

Topic:

TYPES OF MARKETS AND ITS LAWS THROUGH THE LENSE OF “THE COMPETITION ACT 2002”

Submitted to: Yugantar Legals

Submitted by:

AADITYA SINHA

University of Petroleum and Energy Studies

Branch: Btech CSE+LLB(hon's Cyber law)

Batch: 2017-2023

INDEX:

- 1> ABSTRACT
- 2> SYNOPSIS
- 2.1> INTRODUCTION
- 2.2> Objective of the Research
- 2.3> Research Method
- 2.4> Literature Review
- 2.5> Probable Outcome
- 3> PART 1: ECONOMIC THEORIES AND CORPORATE SOCIAL RESPONSIBILITY
- 3.1> CHAPTER 1: THE BASIC PRINCIPLE OF MARKET
- 3.2> CHAPTER 2: THE IDEA OF CSR IN CONTEXT OF Laissez-Faire
- 3.3> CHAPTER 3: 1991: Liberalization of Indian Economy
- 4> PART 2: COMPETITION LAW IN INDIA
- 4.1> CHAPTER 1: ANTITRUST LAWS IN INDIA
- 5> PART 3: CASE LAWS
- 6> PART 4: CONCLUSION
- 7> Bibliography

ABSTRACT

The project talks about the concept of monopoly and different types of market which are defined under the economic system. The purpose of this project is to understand the economic concepts related to market and their historical reference which happened in the year of 1991. Types of markets such as free market, oligopoly, Monopoly, are briefly mentioned. Although the project is not very technical, but certain economic laws like , law of demand and supply or law of marginal utility has been mentioned in brief. The LPG(Liberalization, Privatization, Globalization) has been mentioned briefly in the project just to show some light on these concepts to understand the meaning of the Competition Act 2002. The topic of competition law is very important because of the historical aspect of 1991 LPG process, since our economy got free, apart from many advantages the major threat was to small time local business which could be exploited by the big business giants, especially in these times when technologies like Data Science and Machine Learning can manipulate the thoughts of every society and this can lead to violate rights of several people. Despite being a legal journal, it is also very important to understand the more technical definitions which are slightly more economics based are also mentioned because it is very important to understand the concepts and their origin before actually understanding the laws behind it. The CCI, Competition Commission of India is an administrative authority which has been setup after the provisions made in the Competition act,2002

Keywords: Monopoly, oligopoly, Law, Economic System, LPG, Competition Commission of India, Market, Free Market, Law of demand and supply, Law of Utility

Synopsis:

Introduction:

One of the major things which you read these days is the merger and acquisition of companies, Facebook a technical giant company has purchased both Instagram and Whatsapp, when we hear these kind of news we actually don't give much attention to these news, however I would like to ask a question to everyone, that what if there is only one social media platform which is (say) Facebook?. You can say, that it doesn't matter to you but actually it is one of the biggest threat to any market and every customer who is involved in that market, because if that happens Facebook can make any rules and regulations and you cannot even do anything because in the market only there is Facebook which provides you the platform to interact with different people. Now, just take a hypothetical example if Indian Railways which is a government organization turns into a private organization and just charge any fare without any reasonability, since railways is in a monopoly market(ref: Types of market). This is the problem with monopoly market, if there is only one producer and say "n" number of consumer then the producer can make any rules and regulations and the consumer will have no choice to actually accept those rules and regulations. In order to reduce these risks and many other like protecting the likes of small companies, there is a need of competition law or say "antitrust" laws. In India, we have competition act, 2002. By the provisions of competition act we have developed a competition regulator, which is a Statuary body known as "Competition Commission of India".

Objective of the research:

The objective of the research is to understand the antitrust laws of India and the essence of antitrust laws, the philosophy of them why they were introduced especially in India. The competition regulator which is known as Competition Commission of India. Other subtopic of research are many more economic theories like "Demand and Supply", "Types of Market" and their relevance in competition act. Apart from competition law, Corporate Social Responsibility which is defined in companies act 2013, is also briefly described, the reasons for moral ethics for companies.

Research Methodology adopted:¹

¹ <https://www.alzheimer-europe.org/Research/Understanding-dementia-research/Types-of-research/Research-methods>

The Research methodology adopted in this case is Qualitative. The Qualitative research here talks about the problem by analyzing the issues and interviews of the entire person involved in the case carefully. In this case the primary research is used, which is websites, and certain journals.

