non-officials consisting of retired officers of the Government, financial institutions/banks, persons specialising in one or more fields of industry, chartered accountants, cost accountants, solicitors and senior technical and financial officials of public sector undertakings, on the boards of companies assisted by them. The IDBI maintains a panel of non-officials to be nominated on the basis of special skills required to broad-base and strengthen the boards of assisted companies.

As discussed earlier, social control over industry can be operationalised in different ways. In case of JSEs this was mainly sought to be achieved through the public sector promoter reserving the right to have its representative as Chairman of the JSE's Board of Directors and through representation on the Board through its other nominees. In the case of joint sector companies appointment of nominee directors differs from the approach being

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32. Government of India, Ministry of Finance, Department of Economic Affairs, Policy Guidelines of the Government relating to stipulation of convertibility clause and appointment of Nominee Directors, March 2, 1984.
 33. Industrial Development Bank of India, Guidelines For The Use of Nominee Directors, Bombay, January 29, 1986, pp. 2-3.

followed by the financial institutions. The boards of joint sector companies can have nominees from three groups; *viz.*, (a) the state industrial development corporation and /or state Government (promoters); (b) private entrepreneur (co-promoter); and (c) all-India financial institutions.

As per the guidelines applicable to the joint sector companies, SIDCs or State Government shall have the right to nominate 1/3rd of the total strength of the board, while the private promoter will have one director less than the SIDCs, provided that the equity ratio of SIDC, private promoter and general public is 26:25:49.³⁴ The SIDCs or the State Government shall have the right to nominate the Chairman, while private promoter will have the right to nominate the Managing Director of the joint sector company. In addition, the former may also stipulate that the appointment of Whole-time Finance Director may either be nominated by them or his appointment is done with their concurrence.

We have noted in the above that the public sector promoter in a joint sector agreement reserves the right to appoint the Chairman of the JSE. An examination of the prospectuses issued by joint sector companies reveals that the stipulation of the guidelines requiring appointment of nominees of SIDCs or State Government as Chairmen on the boards of JSEs was not strictly adhered to in a large number of cases. Table - 9 shows that of the total 275 cases studied, in nearly 76 cases (27.6 per cent) the Chairman of the board was not the nominee of the State or SIDCs at the time the company came to the public.³⁵ In this respect one does not find much difference between JSEs promoted in association with individuals and LIHs. The experience with non-official nominees shows that they were less responsive to the institutional needs and some of them even did not submit their reports to the nominating institutions.³⁶ Another factor which might have contributed to the effectiveness of the policy of appointing institutional nominees as chairmen of JSEs was that some of the nominees were very senior personnel of the participating institution and they were on the boards of a large number of companies either as chairmen, managing director or directors. Indeed the Committee on Public Undertakings observed that appointing senior personnel such as Chairman and Managing Directors of the institutions as nominees on the boards of assisted companies was an undesirable practice "since the reports of nominee Directors are reviewed by financial institutions and in case Chairmen were appointed as nominee directors, the review of their reports would not be possible".³⁷ In response, the Finance Secretary, Ministry of Finance, said, "As a general rule, he should not be in any company I agree with you".³⁸

34. Clarification given by the Dept. of Petroleum and Chemicals, Govt. of India, dated 21-2-1973 in the case of Nylon Yarn project of the APIDC with financial participation of Shri Ambica Mills in the joint sector. See: Ram K. Vepa, *op. cit.*, pp. 158-159.

35. The criteria for identifying the chairman as official nominee are: (i) he was in government service; or (ii) he was heading the public sector promoting company; or (iii) it was specifically mentioned so in the prospectus.

36. Twenty Seventh Report of Committee on Public Undertakings, *op. cit.*, p. 28.

37. Twenty Seventh Report of COPU, *op. cit.*, p. 19.

38. *ibid.*

Table - 9

**JSE Categories and Government Nominees
as Chairmen on the Boards**

Category	No. of JSEs in which		Total	Col.(2) as % of Col.(4)
	Non-Govt. Nominee as Chairman	Govt. Nominee as Chairman		
(1)	(2)	(3)	(4)	(5)
A. Large Sector				
a) Large Industrial Houses (LIHs)	20	54	74	27.0
b) FCCs belonging to LIHs	4	5	9	44.4
c) FCCs	2	7	9	22.2
B. Other Groups	14	42	56	25.0
C. Individuals	33	77	110	30.0
a) Technocrats	14	28	42	33.3
b) NRIs	2	5	7	28.6
c) Others	17	44	61	27.9
D. Co-operatives	-	5	5	0.0
E. Others	3	9	12	25.0
Total 76	199	275	27.6	

Source: Same as in Table - 1

Besides the chairman, public sector promoters exercise their control over the JSEs through nominee directors. While it is not in the scope of the present study to make a detailed study of the phenomenon of nominee directors, it would be useful to understand the manner in which the institution of nominee directors was functioning which in turn would help in understanding their role in JSEs. A study of the impact of nominee directors observed that the presence of nominee directors on companies' boards had brought about an improvement in their functioning as prior to 1971 many companies did not observe even elementary conventions. It further noted that there was a great scope for improvement in boards' functioning.

