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COMPETITION LAW AND CONSUMER PROTECTION IN INDIA- AN OVERVIEW

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Introduction

Over the years, the pattern of consumer protection has manifested in several ways. After the enactment of the consumer protection Act 1986, followed by revolutionary strides in Communication technology and liberal economic policies aimed at globalization. Globalization stands for unrestricted trade possibilities both in goods and services and for optimal utilization of capital resources. In such global market, business should be a competitive game with consumers as the beneficiaries. Competition encourages companies to improve the quality of the products they sell the services they provide. Consumers will choose a better quality of product and the business which offers this will increase market share. Improved quality can be seen in many ways- products that last longer, or that work better. In order to make consumers notice one product over another, business in a competitive market will make them different from interesting packaging to products and services that are better tailored to the needs of individuals. This choice enables consumers to select the product or services that offer the right balance between price and quality for them. This ability to adapt enables companies to stay in front of global development, and to ensure that businesses continue to be among the world leaders. Competition is a process that can lead to efficient outcomes and encourages businesses and companies to improve the quality of the products they sell and the services they provide.

Objectives Of The Paper:

This paper is intended to focus on the following issues related to Competition policy and law - Fair Competition in the market:

- Significance of competition Law & policy
- Competition Law & policy in India,
- Objectives of the competition Law,
- Scope of competition law,
- Competition Commission of India and its activities.

Fair Competition:

Competition is accepted as the life blood of the market economy. It spurs innovation and higher productivity leading to accelerated economic growth, brings the benefit of lower prices to the consumers and provides them with wider choices, better service and greater efficiency than what would occur under conditions of monopoly. Consumer welfare, which is specifically concerned with gains to consumers as opposed to society at large, is also maximized in perfect competition. A related benefit of competition is that it will have the dynamic effect of stimulating innovation as competitors strive to produce new and better products for consumers. Competition creates 3 to 4 efficiencies in the market place like productive efficiency, allocative efficiency, and dynamic efficiency, inter temporal efficiency. The globalization offers so many opportunities and stands for unrestricted trade possibilities both the goods and services and for optimal use of capital. Competitive pressures around the world have helped suppress inflation and raise living standards through improved productivity.

Significance Of Competition Law & Policy:

The market economy is also prone to failure where unscrupulous players undermine the benefits of competition through collusive behavior or abuse of dominance. State regulation is thus necessary to prevent abuse of a dominant position, the creation of cartels and to protect the consumers through developing an effective competition policy and law. Competition policy refers to policy aimed at preserving and promoting competition, both by enforcing competition law against restrictive business practices by firms and by influencing the design and implementation of other governmental policies or measures affecting competition. It includes laws and policies dealing with anti-competitive practices, as well as competition advocacy which educate the public about the need for competition policy.

The primary goal of competition policy is to maintain and encourage healthy competition, this encourage the production of goods and services that are desired by consumer. It ensures that markets operate more efficiently,

competitively and in the interests of consumers. Competition is the process by which business to increase their market share of a particular product or service, by offering something better to consumers than other businesses. It is consumers that choose between the products and services on offer. That choice ultimately sets the direction that the businesses take. Informed and empowered consumers ensure that businesses do deliver more choice quality, innovate and lower prices. Competition policy has wider scope than competition law and also related with liberalization, industrial investment and trade policy, and all of them should work together towards building a competitive market and making national economy thrive.

Competition law is a set of rules, disciplines and judicial decisions maintained by governments relating either to agreement between firms that restrict competition or to the concentration or abuse of market power on the part of private firms. It is also widely accepted that the law should aim to increase consumer welfare. Removal of obstacles to competition will tend to put downward pressure on the prices of intermediate and final goods and services.