Literature Review:

M. Furse, Competition Law of the UK and EC²

A book which primarily deals with how the competition law was developed and deduced in the United Kingdom and other European nations. The book deals with the concept of competition laws in both UK and EC which is known as European Commission This fourth edition however highlights the separation of the two systems as the new Enterprise Act 2002 is adopted by the UK.

Probable Outcome:

After the completion of this project, the most probable outcome would be to analyze the economic theories clearly and understand them in the lights of competition law. One of the outcome would be certain case laws which helps us to analyze the different situations.

PART1: ECONOMIC THEORIES&CORPORATE SOCIAL RESPONSIBILITY

CHAPTER1: The basic principle of market system

1.1> Economic System:

An economic system, or economic order, is a system of production³, resource allocation and distribution of goods and services within a society or a given geographic area. It mainly includes mixture of several institutions, agencies, entities, decision-making processes and patterns of consumption that comprise the economic structure of a given community.

An economic system can be considered to be a social system. The mode of production is a related concept. There are generally four types of economic problem:

² Furse, Mark, *Competition Law of the EC and UK* (6th ed, Oxford University Press 2008)

³ System of production, here implies to "Means of production"

- 1> What kinds and quantities of goods shall be produced.
- 2> How goods shall be produced.
- 3> How the output will be distributed.
- 4> When to produce.

1.2> Market System:

A market system is an economic system in which the decisions of investing, production are guided by the price signals which are created by the concept of demand and supply. In a nutshell a market system is that system where the economic cycle moves freely in an order.

One of the major factors of market system is capital and modes of production, in order to create a market there has to be an investment of capital and the output should be the production.

1.3> Free Market:

Free Market is a type of market where perfect competition occurs, this a type of market where there is no restriction on the number of companies, there can be a “N” number of companies and every company can come to a market which have “N” number of customer, this type of market is preferred and considered to be more liberal in nature because here customer is treated as a king, it is kind of a democratic set-up of a market where anyone can choose anything. However, many economist primarily, arguably the most influential economist of all times Karl Marx was always against the liberal set up of market. He always believed that capitalism will only oppress poor people, and division between rich and poor will only increase. Initially, India also had a socialist economy but after early 1980s, the economy of india collapsed and in order to get the loans from the International Monetary Fund, India liberalized the economy. India then converted into a free market, and this was one of the prime reason why we as nation needed competition laws.

1.4> Types of Market:⁴

1.4.1 PERFECT COMPETITION

Attributes of Perfect (Pure) competition include:

- Countless small firms are in the market.
- The firms sell comparable items; that is, each company's item is actually similar to the items sold by different firms in the market.

⁴ <https://smallbusiness.chron.com/5-different-types-market-systems-25818.html>

- Purchasers and sellers in the market have great information about prices, causes of supply, etc.
- It is not difficult to start another business or close an existing one
- In a perfectly competitive market, firms sell their items at prices decided exclusively by powers outside their ability to control. Since the items are basically the same and each firm contributes just a small amount to the absolute quantity provided by the industry, cost is controlled by market interest. A firm that raised it's anything but a little over the going rate would lose clients. In the wheat market, for instance, the item is basically something very similar starting with one wheat maker then onto the next. Subsequently, none of the makers has power over the cost of wheat.
- Wonderful competition is a great. No industry shows every one of its attributes, yet the financial exchange and some horticultural markets, like those for wheat and corn, come nearest. Ranchers, for instance, can sell the entirety of their harvests through public ware trades at the current market cost.

1.4.2 Unadulterated Monopoly⁵

At the opposite finish of the range is unadulterated monopoly, the market structure in which a solitary firm records for all industry deals of a specific decent or administration. The firm is the industry. This market structure is portrayed by hindrances to section—factors that keep new firms from contending similarly with the existing firm. Regularly the boundaries are mechanical or lawful conditions. Polaroid, for instance, held significant licenses on moment photography for quite a long time. At the point when Kodak attempted to market its own moment camera, Polaroid sued, guaranteeing patent infringement. Polaroid gathered large number of dollars from Kodak. Another obstruction might be one company's control of a characteristic asset. DeBeers Consolidated Mines Ltd., for instance, controls the majority of the world's stock of whole jewels.