Boards were neither involved in supervision of management nor in decision-making, but simply fulfilling a legal formality. This is changing under the influence of public financial institutions and their nominee directors, for although there is still a long way to go to secure board effectiveness in the real sense, the 'outer' discipline in board functioning, i.e. observance of proper board procedures, has distinctly improved.³⁹

Also, the effectiveness of nominee directors depends significantly on the manner in which they perceive the role of company boards. A survey of nominee directors conducted in 1982, required them to rank the following five roles of corporate boards.

1. Providing expert/professional advice to the chief executive on specific matters;
2. acting as a friend-philosopher-guide to the chief executive;
3. generating pressure to drive the executive management to great effort;
4. acting as watch dogs against managerial abuse; and
5. ensuring social responsibility.

The two forms of advisory functions (1) and (2) together ranked the highest by as many as 62.8 per cent of the respondents. On the other hand, items (3) and (4) i.e., the watchdog and control functions were ranked first by only 28.9 per cent of the respondents. Thus the advisory role of the board was given distinctly more importance than its control function. Indeed, there was not much awareness of the 'social responsibility' role of the board as only an insignificant proportion (4.4 per cent) of the respondents ranked it at the top.⁴⁰

We have noted in the above that nominee directors in joint sector companies would be one more than the directors representing private promoters. However, there are no

39. See: L.C. Gupta, Corporate Boards and Nominee Directors, Oxford University Press, Delhi, 1989, p. 64. Kuchhal also noted that "... financial institutions have introduced the tradition of project evaluation. Before their emergence there was practically never any well established tradition of project evaluation in India". S.C. Kuchhal, op. cit., p. 303.

40. L.C. Gupta, ibid., pp. 55-56.

guide-lines as to the size of the board and the appointment of other members of the Board. For the public sector promoter to have a better control over the JSE board it is reasonable to expect that their nominees should form a majority on the board. To examine the relative strengths of official nominees on JSE boards we have collected information on the size of the board, number of SIDC/State Government nominees, nominees of other financial institutions and the rest from the prospectuses of JSEs which offered their shares to the public. The results of this exercise based on 244 prospectuses are summarised in Table - 10. It can be seen from the Table that at the time of public issue, state level nominee directors generally formed a minority in the JSE boards. The position improved somewhat when nominees of other institutions were also taken into account. However, official nominees formed less than half of the board size in nearly two-thirds of the cases. The representatives of private promoters together with the other non-official directors thus were in a better position to control the affairs of majority of the JSE Boards.

Table - 10

Share of Nominee Directors on the Boards of JSEs

Share of Nominees Directors in the Board (%)	Number of Companies in which	
	SIDC/State Govt. Nominees accounted for	All Official Nominees accounted for
(1)	(2)	(3)
25% and above	180	217
33.33% and above	142	179
50% and above	47	83

Note: Total number of JSE prospectuses studied for this purpose were 244.

Source: Based on the data generated from the prospectuses of JSEs which went to public for issue of capital. To this additional information like classification of private promoters, location, etc. was added wherever relevant.

Note: - = nil; BWA = Location in Backward area; and Non-BWA = Non-Backward area

It is important to note that even as late as in 1987, the financial institutions felt that there was a need to:

- (i) Prescribe a minimum period of 7 days notice for Board meetings;

- (ii) Send agenda items and background papers well in advance to the members of the board;
- (iii) Submit quarterly working results and annual capital and revenue budgets before the board regularly and half-yearly audited accounts;
- (iv) Need to make it incumbent on the companies to submit to the board periodically certain minimum management information reports covering critical areas of overall performance, key indicators for the same, financial position and operations; and
- (v) Compulsory formation of audit sub-committees.⁴¹

This clearly reflects the manner in which the controlling private interests function and the extensive scope for improvement which is essential for nominees to discharge their duties properly. If this was the experience of all-India institutions, the situation in respect of state-level institutions cannot but be inferior. Further, the guidelines for the use of nominee directors were issued by the IDBI in 1986 *i.e.*, about fifteen years after the policy of appointing nominee directors was introduced.⁴²

The minority position of nominees coupled with their perception of the role of company boards does not lead one to expect them to function effectively. In many cases the institutions did not even use the right to appoint the chairman of the board. The evidence thus seem to indicate that the functioning of the institution of nominee directors was inadequate to do full justice to the role assigned to them.

