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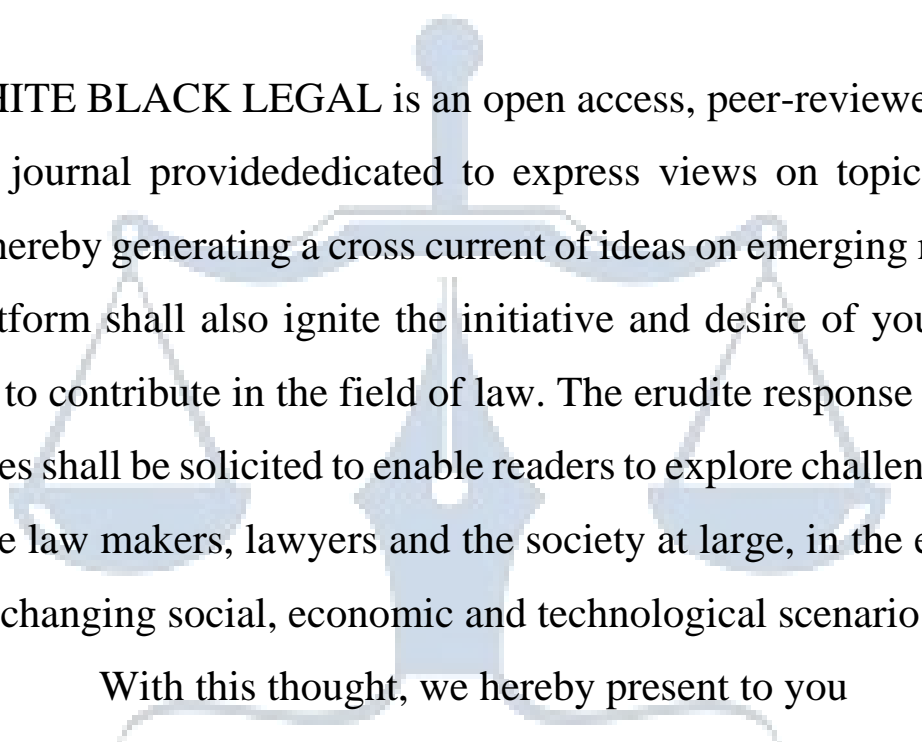


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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire 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

W H I T E   B L A C K  
L E G A L

# EVOLUTION OF COMPETITION LAW: ANALYSIS OF DEVELOPMENT IN LEGAL SECTOR

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## Abstract

The research paper summarizes the evolution of competition law in India and focuses on its development in the legal sector and formation of the Competition Act 2002 and the Monopolies and Restrictive Trade Practices (MRTP) Act 1969, the legal community has significantly influenced the application and interpretation of competition law. Law firms and lawyers have developed specialized competition law practices and also the Competition Commission of India (CCI) has played an important role in enforcing competition laws.

## Introduction

The situation where a specific market entity, such as monopoly, is controlled by one entity (a company or individual), and the other cannot control the supply of corresponding products or services. To promote free and open competition, India's first anti-competition law was passed in 1969 with the MRTP Act<sup>1</sup>. The legislation was implemented gradually. It was an important law in India to prevent unethical business practices and encourages fair competition in the market. Although the Monopolies and Restrictive Trade Practices Act, 1969 were repealed and the Competition Act, 2002 was passed on 13 January 2003, it was enacted by the Indian Parliament to address many of the problems or shortcomings of the MRTP Act. These factors included excessive government oversight, lack of established penalties and many others that could not be changed. Thus, the Competition Act 2002 aims to prohibit restrictive covenants<sup>2</sup>, prohibition of abuse of a dominant position<sup>3</sup>, which regulates mergers or mergers and acquisitions and operations<sup>4</sup>.

## Literature Review

Competition laws have undergone significant changes in their development. Over time, there have been significant changes in the interpretation and application of competition laws around the world. Economic theories, market dynamics and social values are reflected in these developments.