Public utilities, for example, gas and water organizations, are unadulterated restraining infrastructures. A few restraining infrastructures are made by an administration request that outlaws competition. The U.S. Postal Service is as of now one such monopoly.

1.4.3> Monopolistic Competition

Three qualities characterize the market structure known as monopolistic competition:

- Numerous firms are in the market.
- The firms offer items that are close substitutes yet contrast from each other.
- It is generally simple to enter the market.

⁵ <https://www.cfainstitute.org/en/membership/professional-development/refresher-readings/firm-market-structures>

Under monopolistic competition, firms exploit item separation. Ventures where monopolistic competition happens incorporate attire, food, and comparative purchaser items. Firms under monopolistic competition have more authority over valuing than do firms under amazing competition since shoppers don't see the items as wonderful substitutes. In any case, firms should exhibit item contrasts to legitimize their prices to clients. Thus, organizations use promoting to recognize their items from others. Such qualifications might be critical or shallow. For instance, Nike says "Take care of business," and Tylenol is promoted as being simpler on the stomach than anti-inflammatory medicine.

1.4.4. Oligopoly⁶

An oligopoly has two attributes:

- A couple of firms produce most or the entirety of the yield.
- Huge capital necessities or different variables limit the quantity of firms.

Boeing and Airbus Industries (airplane makers) and Apple and Google (working frameworks for cell phones) are significant parts in various oligopolistic businesses.

With scarcely any firms in an oligopoly, what one firm does affects different firms. In this way, the firms in an oligopoly watch each other intently for new advancements, item changes and developments, special missions, valuing, creation, and different turns of events. Now and again they venture to such an extreme as to organize their valuing and yield choices, which is unlawful. Numerous antitrust cases—legitimate difficulties emerging out of laws intended to control anticompetitive conduct—happen in oligopolies.

1.5> Laissez-Faire

The “laissez-faire” is a kind of principle which says that government should not impose any kind of taxes or tariffs for any company. In *The Pure Theory of Capital*, Friedrich Hayek argued that the goal is the preservation of the unique information contained in the price itself.

“The definition of free market has been disputed and made complex by collectivist political philosophers and socialist economic ideas”.

“This contention arose from the divergence from classical economists such as Richard Cantillon, Adam Smith, David Ricardo and Thomas Robert Malthus and from the continental economics

⁶ Oligopoly: a **competitive** situation in which there are only a few sellers (of products that can be differentiated but not to any great extent);

developed primarily by the Spanish scholastic and French classical economists, including Anne-Robert-Jacques Turgot, Baron de Laune, Jean-Baptiste Say and Frédéric Bastiat.”.

Although laissez-faire has been commonly associated with capitalism, there is a similar economic theory associated with socialism called left-wing or socialist laissez-faire, also known as free-market anarchism, free-market anti-capitalism and free-market socialism to distinguish it from laissez-faire capitalism.

CHAPTER 2: The idea of CSR in context of “Laissez-Faire”⁷

2.1> The anti of Laissez-Faire: Corporate Social Responsibilities:

Early, in the 19th century when the famous Philosopher and Economist Karl Marx gave a theory about the proletariat and Bourgeoisie, he defined the entire Human race in two types. Even, after 100 years in our politics, we criticize and admire his political theory, but without understanding the depth of his ideology. For, many years there is a peculiar relationship between the rich and poor, relatively less rich people who can be termed as poor as well hate the corporates or rich people because they feel they are responsible for their abysmal condition. This was probably the much-needed thought or say background for a law like “Corporate social responsibility”, this might be a funny regulation for someone because especially in our country it is mandatory for certain companies to provide a certain amount of money in nation-building.. One, of the reasons why this regulation has been mandatory, is to bridge the gap between the two classes of society, and also to promote company ethics.