6 Joint Sector and Resource Mobilization

A major problem for the Indian economy has been the low level of savings which restricts investment. Further, not all the savings go into financing industry. It is the Government's endeavour to mobilize resources from various sources so that the pace of industrialisation is quickened. The Government's catalytic role in joint sector enterprises is expected to have a multiplier effect in terms of mobilizing investible resources from the rest of the economy.⁴³ The state developmental agencies, particularly the SIDCs, by identifying

41. Twenty Seventh Report of COPU, *op. cit.*, pp. 53-54.

42. Paranjape's observations appear to be relevant here when he stated:
While the institutions did adopt the policy of nominating certain individuals on the boards of assisted companies, the idea of building up a professional cadre of whole time Directors was not taken up so that the nominees - except when they were officials of the institutions - had no clearly defined role to play. As the Joint Sector concept itself had not properly been worked out and accepted by Government, there were no clear directives about what the nominee Directors were supposed to do and upon what aspects they should regularly report back to the institutions. In many ways, nominee Directors became merely an extension of patronage by the institutions or by the Government.

See: Government of India, Ministry of Finance, Dept. of Economic Affairs, Background Papers of the Committee to Examine Principles of a Possible Shift from Physical to Financial Controls, 1985, pp. 88.

43. Samuel Paul, et. al., *op. cit.*, pp. 2419-2424.

industrial projects, can promote mobilization of local savings and channelise it into productive investments. To achieve this objective, the states would seek to make optimum use of both financial and human resources and skills. In this context, the joint sector concept provides an opportunity to various developmental agencies to make use of the available technical and managerial expertise at the regional or local levels.⁴⁴

Direct mobilisation of savings from the public for investment purposes takes the form of subscriptions to public and rights issues of capital and debentures. To understand the importance of joint sector in mobilisation of resources from the public, we have examined the share of this sector in public issues from 1976 *i.e.*, almost from the time when the joint sector as a policy instrument got wide acceptance. Table - 11 presents the share of joint sector in the number of public issues through prospectuses and the corresponding amount raised during the period 1976 to 1990-91.

From the Table it can be seen that the share of joint sector was more than 10 per cent in terms of number of issues in the initial period. Its share was even more significant in the amount raised. Once again in the mid-'eighties the sector accounted for more than 10 per cent of the amount raised. Towards the end of the period, however, its share both in number of issues and the amount raised declined considerably; respective shares being 2.63 and 1.05 per cent respectively. For purposes of this exercise, we had to make certain assumptions since the data for joint sector was not available at the desired level of disaggregation. We have assumed that all issues by the joint sector companies during this period were issues through prospectus only and there was no right issue by them. If it was also assumed that all the joint sector issues were new issues, the share of joint sector in new issues would turn out to be quite substantial. However, since the basis for classifying a company as new or existing as also the basis for selecting public issues for response study are not clear from the source of information namely, the Reserve Bank of India Bulletin, we are not emphasizing this aspect any further.

The official policy on joint sector spelt out the guidelines for equity participation by the public sector promoter (SIDC), co-promoter (private promoter) in the overall equity capital of a JSE. Given the relative contributions of public and private promoters one can obtain the contribution of the general public to the risk capital of JSEs. On the basis of prospectuses, the equity capital intended to be mobilised from the public worked out to be Rs. 824 crores which works to 37.76 per cent of the total equity of the 275 JSEs.⁴⁵ It may be relevant to note in this context that in case of other JSEs which have not come to the public, the question of mobilising resources from the public does not arise. The only addition to risk capital in their case would be that of the private promoters because the SIDCs' contribution in any case was intended for the purpose.

44. For a discussion on this aspect see: Ram K. Vepa, *op. cit.*, pp. 89-93.

45. However, from the SIDCs' point of view, it may be more relevant to treat the equity participation of both the private promoters and the general public as the risk capital mobilised through JSEs.

Table - 11

Share of JSEs in the Public Issues made through Prospectuses (1976 to 1990-91)

(Amount in Rs. crores)

Year	No. of Public Issues through Prospectus			Amount Raised through Issues through Prospectus			Share of JSEs in	
	Joint	Private	Total	Joint	Private	Total	No. of Issues (2) as % of(4)	Amount Raised (5) as % of (7)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1976	10	104	114	6.74	51.69	58.43	8.77	11.54
1977	13	98	111	12.13	72.52	84.65	11.71	14.33
1978	12	103	115	37.74	43.50	81.24	10.43	46.45
1979	9	109	118	21.12	77.10	98.22	7.63	21.50
1980	2	165	167	10.00	92.09	102.09	1.20	9.80
1981	7	300	307	15.89	379.40	395.29	2.28	4.02
1982	9	438	447	38.85	407.22	446.07	2.01	8.71
1983	9	800	809	37.38	322.33	359.71	1.11	10.39
1984	7	359	366	12.52	383.94	396.46	1.91	3.16
1985	13	623	636	79.29	548.55	627.84	2.04	12.63
1986-87	14	400	414	144.19	1229.01	1373.20	3.38	10.50
1987-88	9	131	140	132.96	583.12	716.08	6.43	18.57
1988-89	13	178	191	57.27	1513.28	1570.55	6.81	3.65
1989-90	4	186	190	63.04	3091.18	3154.22	2.11	2.00
1990-91	4	148	152	21.54	2026.52	2048.06	2.63	1.05

Note: It has been assumed that all the issues by joint sector companies were issues through prospectus only. It appears that not all public issues were covered in the response studies by the RBI.

