

Competition Act 2002

Competiton

Is “a situation in a market in which firms or sellers independently strive for the buyers’ patronage in order to achieve a particular business objective for example, profits, sales or market share”

BENEFITS OF COMPETITION

- Companies : Efficiency, cost-saving operations, better utilization of resources, etc.
 - The Consumer : Wider choice of goods at competitive prices
 - The Government : Generates revenue
- But all these benefits are lost if Competition is UNFAIR or NON-EXISTANT

* EVOLUTION OF COMPETITION LAW

- * Before MRTP Act came into force (1970), limited provisions existed under :
 - * The Indian Contract Act
 - * Directive Principles of State Policy (Non-enforceable)

- * The MRTP Act brought in a four-pronged thrust :
 - * Concentration of economic power
 - * Restrictive Trade Practices
 - * Monopolistic Trade Practices
 - * Unfair Trade Practices

- * Introduced in the year 2002
- * It extends to the whole of India except the State of Jammu and Kashmir.
- * It is a tool to implement and enforce competition policy and to prevent and punish anti-competitive business practices by firms and unnecessary Government interference in the market.

* **COMPETITION LAW**

* Competition Law generally covers 3 areas:

- Anti - Competitive Agreements, e.g., cartels,
- Abuse of Dominant Position by enterprises, e.g., predatory pricing, barriers to entry and
- Regulation of Mergers and Acquisitions (M&As).

* **COMPETITION LAW**

* OBJECTIVES OF COMPETITION LAW

- Promoting economic efficiency in both static and dynamic sense
- Protecting consumers from the undue exercise of market power
- Facilitating economic liberalization, including privatization. Deregulation and reduction of external trade barriers
- Preserving and promoting the sound development of a market economy

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- Ensuring fairness and equity in market place transactions
- Protecting the ‘public interest’ including in some cases considerations relating to industrial competitiveness and employment
- Protecting opportunities for small and medium business

SEC 3 ANTI-COMPETITIVE AGREEMENTS

- *No enterprise or association of enterprises or person or association of persons shall enter into any agreement in respect of production, supply, distribution, storage, acquisition or control of goods or provision of services, which causes or is likely to cause an appreciable adverse effect on competition within India.

* SEC 4 - ABUSE OF DOMINANT POSITION

- * "dominant position" means a position of strength, enjoyed by an enterprise, in the relevant market, in India, which enables it to—
 - * (i) operate independently of competitive forces prevailing in the relevant market; or
 - * (ii) affect its competitors or consumers or the relevant market in its favour.

SEC 5 - COMBINATIONS

Regulation of combinations

No person or enterprise shall enter into a combination which causes or is likely to cause an appreciable adverse effect on competition

EXEMPTIONS

GOVERNMENT BY NOTIFICATION MAY EXEMPT FROM THE COMPETITION LAW

- ANY CLASS OF ENTERPRISES IN THE INTEREST OF NATIONAL SECURITY/PUBLIC INTEREST.
- ANY PRACTICE/AGREEMENT ARISING OUT OF INTERNATIONAL TREATY/AGREEMENT
- ANY ENTERPRISE PERFORMING A SOVEREIGN FUNCTION ON BEHALF OF GOVERNMENT
- **DIFFERENT PROVISIONS FROM DIFFERENT DATES IF, NEED BE.**

* STATUS OF THE COMPETITION COMMISSION

- It is a body corporate
- It has Regulatory and quasi-judicial powers; functions through Benches
- Each Bench shall consist of at least two Members and one of such Members must be a judicial Member

After inquiry into abuse of dominant position, the Competition Commission can order:

- * discontinuance of abuse of dominant position
- * impose a penalty upto 10% of the average turnover of the enterprise

*** POWER OF THE
COMPETITION COMMISSION**

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- Cease and desist order
- Impose penalty up to 10% of turnover.
- In case of cartel, penalty can be 10% of turnover or 3 times of profit illegally gained from cartel activity, whichever is higher.
- * Recommend to Government the division of dominant Enterprise
- Various penalties ranging from Rs.1 lac upto Rs.1 crore are also provided for failure to comply with direction/order of Commission.