

COMPETITION LAW: A TOOL TO PROTECT THE CONSUMER AND PROMOTE THE COMPETITION IN MARKET

ABSTRACT:

With the advent of liberalization in the Indian economy and expansion of market in the competition, competition commission plays a very crucial role as a regulator of market. In case of **Ashoka smokeless Coal India pvt Ltd. Vs Union of India** it is observed by Hon'ble supreme Court that in a market governed by free economy where producers fix their own prices. In an industry with an acceptable number of participants (producers and customers), simple entrance and exit procedures, and close product substitution among different companies, competition is defined as a process that leads to cost-effective production. The aforementioned level playing field can be achieved when consumers have competition and options when making purchases. If the free-market policy is to be implemented, the State must put the interests of the customer first. This paper examines the connection between consumer protection and the Competition Commission of India. Before going into detail on the variances that occur in the real world, the essay begins by describing ideal consumer behavior and market conditions. Apart from delineating the diverse standards that could potentially form the basis for consumer protection laws aimed at safeguarding the interests of consumers in a market characterized by competition, the writer emphasizes the imperative nature of rationality in consumer protection. A critical examination of India's competition law's development is also provided for a better understanding of how the country's expectations for consumer protection evolved over time. The relationship between consumer protection and the Competition Commission of India is examined in this essay. The essay goes into great detail about the differences that exist in the real world after providing an overview of ideal consumer behavior and market conditions. The author emphasizes the need for logic in consumer protection in addition to describing the several standards that can be used as the basis for laws protecting consumers' interests in a market that is competitive. A critical examination of the development of the Indian competition legislation is also provided to help readers better grasp how the country's expectations for consumer protection have evolved over time.

Keywords: competition policy, competition commission, anti-competitive practices. Consumer welfare.

Introduction:

with the advent of liberalization and globalization, expansion of markets taking place with much faster rate and witnessing a rivalry in the markets. As we know the that introduction of several malpractices in the economy, resulting in unhealthy competition.

In a market, competition means that when all goods and service providers are fighting with each other to pull the customers to buy their products and services and try to retain them for longer period of time as compared to their competitors¹. It is very crucial to maintain competition in the economy as it helps in maintaining the quality of the product, diversify the product offerings, provide alternate options to customers and helps in controlling the monopolies, anti-competitive activities and different kind of unfair trade practices, all these things ultimately help in the well-being of people. The economy must stand rigid against any kind of unfair behavior by introducing rules and policies in every area.

The regulations and policies which are made to control of competitive activities meant to create concrete market which would be free of lacunae in the market, and to develop structure of market which is more advantageous to customers.² And it outrightly shows that there is strong connection between competition laws and growth of the economy, and also between competition law and welfare of the customers.

COMPETITON LAW AND CONSUMER WELFARE:

If we read the phrase “consumer welfare” it lacks the exact definition; it is very broad and very subjective concept. However, the foundation of concept is somehow related to the price given to customers, the quality of the products offered and the range of alternatives made accessible to customers. Through establishment of mechanisms and by implementing the rules and supporting, rules and regulations designed to control competition activities in the economy leads to make the market more consumer- friendly.³ Market where we see excessively high rates of products supported by inferior quality and with little or no diversification are nothing but a source of exploiting customers by asking to pay exorbitant amounts of money for the products that do not deserve it.

¹ United Nations conference on trade and development, “the benefit of competition policy for consumers”, 2(2014)

² United nations conference on trade and development,” benefit of competition policy for consumers”,5 (2014)

³ United nations conference on trade and development,” benefit of competition policy for consumers”,6 (2014)

The competition law promotes the growth and expansion of a market for the wisely allocation of resources of an economic character, enabling customers to have a best position in relation to business units. Legislation benefits the customers because it aims to grow and intensify market competition, which leads to higher degree of obstacle less communication between businesses and customers in order to equip them aware of the advantages and disadvantages of the product and increase the accessibility of the products in order to attract more customers for present and future.

The government policies also help in liberalize commercial practices, including the introduction of the new businesses but it bans the steps which is taken to put the customers in prejudiced position that may jeopardize their interests. In our legal system and in policies of the government customer protection is not given directly, it is given indirectly as required by the consumer protection legislation.⁴

WELLBEING OF CUSTOMER IN INDIA IN RELATION TO COMPETITION LAW:

To promote the fair play of firms in the market by fostering healthy competition the Competition Act of 2002 of enacted. This particular legislation by government focused mainly on the prohibition of anti-competitive activities and the misuse of a dominant position in market. It also encompassed provisions for the regulation of “mergers, acquisitions, and amalgamations.” By enforcing the terms of this legislation, the legislature aimed to improve the environment which is best for the welfare of consumers.⁵

The judicial system always understood this law to have a primary objective of welfare of client. In case of **Competition Commission of India vs SAIL**,⁶ in this decision Supreme Court determined that this particular legislation was aimed to provide a best market which responds to consumer preferences with appropriate care and without abuse. And that is why every consumer has the right to participate in a market with “free and fair” competition.