Source: Based on: (i) "Trends in Consents for Issue of Capital and Public Response to Capital Issues during 1976 -- 1980", Reserve Bank of India Bulletin, February 1982 and (ii) "Capital Issues and Public Response", published in the Reserve Bank of India Bulletin, October 1989 and February 1995 issues.

When it comes to the share of total investment in the project and distribution of the project cost among various promoting agencies, no specific guidelines were laid down for joint sector projects. The minimum levels of promoters' contribution to projects are prescribed from time to time by the financial institutions and these vary depending upon the location of the project and the type of entrepreneur. The Industrial Development Bank of India (IDBI), stipulates the minimum levels of promoters' contribution in the total project cost for backward and other areas.⁴⁶ For 'A' category districts, the stipulated share was 17.5% which was reduced to 15% of the project cost in April 1983. In case of indirect assistance to small and medium enterprises, the private promoters' contribution was further reduced to 12.5% of the project cost. In case of projects in 'B' and 'C' categories, the minimum prescribed shares were 17.5 and 20 per cent, respectively. In contrast, for units located in non-backward areas, the minimum promoters contribution was fixed at 22.5% of the project cost.⁴⁷

To find out whether any significant differences existed between the different categories of private promoters, in terms of their contribution to the total project cost, the JSEs which went to the public were classified on the basis of the type of private promoters i.e., (i) Individuals; (ii) Large Sector, (iii) Other Groups; (iv) Co-operatives; and (v) Others. Table - 12 shows the distribution of joint sector companies according to the share of private promoters and public financial institutions in the total project cost. The share of private promoters was obtained by adding equity held by the private promoters, foreign collaborators and unsecured loans extended by them towards financing the project. The share of private promoters was less than 10 per cent of the total project cost in 67.77 per cent of JSEs and in 30.40 per cent cases it was in the range of 10 to 25 per cent of the project cost. It is interesting to note that contribution of private promoters in the case of majority of large industrial houses and FCCs was generally lower than the shares stipulated for private promoters. It was ranging between 10 to 25 per cent in 34.07 cases and less than 10 per cent in 61.54 per cent of JSEs co-promoted by them. Further, in relatively fewer cases, large sector companies contributed less than 10 per cent of the project cost compared to individuals and other categories of private promoters. It may be noted that year of issue, industry and locational aspects are not taken into consideration here.

It may be useful to examine the extent of support rendered by the public sector financial institutions (hereinafter termed as public sector for the sake of convenience) in the

46. The guidelines provided for reduction in private promoter's contribution in case of large projects involving investment exceeding Rs. 25 crores, particularly in the list of high priority industries contained in the Appendix-I to the industrial policy statement of February 2, 1973, and sponsored by non-MRTP companies. However, if there is any cost overrun in the project, it is expected that the entire overrun cost should be arranged by the private promoters from their own resources without expecting additional resource from the financial institutions. See: Industrial Development Bank of India, Scheme of Concessional Assistance for Development of No-industry Districts and Other Backward Areas", Bombay, 1984, pp. 2-8.

47. Industrial Development Bank of India, Schemes of Assistance for Small Scale Sector under (SIDF) and other Industrial Projects, October 1987.

Table - 12
Distribution of JSEs according to Contributions of
Private Promoters and Public Sector to the Project Cost

Category	Total No. of Cos.	No. of Cos. in different ranges of share in Project Cost						
		Private Promoters Share			Public Sector Share			
		< 10	10-25	25-50	10-25	25-50	50-75	> 75
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
A. Large Sector	91	56	31	4	1	7	59	24
a) LIHs	73	46	25	2	1	5	45	22
b) FCCs belong to LIHs	9	5	4	-	-	-	8	1
c) FCCs	9	5	2	2	-	2	6	1
B. Other Groups	56	37	18	1	-	2	37	17
C. Individuals	110	79	31	-	1	1	78	30
a) Technocrats	42	31	11	-	-	-	34	8
b) NRIs	7	6	1	-	-	-	4	3
c) Others	61	42	19	-	1	1	40	19
D. Co-operatives	5	4	1	-	-	-	-	5
E. Others	11	9	2	-	-	-	4	7
Total	273	185	83	5	2	10	178	83

Note: Two JSEs were not included in this exercise because of inconsistencies in data.

