



FACULTY OF JURIDICAL SCIENCES

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

Semester

SUBJECT: COMPETITION LAW

SUBJECT CODE: BBL 901

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LECTURE 40

TOPIC: The Draft National Competition Policy, 2011

A committee for framing of National Competition Policy and related matters was constituted by the Ministry of Corporate Affairs. The draft report dated 28 July, 2011, has been placed on the *Commission's* Website inviting comments from the public. Some of the major recommendations are discussed below. It is best that this is read along with the report of the *High-Level Committee on Competition Policy and Law* appointed by the Central Government in 1999, relating to competition policy and related matters, which have been discussed in the previous paragraphs of this chapter, particularly the following comments, especially its emphasis on the importance of the proper coordination of different policy measures of the government that would affect the effectiveness of a competition policy.

To ensure the effectiveness of the competition policy, the Committee emphasized the importance of the proper coordination of different policy measures of the government. It also identified specific areas in which micro-industrial governmental policies could support or adversely impinge on the application of competition policy. They include industrial policy; reservations for the small-scale industrial sector; privatization and regulatory reforms; trade policy, including tariffs, quotas, subsidies, anti-dumping action, domestic content regulations and export restraints (essentially *WTO*-related); state monopolies policy; labour policy; environment; healthcare and financial markets. For the government to consider and take appropriate action, specific recommendations on each field were made by the Committee.

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domestic content regulations and export restraints (essentially *WTO* related); state monopolies policy; labor policy; environment; healthcare and financial markets. The Committee made recommendations relating to each field for the government to consider and take appropriate action.

In the introductory part, the draft 2011 report states that “this Policy is aimed at laying down an overarching policy framework for infusing competition principles in various policies, statutes and regulations and promoting a competitive market structure in the economy, thereby striving to achieve maximum economy efficiency in various spheres, and public welfare.” In its view competition policy includes government measures, policies, statutes, and regulations including a competition law, aimed at promoting competitive market structure and behaviour of entities in an economy and that it is a proactive and positive effort to build a competition culture in an economy. Notable among its premises of what a national competition policy will seek to achieve is to “*strive for single national market*” as fragmented markets are impediments to competition. This Committee appointed in 2011 has suggested in its draft report a list of parameters that would enable a study, for purposes of competition assessment of what government policies or institutions limit competition. The proposal in its final shape is yet to be progressed.

The Committee noted the steps already taken to increase competition and suggested the following:

Although significant effort has been made to increase competition in various sectors of the economy, for a better competition policy a number of essential steps need to be taken. A Competition Law Tribunal as a watchdog for the introduction and maintenance of competition policy will be needed. With the introduction of the required changes in the competition policy it will not only protect and promote competitive environment, it will also be pro-active in advocacy function for competition. Competition Law should deal with anti-competitive practices, particularly cartelization, price-fixing and other abuses of market power and should regulate mergers. The Committee also expressed its concern that such legislation should not itself become anti-competitive and pose

a threat to competition. For this, the law should be precise and the discretion should be kept at a minimum.

Exercise:

1. On a reference by CCI to a statutory authority, the statutory authority shall render its opinion within _____ from receipt of such reference

- a) Twenty-five days
- b) fifty days
- c) sixty days
- d) sixty-five days

2. Who shall preside the meeting of CCI in case of absence of Chairperson?

- a) Secretary
- b) Director General
- c) Law Secretary
- d) Senior Most Member

3. What shall be the ground of decision on all questions which come up before any meeting of the CCI?

- a) Will of Chairperson
- b) Direction of Central Government
- c) Direction of DG of CCI
- d) Majority of Members present and voting

4. Chairperson shall also cast his/her vote in case of decision on any question before any meeting of CCI

- a) True
- b) False

5. What shall be the Quorum for meeting to decide any question which come up before any meeting of CCI in case of voting?

- a) Six Members
- b) Five Members
- c) Two Members
- d) Three Members