

*Heralding an Era of Fair & Healthy Competition in the Market

By : INVC Team Published On : 5 Apr, 2012 08:45 PM IST



***Dr. Sheetal Kapoor,,**

A fair competition in the market ensures consumers access to broadest range of goods and services at competitive prices. Business enterprises adopt a variety of strategies and tactics to protect their interests. They get together to gain more power and influence which may be detrimental to the interests of the consumers and many times adopt restrictive practices such as collusive price fixing, deliberate reduction in output in order to increase prices, creation of barriers to entry, allocation of markets, tie-up sales, predatory pricing and discriminatory pricing, and the like, which have an adverse effect on the social welfare and economic well-being of different interest groups. There is thus, a need to not only prevent the formation of monopolies or business combinations but also to encourage healthy and fair competition so that the consumers are able to get better value for their purchase decisions.

To create a fair competition in the economy and provide a 'level playing field' the Competition Act, 2002, was enacted by the Parliament on 13th January 2003. The Competition Commission of India (CCI) was established by the Central Government with effect from 14th October, 2003. The Act was subsequently amended by the Competition (Amendment) Act, 2007. The provisions of the Act relating to anti-competitive agreements and abuse of dominant position were notified on 20th May, 2009. This Act applies to whole of India, except the state of Jammu and Kashmir. The Competition Commission of India is now fully functional with a Chairperson and six members. The Competition Act focuses on four key areas: *anti competitive agreements, abuse of dominant position, combinations regulation and competition advocacy*. The Act emphasizes the behavioral approach to examine competition. It is different from the approach of the MRTP Act, which followed the structural approach.

Keeping in view the economic development of the country, the Competition Act provides for the establishment of a Competition Commission to achieve the following objectives:

- to prevent practices having adverse effect on competition.
- to promote and sustain competition in markets.
- to protect the interests of consumers.
- to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto.

The Competition Act covers the following under Chapter II of the Act:

- U/s 3 Prohibition of anti-competitive agreements.
- U/s 4 Prevention of abuse of dominance.
- U/s 5 Regulation of combinations (mergers and acquisitions).
- U/s 6 Establishment, staffing and powers of the proposed ten members of CCI.

Preamble to the Competition Act

To achieve its objectives, the Competition Commission of India endeavors to do the following:

- Make the markets work for the benefit and welfare of consumers.
- Ensure fair and healthy competition in economic activities in the country for faster and inclusive growth and development of economy.
- Implement competition policies with an aim to effectuate the most efficient utilization of economic resources.
- Develop and nurture effective relations and interactions with sectoral regulators to ensure smooth alignment of sectoral regulatory laws in tandem with the competition law.
- Effectively carry out competition advocacy and spread the information on benefits of competition among all stakeholders to establish and nurture competition culture in Indian economy.

The objectives of Competition Law have been further highlighted in a recent judgment delivered by the Supreme Court as:

"The main objective of competition law is to promote economic efficiency using competition as one of the means of assisting the creation of market responsive to consumer preferences. The advantages of perfect competition are three-fold: allocative efficiency, which ensures the effective allocation of resources, productive efficiency, which ensures that costs of production are kept at a minimum and dynamic efficiency, which promotes innovative practices." (Judgment in Civil Appeal No. 7999 of 2010 pronounced on 9 September 2010)

Who can Approach the CCI

The CCI can be approached if a person, enterprise or association indulges in anti-competitive agreements, abuse of dominant position and mergers and acquisitions and amalgamations that hamper competition.

If a manufacturer or service provider imposes unfair condition on the sale of its products or services, consumers can inform the CCI and seek redress. Trading of consumer goods, banking, education, financing, insurance, real estate, transport, processing, supply of electrical or energy components, etc. are the important areas where a large number of consumers can benefit from the Competition Commission.

Who can make a complaint?

Any person, consumer, consumer association or trade association can make a complaint against anti-competitive agreements and abuse of dominant position.

- A person includes an individual, Hindu Undivided Family (HUF), company, firm, Association Of Persons (AOP), Body Of individuals (BOI), statutory corporation, statutory authority, artificial juridical person, local authority and body incorporated outside India.
- A consumer is a person who buys for personal use or for other purposes.

Functions of CCI

- Competition Commission of India shall prohibit anti-competitive agreements and abuse of dominance, and regulate combinations (merger or amalgamation or acquisition) through a process of enquiry.
- It shall give opinion on competition issues on a reference received from an authority established under any law (statutory authority)/Central Government.
- CCI is also mandated to undertake competition advocacy, create public awareness and impart training on competition issues.

The Central Government or a State Government or an authority established under any law may make a

reference for an enquiry. The Commission can initiate enquiry on its own on the basis of information or knowledge in its possession. The Orders which Commission can pass in case of anti-competitive agreements and abuse of dominance are:

- During the course of enquiry, the Commission can grant interim relief restraining a party from continuing with anti competitive agreement or abuse of dominant position.
- To impose a penalty of not more than 10% of turn-over of the enterprises and in case of cartel - 3 times of the amount of profit made out of cartel or 10% of turnover of all the enterprises whichever is higher.
- After the enquiry, the Commission may direct a delinquent enterprise to discontinue and not to re-enter anti-competitive agreement or abuse the dominant position.
- To award compensation.
- To modify agreement.
- To recommend to the Central Government for division of enterprise in case it enjoys a dominant position.

Disclaimer: The views expressed by the author in this feature are entirely her own and do not necessarily reflect the views of INVC. *Associate Professor and Convenor Consumer Club, Department of Commerce, Kamala Nehru College, University of Delhi.

URL : <https://www.internationalnewsandviews.com/heralding-an-era-of-fair-healthy-competition-in-the-market/>



12th year of news and views excellency

Committed to truth and impartiality

Copyright © 2009 - 2019 International News and Views Corporation. All rights reserved.