Several aspects, such as the evolution of competition regulations, the influence of technology on innovation, and the effect of globalization on the compliance, have been examined by researchers. To effectively navigate the intricate terrain of contemporary competition law, decision makers, lawyers, and businesses must possess knowledge of these developments.

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<sup>1</sup> Monopolistic and Restrictive Trade Practices 1966

<sup>2</sup> Section 3, Competition Act 2002

<sup>3</sup> Section 4, Competition Act 2002

<sup>4</sup> Section 5, Competition Act 2002



## Objectives

To Analyze the development of competition law in India throughout the years, starting with the Monopolies and Restrictive Trade Practices (MRTP) Act, 1969, and ending with the Competition Act, 2002. Pay particular focus to the significant legislative modifications and how they have affected the legal industry.

Evaluate the influence and input of legal sector players, such as law firms, attorneys, and the court, on the implementation and construal of competition legislation in India. It aims to comprehend how legal experts', litigation, and advice activities have impacted the development and implementation of competition legislation.

## Hypothesis

"The development of competition law in the legal sector is facilitated by the nuanced interpretation of competition rules and their application in response to emerging market problems, promoting a delicate balance between protecting fair competition and ensuring compliance with the law."

### Research Question:

To verify the hypothesis, I adopted the following research questions:

1."What are the effects of recent legal developments on the development of competition law frameworks and how do they shape the implementation of fairness and transparency?"

## Histoical Overview

Ensuring a level playing field and upholding competition within the market is the primary objective of competition regulations, in India. This not enhances economic efficiency but also boosts customer contentment and fosters innovation. The Competition Act of 2002 was crafted to address competitive practices that could harm consumers and disrupt market dynamics, including cartels, monopolies and unethical business tactics. By encouraging competition these regulations aim to cultivate transparent dynamic markets that ultimately benefit consumers through lower prices, increased choices and superior product and service quality.

### Pre-independence Scenario:

India's competitive environment was mostly uncontrolled before independence<sup>5</sup>, with little

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<sup>5</sup> Before 1947

emphasis placed on antitrust laws. Rather than encouraging competition, the colonial government's economic policies were largely focused on retaining control over important businesses and resources. As a result, monopolistic and restrictive commercial practices were not well covered by the law.

Nonetheless, a few policies were put in place to deal with anti-competitive activity in particular industries. For example, restrictions on commerce and monopolistic behavior among corporations were addressed in the Indian Companies Act of 1913.

## **Post-Independence Scenario**

Since India gained its independence in 1947, there has been a rising understanding of the necessity of more thorough economic regulation, which includes combating monopolistic practices and fostering competition.

India adopted the Nehruvian Socialism model, a centrally planned economic framework, in 1947. The Nehruvian model had a mixed economy, meaning it was not a socialist or market economy like the USSR or the US. In the mixed model, the public and private sectors coexisted, but the government kept key industries like mining, power, and heavy industries for itself since they served the public interest. The Nehruvian model of economic growth skewed more toward a socialistic pattern, while being a mixed economy model.

The Private Sector was subject to inspection under the IDRA<sup>6</sup>. IDRA granted the government the power to regulate nearly every facet of the private sector's activities, including labor regulations, exchange and international trade restrictions, production and plant sizes, commodity prices and distribution, and more. Despite the admirable goals of the Nehruvian philosophy, the result was inadequate. Two further committees were established by the Planning Commission of India to assess the degree of monopoly and the need for IDRA reform.

The Hazari Committee was set up in 1966 and then the Industrial Licensing Policy Inquiry Committee (Dutt Committee) in 1967. To improve the licensing system, one of the primary recommendations from the Dutt Committee was to pass legislation known as the MRTP Act. In 1969, the MRTP Act was passed, which authorized the government to control the concentration of

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<sup>6</sup> Industrial (Department and Regulation) Act of 1951

economic power in Indian industry. The law came into effect in 1970. The MRTP<sup>7</sup> Act was India's first major attempt to control competition after independence. The MRTP Act sought to stop trade restrictions that hurt consumers' interests and competition, as well as to stop monopolistic conduct and the concentration of economic power. However, the MRTP Act had a number of drawbacks, such as its narrow scope, convoluted legal procedures, and insufficient enforcement tools, which prompted demands for further revisions.