Source: Same as in Table - 1

form of risk capital and as long term loans and compare it with the contribution of private promoters. The Table - 12 also presents the relative contribution of public sector to the joint sector projects promoted in collaboration with various categories of entrepreneurs. Except for 5 per cent of the cases, the share of public sector was more than 50 per cent of the project cost in all the JSEs studied.⁴⁸ In particular, the share of public sector towards the project was more than 75 per cent in about 30 per cent of JSEs. It can thus be seen that while the private promoter and the general public contributed to the risk capital of JSE projects, the lion's share in project cost was met by government and governmental agencies.

48. For the purpose of arriving at the share of public sector we have taken equity held by the public financial institutions and loans given by banks and financial institutions and other government agencies and subsidy etc. As these percentages were worked out on the basis of information provided in prospectuses the final position can be expected to be somewhat different with the public sector contribution possibly being on the higher side. Two factors may be responsible for such a possibility. One, cost overruns in the project cost are generally taken care of by the financial institutions and two, in case of the public issues getting under subscribed, the financial institutions, whenever they also act as under writers, take up the corresponding share of the un-subscribed equity.

Select Case Studies of Dominant Undertakings and Other Large House Companies in the Joint Sector

Carbon Black:

Carbon black is an important chemical used as raw material for manufacturing automobile tyres & tubes, conveyor belts, transmission belts, hoses, industrial rubber goods, etc. The ILPIC, while reviewing the industrial licensing system and dominance of Large Industrial Houses in certain products observed that:

In Carbon Black, a raw material mainly used in the rubber goods manufacturing industry, in the capacity licensed during the ten year period, about one-third went to Phillips Carbon Black belonging to a Large House - Goenka - which was controlling the entire capacity that was already in production in 1964.⁴⁹

Phillips Carbon Black Ltd. (PCB), was established by Goenkas with financial and technical collaboration of Phillips Petroleum Co. (USA). PCB promoted another company, Oriental Carbon Ltd., in 1974 to manufacture carbon black with an installed capacity of 9,000 tonnes per annum in Uttar Pradesh. The present installed capacity of the company is 35,000 tonnes against the licensed capacity of 28,000 tonnes. In this project there is no involvement of SIDCs.

The Government of India issued a letter of intent to the Gujarat Industrial Investment Corporation Ltd (GIIC) in 1972 for manufacturing 35,000 tonnes of carbon black per annum. The GIIC associated PCB in implementing the project in the joint sector. Gujarat Carbon Ltd was thus incorporated in 1974. Phillips Carbon Black had also promoted another joint sector company with Tamilnadu Industrial Development Corporation Ltd. (TIDCO), namely Asia Carbon Ltd., to manufacture carbon black in 1976. The two joint sector companies namely, Gujarat Carbon Ltd. and Asian Carbon Ltd. have added substantially to the share of Goenkas in carbon black industry. As a result, Goenkas could retain their hold over the product by controlling three-fourths of the installed capacity during mid-'eighties.⁵⁰

Rubber Contraceptives:

London Rubber Manufacturing Co. (I) Ltd. (LRCI), a company belonging to the TTK Group, was the only other company producing contraceptives besides Hindustan

49. ILPIC Report, *op. cit.*, p. 62.

50. The installed capacity of the carbon black industry during 1983-84 was 1,41,700 tonnes. The three companies of Goenka group namely, Phillips Carbon Black Ltd., Oriental Carbon Ltd., and Gujarat Carbon Ltd., have an installed capacity of 36,000, 35,000 and 35,000 tonnes respectively during the same period. See: Centre for Monitoring Indian Economy, Market and Market Shares, Economic Intelligence Service, Bombay, March 1986.

Latex Ltd., a company belonging to the public sector. The LRCI was initially a FERA company with the foreign shareholder LRC (Overseas) Ltd., UK holding more than 40 per cent of the company's equity. LRCI had a market share of 40.80 per cent, thus enjoying a dominant position in the industry. The State Industrial Development Corporation of Maharashtra Ltd (SICOM) had obtained DGTD registration for manufacturing of 182 million nos. of contraceptives in 1981. The LRCI had joined the SICOM to promote a new company in the name of Lorcom (Protectives) Ltd (LPL). Interestingly enough, the joint sector company also entered into technical collaboration with LRC (Overseas) Ltd., UK, the foreign share holder of LRCI. Thus the market share of TTK Group in rubber contraceptives which was already in a dominant position had further increased. It needs to be underlined that LRCI and LPL are located in different states.