Competition Law & Policy In India

After independence to ensure economic justice and control concentration of economic power and monopolistic and restrictive practices Government of India enacted first competition law called Monopolies and restrictive trade practices Act (MRTP), 1969. During 1990's India adopted (Liberalization, Privatization, Globalization) LPG policy by opening its economy. Correspondingly is felt that the Indian market should be geared to face competition from within the country and outside. Then MRTP act attracted sharp criticism, as it proved to be ineffective in achieving its objectives. Hence the Govt. of India decided to enact a new law further constituted a high level committee under chairman of SVS Raghavan in Oct, 1999 to look in to the aspects of competition policy and related law. Based on the report of Raghavan Committee Govt. of India enacted the competition Act, 2002 and set up a competition commission, which has finally replaced the MRTP Commission. Further with the observations of the Hon'ble Supreme Court of India, the Competition Act was amended by the Competition (Amended) Act, 2007.

The Competition Act 2002 (Amended)

The Competition Act 2002 Amended has the following objectives to achieve.

- to protect the interest of Consumers
- to promote and sustain competition in markets
- to prevent practices having adverse effect on competition
- to ensure freedom of trade carried on by other participants in markets.

Scope of Competition Act (Amnd) 2002

To achieve the objectives the Act focus on the following major areas

- Prohibition of Anti-competition agreements
- Prohibition of abuse of dominance
- Regulation of Combinations like Acquisitions, mergers and amalgamations of certain size) and Competition Advocacy.

Competition Commission In India

The competition Act, 2002(amended), 2007 provides for setting up of the Competition Commission of India (CCI) comprising of a chairman and a minimum of two and maximum of six members. In addition, it also provides for establishment of a competition Appellate Tribunal to hear and dispose of appeals against the order of the commission and also adjudicate on the claims of compensation that may arise from the finding of the commission or orders of the appellate Tribunal.

- The commission shall be an expert body as market regulates to prevent anti-competitive practices in the country.
- It would also have advisory and advocacy functions
- Commission is empowered to imposing a penalty of up to one percent of the total turnover or the assets which fail to give notice of merger or combination to the commission.
- For establishment of the Competition Appellate Tribunal(CAT),quasi-judicial body headed by the a judge of the supreme court
- Adjudication for the CAT of claims on compensation and passing of orders for the recovery of compensation
- For the implementation of the orders of the CAT as a decree of a civil court.
- For filing of appeal against the orders of CAT to Supreme Court.
- For imposition of a penalty by the Commission for the contravention of its orders.

CCI is to eliminate practices having an adverse effect on competition to promote and sustain competition in markets, to protect interests of consumers. It has the responsibility of identifying objectionable agreements or combinations of enterprises and also inquires into agreements made by an enterprise in respect of production, supply distribution, storage acquisition, or control of goods or provision of services, in case such agreements are alleged to have had an adverse effect on competition. The Commission shall, while enquiring whether an enterprise enjoys a dominant position or not as per legislation, have due regard to all or any of the following factors, namely,

- Market share of enterprise,
- Size and resources of the enterprise,
- Size and importance of the competitors,
- Economic power of the enterprises or sale or service network of such enterprises,
- Dependence of consumers on the enterprise,
- Vertical integration of the enterprises or sale or service network of such enterprises,
- Monopoly or dominant position whether acquired as a result of a public sector undertaking or otherwise,
- Entry barriers including barriers such as regulatory barriers, financial risk, high capital cost of entry, marketing entry barriers, technical entry barriers,
- Economies of scale, high cost of substitutable goods or services for consumers,
- Countervailing buying power,
- Market structure and size of market
- Social obligations and social costs,
- Relative advantage by way of the contribution to the economic development, by the enterprise enjoying a dominant position having or likely to have an appreciable adverse effect on competition,
- Any other factor which the commission may consider relevant for the inquiry.

The Central Government and a state Government may in formulating a policy on competition or any other matter as the case may be make a reference to the commission for its opinion on possible effect of such policy on competition. The commission shall take suitable measures for the promotion of competition advocacy, creating awareness and imparting training about competition related aspects.

Conclusion:

The Competition act involves a set of policies that enhance competition and the other components in the law which seeks to increase economic efficiency, enhances welfare, ensures fair trading, prevent abuse of market power and minimized unwarranted regulatory controls. The Competition Commission of India has been set up under the Competition Act 2002 is intended to promote efficiency and to maximize welfare of the consumers.

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