Established in 1999, the SVS Raghavan Committee was instrumental in molding the framework of competition law in India. The group, which was chaired by esteemed civil servant SVS Raghavan, suggested replacing the antiquated Monopolies and Restrictive Trade Practices (MRTP) Act with a more contemporary framework for competition law. The establishment of the CCI<sup>8</sup> with the aim of enforcing competition regulations and preventing competitive practices was a key recommendation. The committee advocated for implementing a system to oversee mergers and acquisitions prohibiting dominant positions and anti competitive agreements. It also stressed the importance of promoting competition to nurture a culture of competitiveness.

The recommendations put forth by the SVS Raghavan Committee paved the way for the enactment of the Competition Act of 2002 which has played a role in enhancing economic efficiency protecting consumer interests and fostering open and fair competition in India. By addressing the shortcomings of the MRTP Act India's competition law framework underwent a transformation with the introduction of the Competition Act, in 2002 aligning it with global standards.

- The competition act, 2002 states the following objectives in its preamble:
  1. To regulate anti-competitive agreements.
  2. Prohibition of abuse of dominant position in the market.
  3. Regulating the operation and activities of combination i.e merger and acquisition.
  4. Established the Competition Commission of India (CCI) as the primary regulatory authority.

## **Amendments in Competition Act 2002**

Since its enactment, the Competition Act has undergone several amendments to strengthen enforcement mechanisms, enhance regulatory oversight, and adapt to evolving market dynamics.

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<sup>7</sup> Monopolies and Restrictive Trade Practices 1969

<sup>8</sup> Competition Commission of India 2002

### **The following amendments are:**

#### Competition (Amendment) Act, 2007:

- Significant amendments were made to the Competition Act 2002 which broadened the definition of dominant market position and anti-competitive agreements.
- Merger and acquisitions regulations have been strengthened by empowering the Competition Commission of India (CCI) to monitor and sanction mergers that may harm competition.
- Furthermore, the amendment strengthened CCI's enforcement powers, allowing it to investigate and punish companies involved in anti-competitive practices..

#### Competition (Amendment) Act, 2012:

- This amendment further strengthened the effectiveness of competition law in India by introducing several important changes.
- The amendment also expanded CCI's powers to conduct market research and promote pro-competitive activities to increase awareness of the benefits of competitive markets.
- This amendment brought with it some important changes that improved the effectiveness of competition law in India.
- This change clarified the definitions of "group"<sup>9</sup> and "turnover"<sup>10</sup>. The Act governs the definition of associations and regulations relating to the purchase, merger or amalgamation of companies. Two or more companies are considered a "group" if one of the companies has at least 26% of the voting rights in the business of the other. The bill increases voting rights to 50 percent or more..

#### Competition (Amendment) Act, 2020:

- The latest amendments to India's competition laws aimed to address the emerging challenges of the digital economy and strengthen the legal framework for fair competition.
- The amendment allowed the CCI to scrutinize online markets and fine tune platforms that violate competition by offering unfair pricing or discriminating against competitors. Additionally, Its provisions for cross-border mergers and acquisitions were implemented to enhance the monitoring of international transactions that could result in competitive advantages.□.

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<sup>9</sup> Section 5(b) of Competition Commission of India 2002

<sup>10</sup> Section 2(y), Competition Commission of India 2002

## Case Law

Competition Commission of India v. Steel Authority of India Ltd. (2010)<sup>11</sup>

### Facts

SAIL<sup>12</sup>, which is large and public sector, was charged with misusing its dominant position in the flat steel market. The Competition Commission of India (CCI) has initiated an investigation into Steel Authority of India Ltd's alleged anti-competitive practices.

