



**FACULTY OF JURIDICAL SCIENCES**

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**SUBJECT: COMPETITION LAW**

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## LECTURE 9

# TOPIC: SALIENT FEATURES OF THE COMPETITION ACT, 2002

### **Competition Advocacy**

Competition Advocacy is one of the main pillars of modern competition law which aims at creating, expanding and strengthening awareness of competition in the market. Section 49 of the Competition Act, 2002 mandates the CCI to undertake advocacy for promoting competition. “Competition advocacy” means those activities which are conducted to promote a competitive environment for economic activities. The main beneficiaries of competition policy and law are the consumers, whose welfare is its declared objective of competition Act. Advocacy is the act of influencing or supporting a particular idea or policy. Effective implementation of any policy and law largely depends upon the willingness of the people to accept the law. In that sense advocacy always plays a vital role in securing the willingness and acceptability of any policy and law. Raising the level of awareness among the public is an important step towards creating a competition culture within the country.

### **According to the Raghavan Committee -**

The role of CCI is not merely enforcing the Competition Law. It has to participate in the formulation of the country’s economic policies, which may adversely affect competitive market structure, business conduct and economic performance. Therefore, Commission has to act the role of a competition advocate also to bring about Government policies that lower down the barriers to entry, promote de-regulation and trade liberalization and promote competition in the market place. Therefore, there is a direct relationship between competition advocacy and enforcement of competition law. The aim of

competition is to lead more competitive market structure without the direct intervention of the CCI.

To make successful competition advocacy programme, CCI has to develop relationship with the Ministries and Departments of the Government, regulatory agencies and other bodies to formulate and administer policies affecting demand and supply positions in various markets. Such relationships will facilitate communication and search for alternatives that are less harmful to competition and consumer welfare. CCI has to encourage debate on competition and promote a better and more informed economic decision making. Competition advocacy must be open and transparent to ensure safeguard the integrity and capability of the CCI.

By establishing good media relations and explaining the role and importance of Competition Policy/Law as an integral part of the Government's economic framework CCI can enhance the competition advocacy.

### **Advocacy in the Competition Act, 2002**

In recognition of the importance of the various stakeholders, the Act lays emphasis on competition advocacy initiatives to be taken by CCI at three levels –

- The policy makers (Central and State Governments),
- The sectoral regulators and
- The public at large.

Law provides that the Central Government as well as State Governments have to make reference to CCI for its opinion. However, CCI can give its opinion on competition policy on its own to government, no reference is required.

Advocacy is therefore, an important tool in most jurisdictions for fostering competition in regulated sectors. It is mandatory for the regulators to inform the CCI of any proposed regulations so as to enable it to provide its opinion on the Competition dimensions.

The Act specifically provides for competition advocacy for creating awareness and imparting training about competition issues amongst various stake-holders. Besides consumers and consumer organizations, such initiatives could target the business, professionals, media, the law makers, bureaucrats and the judiciary.

The role of other stakeholders like consumer organisations, industry bodies, trade associations, professional bodies, research institutions and other civil society organizations is equally important to create a culture of competition in the country. They are encouraged to supplement the efforts of the CCI.

### **Tools of Advocacy or Role of CCI**

Various competition advocacy tools are effectively utilized by competition authorities. Seminars and workshops are effective tools for targeted audience. Published brochures, guidelines, articles and posting them on website are able to carry the message far and wide. Many competition authorities may give opinion on proposed legislation and public policy on their own, so that the law makers and policy makers consider the competition dimensions and give reasons for deviating from them for the benefit of the public. The CCI should carry out market studies to understand the state of competition in various sectors in order to advise the concerned authorities to make necessary changes so as to usher greater competition to usher competition where there is weak competition or no competition, as the case may be. Advocacy allows competition agencies to expand its reach and play an important role in areas where its role is usually ignored.

It is imperative to CCI to formulate, publish and post in the public domain guidelines covering various dimensions related to competition law for enhancing public awareness. Such guidelines help enterprises by bringing greater clarity about the provisions of the competition law and the manner of its enforcement. The concept and the role of competition are relatively new to the Indian business community. There is an urgent need to increase the level of awareness about the benefits of competition and the contribution of the competition law amongst the public, more particularly amongst the

business community. The CCI has been given the mandate to generate public awareness.

**Competition Law and CCI can help government and government bodies by:**

- Creating awareness among various levels of Government Officers to harmful effects of anti-competitive measures adopted by suppliers, manufacturers etc.
- Helping identifying areas where bid-rigging, cartelization or abuse of dominance may be taking place more often.
- Helping in protection of small enterprises, self-employed and micro-retailers against abuse of dominance by bigger enterprises.
- Creating positive effect on wages, working conditions and workers' welfare as a result of increase in allocative efficiencies arising in labour market.
- Familiarizing with the legal remedies available in competition law.
- Helping them develop competition compliance programs.
- Providing competition advice in framing policies which are competition compliant.
- Creating a healthy image of country's economic and commercial policies to the world

**Glimpses of Competition Advocacy Initiatives Taken By CCI**

The CCI has taken up competition advocacy efforts simultaneously with the Central Government and State governments, besides undertaking advocacy with the other stakeholders such as the business chambers, consumer activists / associations, academic institutions and statutory bodies of professionals such as lawyers, chartered accountants, cost accountants and company secretaries.

CCI has taken various initiatives for promotion and creating awareness of competition law awareness and capacity building in competition matters as follows-

- National and State level Workshops and Seminars
- Special lectures organised for CCI officers
- Papers and studies published for competition advocacy and for creating awareness of competition issues.

- Capacity building of stakeholders or for CCI officials to participate in competition regulatory process.
- Competition related sectoral/ regulatory impact assessment; market studies and research projects carried out by the commission.
- Consultation papers published/ placed on website of the Commission.
- Press conferences and press releases

**Exercise:**

1. Anti-Competitive agreement may be of \_\_\_\_\_ Kinds

- a) 3
- b) 2
- c) 4
- d) None

2. Who is said to be Competition Watch dog in India?

- a) CCI
- b) SEBI
- c) DGFT
- d) Union Government

3. Competition Act, 2002 comprises of how many sections

- a) 60
- b) 66
- c) 70
- d) 81

4. How many chapters constitutes the entire competition Act

- a) 6
- b) 7

- c) 9
- d) 11

5. The preamble of Competition Act, 2002 does not contain following objective

- a) Establishment of CCI
- b) Prevention of adverse practice
- c) Sustainable competition
- d) Liberation of open market