2.2> Corporate Social Responsibility: Existing laws and recent amendments

Under the companies act 2013, a new regulation was developed under section 135 of the Companies Act,2013. The law stated that any companies who have either of the three conditions which included a net worth of a minimum of 500 Crores or a turnover of minimum 1000 crores or a minimum Profit Before Tax of 5 crores are liable to pay a minimum of 2% as a Corporate Social Responsibility. Earlier, there were no such rules as Corporate Social Responsibility, although there was the concept of donation from ages. However, there is a difference between Donation and CSR, a donation is something that is given voluntarily and it also does not have any exemption from the tax under section 37 of the Income-tax act, 1961, and also under section 80, there would be a reduction in the money. In simpler words, these deduction means nothing but a tax, so in CSR the tax is exempted because it is not considered to be as an “Expenditure”. It should be noted that there is a disbelief that the main objective of the government is to take 2% money from the corporate, however, the main idea is to build a committee of CSR in every company. The government wants to create a proper system where companies can allocate the

⁷ <https://web.archive.org/web/20150510094457/http://schalkenbach.org/on-line-library/works-by-m-mason-gaffney-2/the-taxable-surplus-of-land-measuring-guarding-and-gathering-it/>

funds properly to CSR. The idea is to develop a structure where corporates can help society in a good way by doing all the research.

2.3> Rules and conditions for corporate social responsibility in the companies:

The rules to create a committee for the CSR has one condition, that the committee should consist of 3 directors out of which one should be an independent director. However, if there is no independent director in a company then also there is no issue.

There are certain amendments made by the government in 2019 and 2020. In 2019, the government expanded the scope of CSR, and the subject of Research and Development was also included. It meant that the corporates now can fund their money in Research and Development or for funding to the Government institutions like IIT.

One of the major amendments which happened was in the section of 135(7) of the Companies act which deals with punishment. It states that if any corporate violates section 135(5) or 135(6) which formulates the regulations and Conditions of CSR. There was no scope of punishment under CSR earlier, but in this amendment, this was added because the government wanted to imply certain strict rules regarding CSR. When there was no punishment in CSR, the persons were liable under section 450 of the companies act. The amount of punishment has been increased to a minimum of 50 thousand rupees to 25 Lakh rupees.

Another amendment happened in 2020 during the Covid-19 pandemic where PM cares fund was also included as a form of CSR.

CHAPTER 3: 1991: Liberalization of Indian Economy

3.1> LPG: Indian Economy context FREE MARKET

Indian economy suffered a lot in the late 1980s and early 1990s because India followed a “Socialist Economy”. In socialist economy the markets are controlled by the government and there are many regulations for anyone to setup the business. In a liberal economy, free market is promoted. A free market as already discussed extensively is a kind of market where there is a perfect competition. It means that everyone has authority to self-regulate the price of their commodity, however with the laws of demand and supply and marginal utility, the price of the commodity never goes to-far. This is because in a perfect competition the consumer has an option to choose from the many option he get. This was the idea to liberalize the Indian economy, because at that time the economy of India suffered a lot. India then took a loan with the International Monetary Fund(IMF), however there were certain conditions given by the IMF, in which they demanded from India to liberalize the economy

PART 2

COMPETITION LAW IN INDIA

CHAPTER 1: ANTITRUST LAWS IN INDIA

1.1> Competition Laws: India: INTRODUCTION⁸

Acts used: Monopolies and Restrictive Trade Practices Act 1969 & Competition Act 2002.

Since 40 years, India had certain laws on competition, which was enacted through a legislation called the “Monopolies and Restrictive Trade Practices Act 1969 (MRTP Act)”. This legislation, was based on the principles of a “command and control” economy, which was designed to put in place a regulatory regime in the country which did not allow concentration of economic power in a few hands that was prejudicial to public interest and therefore prohibited any monopolistic and restrictive trade practices. The reason to have a competition law was important because as we know India followed the liberal economy in the year of 1991 after that since there were many leverages given to the foreign companies it was very important to have certain laws which helps to reduce the exploitation of big companies towards small companies. So, in the year of 2002, the Indian Parliament approved a comprehensive competition legislation which was known as the “Competition Act 2002” to regulate business practices in India so as to prevent practices having an appreciable adverse effect on competition (AAEC) in India. The Competition Act primarily seeks to regulate three types of conduct: anti-competitive agreements, abuse of a dominant position and combinations (i.e., mergers, acquisitions and amalgamations). The Competition Act, which was amended by the Competition (Amendment) Act 2007, later came into force on 20 May 2009, when the Government of India notified the provisions related to anti-competitive agreements and abuse of dominant position of the Competition Act. It took three more years for the merger control provisions of the Competition Act to be brought into force in June 2011.