### Judgment

The case presented complex cases of abuse of dominance, including predatory pricing and discrimination by SAIL. The Competition Commission of India found SAIL guilty of abusing its market position in its decision. The Competition Commission of India nominated SAIL and ordered it to stop anti-competitive practices. The case underlined its importance to prevent abuse of a dominant position to ensure fair competition and protect the interests of consumers and competitors. The ruling underscored the Competition Commission of India's responsibility as chief regulatory body for enforcement of competition laws in India.

### Case Analysis

The Steel Board of India case is regarded as a landmark in the evolution of competition law in India, as it showcases the implementation of competitive strategies to counteract anti-competitive conduct in specialized sectors. The case further strengthens the development of competition law by setting examples for examining abuse of dominance and competitive market effects. Indian regulators are committed to promoting competition and monopolistic practices that can does not harm consumers and restrict market access.

## Evolution of Competition Law in Legal Sector

One important part of the larger growth of competition regulation in India has been the growth of competition law within law firms in addition to legal practitioners. At first, conventional markets and industries were the main targets of competition legislation in India, with the legal profession receiving little attention. But in the 1990s, when the Indian economy experienced liberalization and globalization reforms, it became more and more clear that professional services, including legal services, needed to be regulated to prevent unfair competition. The development of competition law

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<sup>11</sup> 10 SCC 744

<sup>12</sup>Steel Authority of India Limited

in India has had a profound effect on the legal industry as a whole, affecting courts and the judiciary, individual attorneys and advocates, and law firms.

## **Law Firms**

In the past, Indian legal firms functioned in a closed, controlled setting, frequently depending more on personal connections and networks than on the forces of a competitive market. But once the Competition Act of 2002 was passed, legal companies were held more closely to account for any anti-competitive behavior. Law firms were forced to change how they did business as a result of this transition, leading them to embrace more open and competitive methods. It was mandatory for legal companies to guarantee adherence to the norms of competition law, specifically concerning aspects like price, market distribution, and cooperation with rivals. Because of this, efficiency, creativity, and customer service have received more attention from law firms, which has increased competitiveness and raised standards in the industry as a whole.

## **Individual Lawyers and Advocates**

The practice of competition law has also had a big influence on Indian advocates and attorneys. Before the Competition Act was passed, attorneys frequently worked in closed networks and relied on word-of-mouth recommendations and personal relationships to find business prospects. The Competition Act, on the other hand, forbade anti-competitive agreements and actions among rivals, which encouraged individual attorneys and advocates to compete on the basis of skill and caliber of work. As a result, legal professionals are becoming more specialized, creative, and professional in an effort to stand out in a crowded marketplace. Furthermore, by giving clients additional options and empowering them to choose legal counsel after doing their research, competition law has empowered clients.

## **Courts and Judiciary**

In India, the court is vital to the implementation and interpretation of competition legislation. Courts have played a crucial role in deciding disputes involving competition law, interpreting statutes, and setting precedents that influence how competition law concepts are applied. India's jurisprudence on competition law has developed as a result of judicial rulings that have clarified a number of issues, including merger control, abuse of dominance, and anti-competitive agreements. In addition, the judiciary's involvement in upholding competition legislation has contributed to the establishment of fair competition in the legal industry and the protection of the interests of both companies and customers.

## Conclusion

The evolution from the Monopolies and Restrictive Trade Practices (MRTP) Act to the Competition Act represents a pivotal transition in India's competition law landscape, marked by a shift towards a more modern and robust regulatory framework.

Let's take an example that you are compelled to buy your grocery from the only store in your neighborhood. Everybody fears that they might be forced to pay whatever the demands are. It is precisely for this reason that competition laws were enacted. These regulations ensure the development of market competition and the accessibility of high-quality products for consumers at reasonable costs. The CCI is always concerned about any business or group attempting to control the market by entering into anti-competitive agreements with one another. It also has the authority to examine and look into anti-competitive agreements, mergers and acquisitions, and abuses of dominant positions. It has the authority to punish these businesses with fines.

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