GLS Lamps and Fluorescent Tubes:

The case of Philips India Ltd (for some time known as Peico Electronics and Electricals Ltd) is particularly an interesting one. The company along with its associates Electric Lamp Manufacturers India Ltd. and Hind Lamps Ltd. has a substantial share of the market in General Lighting Service (GLS) lamps and fluorescent tubes (FT) lamps. Philips India had applied in 1974 for an expansion licence to manufacture additional quantities of GLS lamps and fluorescent lamps and tubes. The company's proposal was rejected by the MRTP Commission and subsequently by the Government. In support of its rejection order, the Government observed that:

The Central Government has carefully considered the report made by the Monopolies and Restrictive Trade Practices Commission, and submissions made the applicant company and the objections at the hearing. The items of manufacture are not open to large houses /foreign majority companies unless they undertake to export at least 60% of the production. The applicant company has non-resident equity holding of slightly more than 60% and together with its interconnected undertakings ... enjoys a monopolistic position in the production of GLS Lamps and FT Lamps. The company has been producing much in excess of its licensed capacity without any authorisation... As the applicant company is enjoying monopolistic position, its proposal for expansion could only be considered if it is meant substantially for exports. The proposal of the company has strongly been opposed by the indigenous manufacturers of GLS and FT lamps. The fear of the small scale units of being starved of the essential lamp manufacturing components, in respect of some of which the applicant company is sole manufacturer, is not totally unfounded. In view of the reluctance of the applicant company to accept the conditions unequivocally as proposed by the Government, the Central Government is of the opinion that it is not expedient in public interest to accord approval to the proposal of the applicant company and that it should be rejected.⁵¹

51. Government of India, Ministry of Law, Justice and Company Affairs, Reports of the MRTP

Subsequently, N.V. Philips of the Netherlands, the controlling shareholder of Philips India, and C.L. Anand of Punjab Anand Batteries joined hands with the Punjab State Industrial Development Corporation Ltd (PSIDC) to set up a joint sector company namely Punjab Anand Lamp Inds. Ltd. for manufacture of GLS lamps and fluorescent tubes and lamps. As per the agreement, PSIDC was to participate in total paid-up capital to the extent of 26 per cent and N.V. Philips was to take up 25 per cent. Another 10 per cent of the equity was reserved for Punjab Anand Batteries, Mr. C.L. Anand and his associates. The balance of 39 per cent of the paid-up capital was issued to the general public. The prospectus of Punjab Anand Lamp Industries informs that the company had entered into marketing agreement with Philips India Ltd⁵². Thus N.V. Philips could expand its hold on the Indian lamp industry through this joint sector agreement negating the earlier rejection by the Central Government.

Caustic Soda:

Though of a slightly different nature, the case of caustic soda unit promoted by three Birla companies is also a relevant one. In this case too one of the promoters which was denied a licence earlier for caustic soda could succeed in entering the industry through a joint sector project.

Caustic Soda is a basic inorganic chemical used in a wide range of industries like aluminium, paper, pulp and rayon, etc. Hindustan Aluminium Corporation Ltd., (Hindalco), a company belonging to the Birla House had applied for a licence to manufacture caustic soda. Hindalco wanted to establish a new undertaking to manufacture caustic soda for the reason that domestic suppliers were unable to meet its demand. The Government of India had referred the application of Hindalco to the MRTP Commission (MRTPC) in October 1971. After examining the case and hearing the objections filed by companies manufacturing caustic soda, the Commission concluded that :

Our examination of the proposal made by Hindustan Aluminium Corporation Limited for establishing a new undertaking to manufacture caustic soda and other related products shows that the proposal cannot be supported in terms of the objectives and considerations indicated in section 28 of the Monopolies and Restrictive Trade Practices, Act. It does not appear to us that the applicants requirements of caustic soda cannot be met except by setting up a captive unit for production of caustic soda... it is our view that approval of the proposal would not be in consonance with the following specific guideline of the MRTP Act under Section 28 viz., "to encourage new enterprises as countervailing force to the concentration of economic power to the common detriment". The Commission

(. . .continued)

Commission and Orders thereupon of the Central Government Under Section 21, 22 & 23 of the MRTP Act, 1969, Vol. II. Section 21, 1982, p. 209.

52. See: Prospectus of the Punjab Anand Lamp Industries Ltd., dated December 10, 1984, p. 9.

therefore does not recommend the approval of the proposal.⁵³

Bihar State Industrial Development Corporation Ltd. (BSIDC) had obtained a letter of intent in early 1974 for the manufacture of 32,000 tonnes of caustic soda and 28,480 tonnes of chlorine per annum.⁵⁴ In June, 1976 three companies of the Birla House, namely, Hindustan Aluminium Corporation Ltd. (Hindalco), Gwalior Rayon and Silk Manufacturing Co. Ltd., (Gwalior Rayon), itself a manufacturer and consumer of caustic soda, and Pilani Investment Corporation Ltd. (PIC) entered into joint sector agreement with BSIDC to implement the caustic soda project. A new company in the name of Bihar Caustics & Chemicals Ltd. was incorporated. As per the agreement, BSIDC was to hold 26 per cent of the paid up capital of the new enterprise; Hindalco, Gwalior Rayon, and PIC together 25 per cent; and the balance 49 per cent offered to the general public. Hindalco could thus enter into caustic soda manufacture through joint sector even though its earlier attempt was disapproved by the MRTP Commission. It may also be noted that the JSE turned sick and was referred to the BIFR.

