



FACULTY OF JURIDICAL SCIENCES

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

SUBJECT: COMPETITION LAW

SUBJECT CODE: BAL 901

Name of Faculty: Dr. Aijaj Ahmed Raj

LECTURE 11

TOPIC: COMPARISON BETWEEN MRTP ACT AND COMPETITION ACT, 1969

Competition Act, 2002

The Act established to prevent unfair trade practices in market. It also helps the country to develop economically. It also establishes a competition commission to prevent adverse effect on competition, to promote and also sustain competition in markets, to protect the interests of consumers and also to ensure freedom of trade.

On May 20, a six-year waiting period ended with the Central Government notifying some key provisions of the Competition Act, 2002, which is to replace the Monopolies and Restrictive Trade Practices (MRTP) Act.

Main Provisions of The Act

Following are the main provisions of the competition Act:

1. Prohibition of anti-competitive agreements (S 3)
2. Prohibit abuse of dominant position (S 4)
3. Regulate combinations (S 5 & 6)
4. Competition advocacy (S 49)

Anti- competitive Agreements: Agreements which are anti-competitive in nature are prohibited. It includes:

- Tie-in arrangement
- Refusal to deal

- Exclusive Dealings
- Resale price maintenance

Abuse of dominant position: It regulates activities such as limiting production of goods or services, the imposition of unfair conditions or engaging in such activities which lead to denial of market access.

Regulation of combination: It regulates the activities of combinations, i.e. mergers, acquisition, amalgamation, which is likely to adversely affect competition.

Competitive Advocacy: Commission shall give its opinion on formation of competitive policies by central or state government.

Monopolies and Restrictive Trade Practices (MRTP) Act, 1969

The Monopolistic and Restrictive Trade Practices Act, 1969, was enacted:

1. To ensure that the economic system is not concentrated in hands of few.
2. Control Monopoly.
3. Prohibition of monopolistic and restrictive trade practices.

The MRTP Act extends to the whole of India except Jammu and Kashmir.

Unless the Central Government otherwise directs, this act shall not apply to:

1. Any undertaking owned or also controlled by the Government Company,
2. Undertakings owned or also controlled by the Government,
3. Any undertaking owned or controlled by a corporation (not being a company established by or under any Central, Provincial or State Act
4. Any trade union or other association of workmen or employees formed for their own reasonable protection as such workmen or also employees,
5. Undertaking engaged in an industry, the management of which has been taken over by any person or body of persons under powers by the Central Government,

6. undertaking owned by a co-operative society formed and also registered under any Central, Provincial or state Act,
7. Any financial institution.

There is clear distinction between Monopolistic Trade Practices and Restrictive Trade Practices as under:

1. **Monopolistic Practices:** The practices acquired by any organization and also undertaking, on account of their control over market, which harm the public interest. It includes:
 - Charging unreasonably high prices.
 - Policy to decrease existing and also potential competition.
 - Restricting capital investment and also technical development.
2. **Restrictive Practices:** Restrictive practices means act which restrict or distort or also prevent competition in market. Few dominant firm adopt these to harm the competition. It includes:
 - Restricting the sale and also purchase of goods from specified person.
 - Tie-in-sale, i.e. forcing the customer to purchase a particular product
 - Restricting areas of sale.
 - Boycott
 - Formation of cartels
 - Predatory pricing

Key Differences Between MRTP Act and Competition Act

Following are the key differences of Competition and MRTP Act:

1. MRTP Act created to regulate competition in India. It was to prevent or restrict concentration of power in few hands. Whereas, Competition Act came as an improvement in MRTP Act. Its objective was to promote competition in India.
2. MRTP Act is reformatory in nature, whereas Competition Act is punitive.
3. The dominant position decided by the size of firm in the case of MRTP Act. Whereas, the position decided by the firm's structure in the case of competition Act.
4. MRTP Act considers consumer interest. Whereas, Competition Act considers interest of public at large.
5. There are 14 offences which violates the rule of natural justice in the case of MRTP Act. Whereas, there are only four offences which violates the rule of natural justice in the case of competition Act.
6. The MRTP act does not specify any penalty for offenses but Competition Act states penalty for the offence.
7. The objective of MRTP Act is to control monopoly in market. Whereas, the competition Act promotes healthy competition in market.
8. Monopolies and Restrictive Trade Practices (MRTP), registration of agreement is compulsory. In contrast, the Competition Act is silent on the registration of agreement.
9. In MRTP Act, central government appoints the chairperson. On the contrary, in Competition Act, Committee that comprises of retired, appoints the chairperson.

Exercise:

1. The MRTP Act, 1969 has become obsolete in certain respects in the light of International economic developments relating more particularly to _____ laws

- a) Trade Practices
- b) Competition
- c) Restrictive Practices
- d) Unfair trade

2. Those words and expressions used in the Competition Act but not defined in the said Act shall have same meanings, if defined in the _____

- a) Companies Act
- b) MRTP Act
- c) Finance Control Regulation Act
- d) RBI Act

3. The thrust of MRTP Act is directed towards

- a) Control of monopolies
- b) Prohibition of monopolistic trade practices
- c) Prohibition of unfair trade practices
- d) All of the above

4. The market in which producer and consumer have perfect knowledge of the market

- a) Imperfect Competition
- b) Monopoly
- c) Perfect Competition
- d) Oligopoly

5. Which section of Competition Act dissolves Monopolies and Restrictive Trade Practices Commission?

- a) 31
- b) 32
- c) 51
- d) 56