



FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B. IX th Semester

SUBJECT: COMPETITION LAW

SUBJECT CODE: BAL 901

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LECTURE 22

TOPIC: ABUSE OF DOMINANT POSITION

Identification of abusive use of dominant position [Section 4(2)]

There are five kinds of abusive use of dominant position-

1. Unfair or biased trade practices: According to this, abuse of dominant position happens when an undertaking or gathering legitimately or in an indirect way forces prejudicial conditions on the sale of goods or rendering of costs or cost in deal or acquisition of ruthless cost of products or administrations.
2. Limiting creation or specialized or scientific improvement: An abuse of dominant position occurs in the market where an endeavor or group legitimately or in an indirect way forces conditions that limit the creation of the merchandise or specialized or logical advancement bringing about the creation of the products or administrations.
3. Denial of access to showcase, barriers to entry and development: Any condition that makes forswearing access to the market in any way will comprise an abuse of the dominant position.
4. The imposition of beneficial commitments: when an undertaking makes the finish of agreements subject to an acknowledgment of advantageous commitments by different parties and those commitments are to such an extent that by their very nature or as per business use in that field, they have no association with the topic of the agreement.
5. Protection of different markets—when an enterprise utilizes its situation in a significant market to go into another market, at that point there is an abuse of dominant position.

Thus it can be stated that Section 4(2) of the Act indicates the accompanying practices by a dominant enterprise or group of endeavours as misuses are straightforwardly or in an indirect way of imposing out of line or oppressive condition in the sell or purchase of goods or administration; straightforwardly or in an indirect way of imposing an unjust or prejudicial cost in buy or deal (counting ruthless cost) of products or administration; constraining or confining the creation of products or arrangement of administrations or market; constraining or confining specialized or logical improvement identifying with merchandise or administrations to the partiality of buyers; denying market access in any way; making the finish of agreements subject to acknowledgment by different groups of beneficial commitments which, by their temperament or as per business use, have no association with the subject of such agreements; and using its dominant situation in one important market to enter into or ensure other applicable markets.

Exercise:

1. The Commission shall, while inquiring whether an enterprise enjoys a dominant position or not, have due regard to following factor
 - a) Volume of enterprise
 - b) Strength of enterprise
 - c) Independence of consumers on enterprise
 - d) countervailing buying power

2. Any enterprise enjoys a dominant position or not shall be checked by
 - a) market share of the enterprise
 - b) size of enterprise
 - c) economic power of enterprise
 - d) all of these

3. If after inquiry, CCI find the involvement of any enterprise in any anti competitive agreement or abuse of dominant position, it may impose such penalty which shall

be not more than _____ of the average turnover for last three preceeding financial years

- a) one percent
- b) two percent
- c) five percent
- d) ten percent

4. The Competition Commission of India may order for division of enterprise enjoying dominant position

- a) True
- b) False

5. Division of Enterprise enjoying dominant position may provide for

- a) Transfer or vesting of property or rights
- b) Creation, allotment or cancellation of any shares, stocks
- c) adjustment of contracts
- d) All of these