1.2. Enforcement and organization

The Competition Act has additionally created another enforcement authority, the Competition Commission of India (CCI), which is exclusively answerable for the enforcement and organization of the Competition Act. The CCI comprises of a chairperson and not less than two and not in excess of six other individuals to be named by the Government of India. The CCI by and by comprises five individuals, including the chairman, Ashok Chawla. The CCI may start a request comparable to an anti-competitive understanding or maltreatment of predominant

⁸ <https://www.globalcompliance.com/antitrust-and-competition/antitrust-and-competition-in-india/>

position either all alone, based on data or information in its ownership, or on receipt of data or on the receipt of a reference from the government or a legal authority. Any individual, consumer or their associations can record a complaint/data identifying with anti-competitive agreements and maltreatment of prevailing position. With respect to combinations, the CCI may start a request either all alone or based on the notification by the organizations proposing to go into the combination. The CCI and its investigative wing, the Office of the Director General (DG), is entrusted with broad forces of examination with respect to anti-competitive practices, which include forces to bring and enforce the attendance of any individual, look at them on pledge, receive evidence on sworn statement and other comparative arrangements. In the event that the CCI is of the assessment that there is a by all appearances case, it will direct the DG to explore the matter and report its discoveries. The DG is additionally enabled to carry out "first light attacks" with the end goal of its examination. Before the end of last year, in a case including claims of maltreatment of dominance, the DG exercised this force interestingly. The CCI may depend upon the recommendations made by the DG in its report and, subsequent to offering the concerned gatherings a due chance to be heard, pass such requests as it might consider fit, including a request to cease and stop and force punishments. Under the Competition Act, there is an arrangement for appeal to the Competition Appellate Tribunal (COMPAT) against certain sets of the CCI. A further allure from the decision of the COMPAT may lie under the steady gaze of the Supreme Court of India.

1.3. Anti-competitive agreements and other conduct

1.3.1 Scheme of the Competition Act

The Competition Act depends on the "effects doctrine" and awards the CCI jurisdiction over any understanding, maltreatment of a prevailing position or combination that happens outside of India as long as such agreements, conduct or combination have or are probably going to have an AAEC in India. This is a significant improvement in the new competition law system since the recent MRTP Commission didn't have extra-regional jurisdiction.

1.3.2 Anti-competitive agreements

The Competition Act looks to regulate two sorts of agreements: (a) anti-competitive agreements between/among competitors (even agreements) and (b) anti-competitive agreements between ventures or people at various stages or levels of the production chain (vertical agreements). Under the Competition Act, certain sorts of even agreements (described in the following subsection) are dared to cause an AAEC in India. The assumption doesn't imply that all supposed even agreements are necessarily anti-competitive; it stays open to the gatherings going into such a consent to give evidence that their arrangement doesn't bring about an AAEC and refute the assumption. Then again, such assumption doesn't matter to vertical agreements. Vertical agreements are generally allowed except if it is set up that they cause, or are probably going to cause, an AAEC inside India. The Competition Act gives a thorough rundown of level

agreements that are dared to cause an AAEC in India, just as an inclusive rundown of vertical agreements that might be restricted relying upon their effect upon conditions of competition inside India.

2.1 Cartel conduct

The Competition Act sets out a rundown of flat agreements that are dared to cause an AAEC inside India. In other words, once it is set up that such an arrangement exists and the understanding outcomes in any of the conduct recorded, the CCI may, based on the assumption that they cause an AAEC, try to preclude them. These four kinds of agreements, which are otherwise called "cartel" game plans, are set out in this rundown price-fixing agreements, i.e., agreements between competitors, which directly or indirectly fix or deciding purchase or deal prices;

- 1> agreements between competitors, which try to restrict or control production, supply or markets;
- 2> market-dividing agreements among competitors irrespective of the structure that they may take; this includes market sharing via product allocation, allocation of geographic business sectors or source of production; and
- 3> bid-fixing agreements, i.e., agreements between competitors, which take out or reducing competition for offers or unfavorably affecting or controlling the process of offering.

