



FACULTY OF JURIDICAL SCIENCES

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

SUBJECT: COMPETITION LAW

SUBJECT CODE: BAL 901

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LECTURE 7

TOPIC: SALIENT FEATURES OF THE COMPETITION ACT, 2002

Key Concepts and Significant features of Competition Act, 2002

For the detailed understanding of the Act it is important to get an insight of several important concepts and features of the Act. These are explained hereunder:

Important Definitions under the Act

The Act provides for several key definitions which are necessary to be understood in order to understand the functioning of the Act. These are:

Cartel: The Act defines 'Cartel' as an association of producers, sellers, distributors, traders or service providers who by agreement amongst themselves, limit, control or attempt to control the production, distribution, sale or price of or trade in goods or provision of services. Cartel has been put in the category of those anti-competitive agreements through which the manufacturers, sellers, producers of homogenous commodities agree to control the production, supply prices etc. of goods so as to get desired profits and control over the market.

Enterprise: As per Section 2(h) of the Act, 'enterprise' means and includes a person or a department of Government, who or which is or has been engaged in following activities: (i) Production, storage, supply, distribution, acquisition or control of articles or goods; (ii) Provisions of services of any kind; (iii) Investing or acquiring of business, holding or dealing in shares or other securities of any other body corporate either directly or through a subsidiary. However, a department of Government carrying activity relating to sovereign functions of the government which includes activities

relating to atomic energy, currency, defense and space shall not be termed as an 'enterprise' for the purpose of the Act.

Person: Section 2(l) of the Act provides an inclusive definition of 'person'. It states that a 'person' includes following: (i) An individual, Hindu undivided family, company or a firm; (ii) An association of persons whether incorporated or not in India or outside India; (iii) Any corporation established by Central or State government or a Government Company as defined under Companies Act. (iv) Any body corporate incorporated by or under the laws of a country outside India (v) Any Cooperative Society, local authority or an artificial juridical person.

Relevant Market: The definition of the term 'relevant market' is dependent on two terms namely 'relevant geographic market' and 'relevant product market' as section 2(r) of the Act lays down that for determination of relevant market. Commission has to refer either 'relevant geographic market' or 'relevant product market' or both. (i) Relevant geographic market implies a market in an area where homogeneous conditions prevail for various aspects of trade and commerce. Such conditions are distinct from markets in neighbouring areas. (ii) Relevant Product Market refers to a market where the products and services are of such a nature that those can be interchanged or substituted by other products and services available in that market.

Exercise:

1. Enterprise means a person or a department of Government engaged in any activity relating to production, storage, supply or control of goods
 - a) True
 - b) False

2. Activity as defined in definition clause of competition Act includes profession or _____
 - a) Vocation
 - b) Service

- c) Occupation
- d) None of the above

3. What is "goods" as per Competition Act?

- a) Commodities
- b) value for money
- c) articles
- d) goods as defined under Sales of Goods Act, 1930

4. As per Competition Act, 2002, person doesn't include

- a) an individual
- b) legal person
- c) HUF
- d) firm

5. What is Public financial Institution as per Competition Act, 2002?

- a) financial institution serving public
- b) public loan institution
- c) Public financial institution specified under Section 4A of Companies Act, 1956
- d) Public financial institution as defined under RBI Act, 1934