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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

LAWS TO PROTECT CONSUMER INTEREST IN COMPETITIVE MARKET

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Abstract

A primary goal of consumer protection laws as well as a fundamental component of all contemporary competition laws is the preservation of consumer welfare, or more generally, the protection of consumer interests. Policies pertaining to consumer protection and competition law are complimentary and reinforce one another. Market competition boosts productivity and promotes creativity. Additionally, competition encourages product differentiation and raises the standard of delivered products and services. In this way, competition improves customer welfare by giving them more options at affordable costs. Market competitiveness is strengthened by consumer protection. When consumers are well-informed, they choose products and services wisely within their specific marketplaces. Though they are complimentary in many respects, consumer protection and competition laws address distinct topics and use different strategies to accomplish their objectives. Competition law only indirectly protects the financial well-being of consumers by ensuring that there is healthy competition in the markets, whereas consumer protection regulations are based on the idea that consumers are the weaker party to transactions and should be directly protected for this reason in their dealings with traders through certain consumer rights.

In order to maximise the synergies and minimise the tensions, the two laws must be coordinated. Competition policy should be used to ensure that, subject to the proper consumer protection safeguards being in place, competition should be allowed to work where it can, including by eliminating any unjustified restriction on entry and on competitive conduct. This is because consumer policy tools, while seeking approaches that effectively protect consumers, should not unduly or unnecessarily restrict competition.

Keywords: Consumer protection, Consumer welfare, Competition law

INTRODUCTION

The question of whether consumer protection is the same goal of competition policy and consumer law has been debated. In order to accomplish their objectives of promoting consumer welfare, both policies should be implemented in the same way if they are complementary to one another. Effective resource allocation and utilization are encouraged by competition policy, which raises competitiveness and fosters more growth and development. Fair competition in the market is encouraged by competition policy, and this eventually benefits consumers. Policies pertaining to consumer protection are more varied in nature and provide customers greater control because they put remedy right in their hands.

Competition policy helps the economy thrive, which ultimately benefits customers by offering them more options, higher-quality products, and cheaper pricing. Competition policy can be used in conjunction with consumer protection laws to solve market imperfections such as excessive transaction costs, a lack of bargaining power towards producers, and information asymmetries.

COMPETITION AND CONSUMERS

Competition between Businesses are advantageous to both consumers and producers. Economic efficiency, more innovation, better quality, and broader variety, reasonable costs, sufficient supply, and ease of access. Nonetheless, businesses typically engage in manipulating or restricting or getting rid of the market's competitors. Cooperation among the manufacturers, distributors, or service providers for creating unscrupulous commercial methods and thereby decreasing One typical aspect of a market is competition. Thus Regarding the welfare of consumers generally, the function of enforcement of competition laws by competition agencies is really important.

"Competition authorities all over the world are becoming more conscious of the impact that competition policy and law enforcement has on consumers," according to Mr. P N Parashar's Order in **Neeraj Malhotra v. Deutsche Post Bank Home Finance Ltd. & Ors.**, which cited the European Commission Annual Report, 2005. Their eagerness to proclaim and exhibit the important role that

they play in upholding competition law in the financial lives of consumers seems to be growing. This article discusses how competition law recognizes and safeguards consumer interests.

COMPITITION DAY AND CONSUMER DAY

A few years ago, UNCTAD was tasked with researching the viability of holding a UN World Competition and Consumer Day in order to raise awareness of the advantages that competition can offer to both consumers and the general public. Unfortunately that did not happen. Yet for India, the month of December has two special days prompting us to enjoy exploring the enterface between the completion and consumer protection. Since 2010, December 5th has been marked as World Competition Day in observance of the date of the 1980 adoption of the "United Nations Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices," also known as the UN Set. The first and so far only multilateral agreement addressing anti-competitive practices is the UN Set, a significant development in the history of competition law and policy. India celebrates National Consumer Day on December 24th of each year. Today was the day the President signed the Consumer Protection Act of 1986. This day's celebration offers people a chance to emphasize the significance of the consumer movement and to advance the fundamental rights and obligations of all consumers. Every year, the national consumer movement celebrates this day as a chance to show support for the fundamental rights of all consumers. It was discovered that the Consumer Protection Act of 1986, which was passed to better safeguard consumer interests, was insufficient to handle the issues brought on by the new economy. Therefore, the Consumer Protection Act of 2019 recently took its place.

CONSUMER PROTECTION: A KEY FACTOR FOR CONSIDERATION IN COMPETITIVE MARKETS

THE CONSUMER PROTECTION ACT, 1986

The Consumer Protection Act of 1986 places a strong emphasis on protecting consumers. The widespread consumer protection movement led to the enactment of the Consumer Protection Act, 1986. The Act's preamble states that the purpose of its enactment was to safeguard the interests of consumers. According to the preamble, it is an act to provide for the better protection of the interest of consumers and for that purpose to make provision for tge establishment of consumer councils and

other authorities for the settlement of consumers disputes.