Remarkably, the assumption that these kinds of level agreements cause an AAEC in India doesn't make a difference if the arrangement is gone into via joint endeavors, given that such joint endeavor understanding outcomes in increased efficiency in the process of production, supply, dispersion, stockpiling, acquisition or control of merchandise or arrangement of services. In the event that a joint endeavor between competitors, nonetheless, includes the acquisition of resources or offers or casting a ballot rights or control of one gathering to the understanding by another, it very well might be characterized as a "combination" and will require pre-notification to the CCI, in the event that it fulfills the resource or turnover limits prescribed under the Competition Act. Since its inception in 2009, the CCI has inspected charges of cartelization in a few sectors, including cement, tires, film dispersion, banks, steel, skim glass and pharmaceuticals. The CCI has come far since its first cartel infringement decision, when three associations of film producers pulled off ostensible fines. In any case, the CCI has adopted a stricter strategy in ensuing decisions, including the cement cartel case in which 11 companies were fined 50 percent of the profits made during the cartel time frame. Strangely, in the last hardly any cartel decisions, there has been an increasing pattern inside the CCI to scrutinize the part of exchange associations cartel examinations. In fact, the recent orders of the CCI, including the cement cartel case, conveyance of pharmaceuticals case and the LPG manufacturers cartel case, well show that the CCI is probably not going to avoid holding exchange associations

obligated where such associations have occupied with any conduct, by which they have, directly or indirectly, helped its individuals to participate in any sort of anti-competitive activity. It might likewise become critical to take note of that the CCI has begun to investigate the part of people (individuals from the executive committee of the business association) in the anti-competitive practice carried out by the association, and most recently forced punishments on the income of the office conveyors of an exchange association for their job and contribution to cartel activity

PART 3: CASE LAWS IN COMPETITION ACT

Important Case laws:

1> Google Inc. & Ors Vs. Competition Commission Of India & ... on 27 April, 2015⁹

Facts of the case:

A case was filed against the Tech giant Google that it is has abused the dominant position by promoting advertisement of its search engines like You-tube, Google Maps, etc. Here, the dominant position was abused because these search results used to popped-up without any relevance.

Legal Issue:

The main issue was that is CCI which is an administrative body had an inherent powers to review or recall its order which is passed under section 26(1) of the Competition act.

Section 26(1) of the act states:

“On receipt of a reference from the Central Government or a State Government or a statutory authority or on its own knowledge or information received under section 19, if the Commission is of the opinion that there exists a prima facie case, it shall direct the Director General to cause an investigation to be made into the matter: Provided that if the subject matter of an information received is, in the opinion of the Commission, substantially the same as or has been covered by any previous information received, then the new information may be clubbed with the previous information”

Judgment:

The Delhi High court decided that the CCI has the authority to call or review its order, however it also has some reasonable restriction

⁹ <https://indiankanoon.org/doc/190415917/>

2> JET- ETIHAD¹⁰

In this case an appeal was filed under section 53B to COMPAT challenging the jet Etihad order. However this was dismissed on the point of local standi without explaining the merits of Jet-Etihad order. Although section 53A states that “any person”, “Aggrieved” “may” challenge the order of CCI because COMPAT interpreted the word “any person” as a person who is aggrieved by the CCI order and hence it cannot mean “any” and “every” person

3> *Tata Engineering & Locomotive Co. ... vs The Registrar Of The Restrictive ... on 21 January, 1977*¹¹

In this case an appeal under section 55 of the “Monopolies and Restrictive Trade Practices act,1969 was filed against the judgment and orders of the Monopolies and Restrictive Trade Practices Commission

ISSUE RAISED

Here the appellant said that the agreement between them TELCO and their dealers states that only the dealers can sell the busses and trucks

Judgment

The supreme-court in this case held that the agreement violates the RTP.

4> Voltas Ltd V. Union Of India

Facts:

In this case an order of adjudication was done under the provisions of the Central Excise Act, 1944 . It was passed against the petitioner resulting into raising a demand of Rs. 81,68,304.00 on account of duty, and Rs. 35 lacs on account of fine with a penalty of Rs. 35,04,000.00 . The petitioner wanted the remedy so he went in the tribunals. On the 14th February, 1997, the Tribunal passed an order under “Section 35-F of the Act”, stating the amount of Rs. 50 lacs be deposited within a period of three months and subject to such deposit the recovery of balance to remain stayed during the appeal. The same was challenged in the court.