Industrial Explosives:

Indian Explosives Ltd (IEL) and IDL Chemicals Ltd (IDL) were the two market leaders in industrial explosives in India. The MRTP Commission noted that the respective shares of the two companies in the supply of explosives in 1975 were 66.03 and 18.86 per cent.⁵⁵ IEL, a subsidiary of ICI, U.K., made an application to the Central Government for establishing a new undertaking for manufacturing of industrial explosives in Madhya Pradesh. The Government referred the application of the company to the MRTP Commission for their views on the proposal. The Commission after hearing the objection filed by the other market leader namely, IDL Chemicals Ltd, recommended for the rejection of IEL's proposal.⁵⁶ During 1989-90, the market share of IEL was reduced to 37.10 per cent while IDL's share increased to 25 per cent. IDL, which objected to the expansion of IEL, had later on increased its market hold through the joint sector route. In 1978-79, IDL Chemicals Ltd promoted a new company under the name Rajasthan Explosives and Chemicals Ltd for the manufacture of explosives and accessories in the joint sector with Rajasthan State Industrial Development Corpn. Ltd (RIICO). RIICO's participation in the company was 50 per cent of the equity capital and the balance was held by IDL Chemicals Ltd and its employees. IDL Chemicals Ltd had promoted another joint sector company under the name Eastern Explosives and Chemicals Ltd. in association with West Bengal Industrial Development Corpn Ltd (WBIDC) for manufacturing explosives.

53. Government of India, Ministry of Law, Justice and Company Affairs, Reports of the MRTP Commission and Orders thereupon of the Central Government under Sections 21, 22 & 23 of the MRTP Act, 1969, Vol. III, Section 22, 1983, p. 297.

54. See: prospectus of Bihar Caustics & Chemicals Ltd., dated September 20, 1982.

55. Reports of the MRTP Commission and Orders thereupon of the Central Government under Sections 21, 22 & 23 of the MRTP Act, 1969, Vol. III, op. cit., p. 47.

56. Ibid., p. 518.

Aluminum Fluoride:

Aluminium fluoride is one of the essential raw materials for production of aluminum from bauxite ore. It is also used as flux in the electrical smelter for aluminum production. Hindustan Aluminium Corpn. Ltd. (HINDALCO), a company belonging to the Birla House, and a leading manufacturer of aluminum ingots and products had entered into a joint sector agreement, with Tamilnadu Industrial Development Corpn. Ltd (TIDCO), which possessed industrial licence for manufacture of aluminium fluoride, for establishing a new company under the name Tamilnadu Fluorine & Allied Chemicals Ltd (TANFAC). As per the agreement, TIDCO subscribed to 26 per cent, HINDALCO 10 per cent, Gwalior Rayon & Silk Mfg. Co Ltd 10 per cent and Piani Investment Corpn Ltd 5 per cent of the equity capital of the joint sector company. The balance 49 per cent was issued to the public. As per the marketing agreement, the private promoter HINDALCO itself would consume half of the company's production.⁵⁷ Establishment of the JSE, mainly for captive consumption, by HINDALCO incidentally pushed Birla's share in the production of aluminum fluoride to one-fourth of the industry's total in 1989-90.

Aluminium Foils:

According to ILPIC the bulk of the capacity licensed in the aluminium foil industry went to foreign subsidiaries and large houses namely, India Foils Ltd (IFL) and Indian Aluminium Co Ltd. (INDAL) -- both FCCs, General Industrial Society Ltd (Birla) and Surendra Overseas Ltd (Apeejay). Twelve companies were denied licences mainly on the ground that there was no further scope for the industry.⁵⁸ The two foreign controlled companies together controlled almost the entire production during 1989-90 (India Foils :54.70 per cent and INDAL: 44.60 per cent).

India Foils Ltd, a FERA company, promoted another company namely, Light Metal Industries Ltd., in the joint sector in association with West Bengal Industrial Development Corpn Ltd (WBIDC) for the manufacture of 1,000 tonnes of aluminium rolled products per annum. As per the selling agreement between the co-promoter (IFL) and the JSE, nearly 80 per cent of the production would be utilised by the co-promoter itself.⁵⁹ Incidentally, Light Metal Industries Ltd. turned into sick and was taken over by IFL.