In case of **Ashoka Smokeless Coal Ind. Pvt ltd vs Union of India**.⁷ the supreme court highlighted the mandate of state to create a free and open economy with properly regulated competition. The market must be designed in such a way that there are multiple producers to supply customers with a range of alternatives at very reasonable costs, therefore protecting

⁴ United Nations conference on trade and development.” The role of competition policy in promoting economic development: the appropriate design and effectiveness of competition law and policy”. 7 (2010)

⁵ Vishwanath Pingali, “competitive law in India: perspective”,41(2), VIKALPA,168,176(2016)

⁶ (2010) 10 SCC 744.

⁷ (2007) 2 SCC 744.

them against exploitation. The court interpreted this as the responsibility of government to bring them in competitive policies and legislation.

There are several most important objectives of the competition Act,2002 are mentioned in the preamble for the protection and interest of the consumers and the prohibition of any act which comes in path of market competition as obstacles, to implement those provisions a commission will be established in accordance with the provisions of the act. If we see section 18 of the competition Act 2002, the commission has the mandate and has the responsibility to protect the and ensure the consumer's wellbeing, which can be achieved by regulation of the prices of the services and goods so that the customers get the goods and services at lower prices with best quality of products.

The formations of cartels are outrightly prohibited by regulation of Competition Act 2002 because it would definitely threat interests of the customers. It would be too easy to know how are they threat to the interests of the customers once we get to know, the way they operate. They operate by fixing the price that is fixed to be as high as possible while also reducing the supply of products and services, which has precarious impact on the well-being of the customers, clients, they are the final point in the production and selling process, are stakeholders whose interests must be safeguarded, as the competition commission formed under this legislation rightfully tried to achieve.⁸

COMPETITON LAW: THE PROTECTOR OF ECONOMIC GROWTH:

Economic growth of any country is heavily dependent by the country's competition law regulation. The objective of these laws is to improve competition in market by promoting free market and prohibiting anti-competitive activities which leads to misuse of a dominant position. This would result in to creation of efficient marketplaces. Which increases the efficiency and provide support the manufacturing process, ultimately resulting in economic growth.⁹

The main objective of the competitive law is that to ensure economic progress by regulating and monitoring how the business of the country operate under the umbrella of fair practices. Furthermore, the legislation of competition law has the mandate of preserving market structure

⁸ Supra 5 at p. 181

⁹ Vijay Kumar Singh" Competition law and Policy in India: The journey in a Decade",4 NUJS Law Review,523,525,(2011).

in economic terms. This structure actually tells us that how the industry will operate in specific environment, like entry and exit points, capacity to expand, and diversification of its company.

Economic growth and development are dependent on innovation of market, which are in turn dependent on the competitive policies, which are currently in existence in the economy of the country. Legislation of competition law provides a secure and safe environment for investors, who can feel safe investing in enterprises knowing that the statute controls market activity.

INDIA'S ECONOMIC GROWTH IN RELATION TO COMPETITION LAW:

The main message of the Competition Act of 2002 gives, economic growth is the only aim of this statute. It provides support to the market competition and free trade and commerce, all of which contribute to economic progress. If we see the language of Section 3 of the Competition Act 2002, intended to prevent the anti-competitive market practices that are treated to the economic growth. Section 4 declares any acts of the business and trade unit that may be converted in "abuse of dominant position" to be illegal and contrary to the objective of the competition laws. This act also provides regulation structure to the "mergers, acquisition and amalgamations" to make sure that they do not take part in activities that have an "appreciable detrimental effect" on free and fair competition since that will directly obstruct the economic growth of the country. There are ways in which market competition must be administered in order to help economic growth and development. Section 18 further says that it is the responsibility of Competition Commission, which leads to a prospering economy.

In case of CCI Vs SAIL,¹⁰ It was held that in addition to protecting consumer welfare it is also the role of this legislation to build and sustain efficiency in the economy, which supports India's economic progress.

CONCLUSION:

It is feasible to draw the conclusion that the rate of economic growth, consumer protection, and competition law are related. A review of the Competition Act of 2002 reveals that the objectives of this legislation are to advance consumer welfare as well as economic advancement.

The method used to enforce this rule is frequently one of economy since it ensures that the products' quality and price are the best available for achieving both goals. If unfair business

¹⁰ (2010) 10 SCC 744

practices predominate, the economy will be negatively impacted and unable to grow. Only the company owners would profit in such a scenario, leaving customers at the whim of the business units and their discriminatory practices. Yet, by upholding this law, these abuses can be reduced.

A strong system of enforcement is in place to support this legislation. It establishes a commission on competition whose job it is to control the structure and functions of the economy. In addition to offering them protection, the enforcement mechanism and the concept of competitive environment advocacy have empowered consumers by raising their level of awareness, which is achieved through clear and uncomplicated communication.