5> Shri Ashok Kumar Sharma v. Agni Devices Pvt. Ltd¹²

¹⁰ <https://www.icle.in/resource/evolution-of-cci-in-the-airline-sector-a-critical-study-of-jet-and-etihad-airways-combination/>

¹¹ 1977 AIR 973, 1977 SCR (2) 685

¹² **Antitrust - Section 26(2) ... vs Agni Devices Pvt. Ltd. 07/05/2015 ... on 7 May, 2015**

In this case the Respondents claimed itself that he is the leading manufacturer, developer, importer and exporter of fire alarm systems, etc and he has also used abusive and un-parliamentary language to the appellants in regard to the use of trademarks.

Judgment

It was stated by the court that a mere restriction on the use of trademark would not be in violation of Sections 3 or 4 of the Competition Act, 2002.

The supreme-court held that in view of the general definition of RTPs under Section 2 (o), practices other than the one listed under Section 33 (1) could be examined under Rule of Reason analysis

6> CASE NAME: M/s. Financial Software and System Private Limited v. M/s. ACI Worldwide Solutions Private Limited &Ors

This case was based on a preliminary review of the clauses of the relevant agreement and its impact in terms of Section 3 of the Act, the Commission directed the DG to investigate further.

7> In the case of Mohit Manglani V M/s Flipkart India Pvt Ltd.&ors

In this case it was alleged that the e-commerce websites like flipkart are indulge in anti-competitive practices in the nature of “exclusive agreements” with sellers of goods or services. In this case the informant stated that because of the unfair monopolist practice the customer has no option rather than to agree with the terms and conditions of the website

Issue Held:

Whether the practice of entering into exclusive agreement for sale and purchase of goods by way of e-commerce is violating the provisions?

Judgment

The court held that “an exclusive arrangement between manufacturers and e-portals is not against Section 3 of the competition act,2002. It is rather to help the consumer make an informed choice”

PART 4: CONCLUSION

Conclusion:

Economic reforms are very important for the development of any country. Historically the ideologies which these days are used often in a very loose terms where actually made on the economic policy, socialism was different towards communism because of its economic policy. Liberalism which is often considered to be same as communism is actually poles part in their economic ideology. The communists manifesto developed by social scientist, economist, philosopher Karl Marx criticized the free market, e believed that there should be no owner of any land in the system and everyone should get equal rights. However, the meaning of equality rather interpreted by many people and the concept of equal protection of law was considered to be more reasonable. Many criticized the theories given by Marx because in today's world it is very unlikely to follow a system where everyone gets equal share in everything. Ideally these things could have happened however, it has not happened. India always followed a socialist structure which is slightly different with communism because here the control or say ownership of the land is given to the government. However, it should be noted that India didn't even followed socialist economy; it rather more followed Nehru- Socialism a term coined after the 1st Prime Minister of India, Pandit Nehru. However, after the market was liberalized it was very important to create an act which talks about the company ethics and certain other provision by which the rights of small stakeholders. The competition act set up an administrative body which is a competition regulator. It is a statutory body. The Commission consists of a Chairperson and it should have minimum 2 and maximum 6 other members appointed by the Central Government. Ashok Kumar Gupta is the current Chairperson of the CCI. Certain case laws like Google V CCI explain the role of CCI in order to take care that no big companies can abuse their dominant position. Apart from the competition law one of the other important provision is given under the companies act, 2013 which is of Corporate social Responsibility. It is also one of the provision which talks about the work ethics of the company and certain ways how a company should operate. I would like to end this article with a quote which was given in the case of Standard Oil V. FTC

“The heart of our national economy long has been faith in the value of competition”
(*Standard Oil v. FTC*)¹³

¹³ **Standard Oil Co. v. FTC, 340 U.S. 231 (1951)**

BIBLIOGRAPHY:

- 1> <https://www.lawnn.com/top-20-landmark-judgements-competition-law/>
- 2> <https://www.cfainstitute.org/en/membership/professional-development/refresher-readings/firm-market-structures>
- 3> <https://www.alzheimer-europe.org/Research/Understanding-dementia-research/Types-of-research/Research-methods>