ARC Welding Equipment & Accessories:

Indian Oxygen Ltd (IOL) a company belonging to the BOC Group, U.K. is a dominant undertaking producing arc welding equipment and submerged arc welding wire,

57. For details, see the Prospectus dated October 27, 1983, issued by Tamilnadu Fluorine and Allied Chemicals Ltd, p. 9.

58. ILPIC, *op. cit.*, p. 58.

59. See: the Prospectus of Light Metal Industries Ltd., dated 6-9-1986.

etc. IOL has been registered under the MRTP Act since October 1970. The company made an application to the Central Government twice in 1972 for substantial expansion of arc welding electrodes and submerged arc welding flux under section 21 of the MRTP Act. After examining the proposal and hearing the objections filed by other companies, the Central Government concluded that:

Pursuant to the decision of the Government to allow fuller utilisation of the existing capacities, in terms of the revised licensing policy announced in February 1973, and the capacity already created is sufficient to meet the requirement of the country, it is not expedient in the public interest to accord approval to the two proposals of applicant company and that the proposals should be rejected.⁶⁰

After having got its expansion proposals rejected in 1973, IOL had set up a joint sector company in the state of Maharashtra for manufacturing of arc welding equipment and accessories in 1982. A new company was incorporated under the name Maharashtra Weldaids Ltd in association with the State Industrial Corpn of Maharashtra Ltd (SICOM). SICOM was to hold 26 per cent of the JSE's equity and IOL 25 per cent with the balance offered to the general public. The products to be manufactured by Maharashtra Weldaids Ltd were also to be marketed by the IOL.

Asbestos Cement Products:

ILPIC observed that out of the 3.65 lakh tonnes of asbestos cement licensed during 1956-66, 80 per cent had gone to the large industrial sector. Out of this as much as 65 per cent was accounted for by the house of Birlas⁶¹. Though the industry was put under the banned list in 1959, the Government subsequently allowed existing companies to expand their capacities. Hyderabad Industries Ltd (HIL), a company registered as a dominant undertaking under the MRTP Act for manufacture of asbestos cement products belongs to the Birla House. To further increase its hold on the market, HIL joined hands with Kerala State Industrial Development Corporation Ltd (KSIDC), to implement the licence held by the latter for manufacturing asbestos sheets, in the joint sector. Thus, a company under the name of Malabar Building Products Ltd was incorporated in 1982 in the joint sector. As per the agreement KSIDC was to hold 26 per cent of the JSE's equity and the co-promoter, HIL 25 per cent and the balance by the public. Thus it is another case a dominant company seeking to either maintain its hold over the market or to improve it. The case also illustrates the marketing relation between JSEs and the private promoters.

Two Wheeler Scooters:

Automobile Products of India Ltd and Bajaj Auto Ltd were the two main units producing two wheeler scooters which began their production as early as in 1955 and 1960

60. Government of India, Ministry of Law, Justice & Company Affairs, Orders Passed by the Central Government under Sections 21, 22 & 23 of the MRTP Act, 1969, Vol. I, Section 21, 1982, p. 314.

61. ILPIC, op. cit., pp. 57-58.

respectively. Both of them belong to large industrial houses namely, M.A. Chidambaram and Bajaj respectively. After giving licences to the above two units, the Government included scooters in banned list in 1961.

Bajaj Auto Ltd which was producing much in excess of its licensed capacity, applied for expansion of its capacity from 24,000 nos. to 1,00,000 nos. in 1970. The Government, however, granted permission to increase its installed capacity to 48000 units only.⁶² In March 1971, the collaboration agreement between Bajaj Auto Ltd and Piaggio of Italy came to an end and the collaborator refused to renew the agreement for a further period. Bajaj Auto again applied for substantial expansion of its capacity in 1973, 1974 and 1978 and the proposals were subsequently approved by the Government.⁶³ In spite of the entry of a number of other companies, Bajaj Auto enjoyed virtual monopoly in the two wheeler industry during the 'seventies. API fell behind considerably. In July 1972, Western Maharashtra Development Corporation Ltd (WMDC), a Government of Maharashtra undertaking, was issued an industrial licence for manufacturing 24,000 scooters per annum. Bajaj Auto sought to further consolidate its position in the industry by entering into an agreement with WMDC in October 1974 to implement the project in the joint sector. Thus came into being Maharashtra Scooters Ltd. (MSL), in 1975. As per the agreement, the two wheelers manufactured by MSL will be marketed by Bajaj Auto under the brand name 'Priya'. The units which came up in the public sector either became sick or taken-over by the other units. During 1989-90 combined market share of Bajaj Auto and MSL was 70.70 per cent. Thus, the establishment of joint sector two wheeler unit had helped Bajaj Auto to maintain its hold over the market.

62. Orders Passed by the Central Government Under Section 21, 22 & 23 of the MRTP Act, 1969, Volume I, *op. cit.*, p. 73.

63. *ibid.*, pp. 75-82.