According to statement of objects and reasons, the Act seeks to promote and protect the rights of consumers such as:

1. The right to be protected against marketing of hazardous goods
2. The right to be informed of quality, quantity, potency, purity, standard and price of goods to protect the consumer against unfair trade practices
3. The right to be assured of access to variety of goods and services at competitive prices
4. Right to be heard and to be assured of due consideration of consumers' interest at appropriate forums
5. Right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers
6. Right to consumer education

The Act calls for the creation of consumer protection councils at the federal, state, and local levels. These councils' goals are to uphold and advance consumer rights, among them the right to be guaranteed, whenever feasible, access to a wide range of goods and services at reasonable costs.

THE COMPETITION ACT, 2002

The preamble of the Competition Act, 2002 says that the Act is to provide keeping in view the economic development of the country for establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect interests of consumers and to ensure freedom of trade. Therefore, the scope of the Competition Act, 2002 has been restricted by the preamble in its preamble to following four categories:

1. Prevention of practices having adverse effect on competition
2. Promotion and sustaining competition in markets
3. Protect interest of consumers
4. Ensuring freedom of trade

The Act provides for

1. Prohibition of anti-competitive agreements;

2. Prohibition of abuse of dominant position;
3. Regulation of combinations; and
4. Competition advocacy

An expert body called **competitive commission of india** has been established under the act , to act as the market regulator.

PROHIBITION OF ANTI-COMPETITIVE AGREEMENTS

Section 3 of the Act prohibits all such agreements in respect of goods and services which are likely to cause an appreciable adverse effect on competition within India. Known as anti-competitive agreements, they are classified into two parts, namely, *horizontal and vertical*. Whereas horizontal agreements, which includes activities of cartels and trade associations, are presumed to be anti-competitive, the vertical agreements are considered to be pro-competitive. To ascertain if an agreement is likely to have an appreciable adverse effect on competition, the Commission is required to have due regard to all or any of the parameters listed under **section 19(3)**. One of these parameters is - the accrual of benefits to consumers. An agreement perceived to be an anti-competitive one may not be objected to, if it enhances the efficiency of the distribution process or contributes to consumer welfare.

In **Mr. Ramakant kini Dr. L H Hiranandani Hospital , Powai , Mumbai in Re** , the commission observed that , 'one of the avowed objectives of the Act is to promote consumer welfare by preventing market distortions caused by such enterprise actions and agreements that militate against competition and consumers' interests. The competition law by its very nature envisages that there are situations where the commission has a role and has to control behaviour of the enterprises in the market place in order to achieve consumer welfare.

PROHIBITION OF ABUSE OF DOMINANT POSITION

Section 4 of the Act prohibits the abuse of its dominant position by any enterprise or any group. To be holding the dominant position, the enterprise should enjoy a position of strength 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.

According to the Act, an enterprise is considered to be abusing its dominant position if it engages in any of the business practices listed in section 4(2). Limiting or restricting technical or scientific development relating to goods or services to the detriment of consumers is one such prohibited practice. Section 19(4) specifies the factors that the Commission may consider in determining whether an enterprise has a dominant position.

Two factors that relates to the consumer protection are (i) dependence of consumers on the enterprise; (ii) 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 service for consumers.

REGULATION OF COMBINATIONS

Section 5 and 6 of the Act regulate the combinations beyond monetary thresholds as prescribed under section 5 of the Act. The section covers three types of combinations, which may be resulted by (i) acquisition of shares, voting rights, assets or control; or (ii) acquiring of control over an enterprise where acquirer already has control over another enterprise engaged in identical or similar economic activity; or (iii) merger or amalgamation. Section 6 of the Act provides for mandatory approval of such combinations, by the Commission. The Act prohibits a combination if it causes or is likely to cause an appreciable adverse effect on competition within relevant market in India.

RELEVANT MARKET

The Commission must first define the relevant market before addressing any matter under **sections 4 and 6**.

A relevant market consists of both a relevant product market and/or a relevant geographic market. Included in the relevant geographic market is the region where the goods or services are supplied. The relevant product market is made up of all goods and services that consumers believe to be interchangeable or substitutable based on the goods' or services' attributes, costs, and intended uses. It's interesting to note that the Commission is expected to take certain factors, like customer

preferences, into consideration when determining both the relevant geographic market and the relevant product market.

CONCLUSION

The welfare of consumers depends on fair competition. In **Rajasthan Cylinders and Containers Limited v. Union of India** and another 11, the **Supreme Court** made comments regarding the Commission's responsibilities, stating that "it is the duty of the CCI to ensure that the conditions which have tendency to kill the competition are to be curbed." In order for consumers to benefit from competition, it is also the responsibility of the CCI to maintain competition. A strong competition regime fosters a healthy culture of competition in the market by incentivizing enterprises to compete with one another. A well-informed and efficiently operating market guarantees continuous innovation, accessibility, affordable switching costs, flexibility, and increased availability of goods and services at reduced costs, all of which contribute to the welfare of the consumer.

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