



FACULTY OF JURIDICAL SCIENCES

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

SUBJECT: COMPETITION LAW

SUBJECT CODE: BAL 901

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LECTURE 21

TOPIC: ABUSE OF DOMINANT POSITION

Relevant Market

The first thing to be resolved in quite a while of supposed abuse of dominant position is the 'relevant market' in which the accused party has a predominant position. The reason served by depicting a relevant market is to characterize the degree inside which the situation of an endeavor is to be tried for strength and misuse thereof. The 'relevant market' is characterized as 'product' and 'geography', in other words, the applicable market recognizes the specific item/administration or class of items created or benefits rendered by an enterprise(s) in a given geographic territory.

Relevant Market Product

A market comprises all those products or services that are interchangeable or are substituted by the consumer. Factors determining the relevant product market are :

1. Physical characteristics or end-use of goods.
2. Price of goods or services.
3. Consumer preference
4. Exclusion of in-house producers.
5. Existence of specialized producers.
6. Classification of Industrial products.

In the case of *Atos Worldline v Verifoneindia*, Case No. 56 of 2012, the Competition Commission of India (CCI), held that the relevant product market is to be looked at from both demand and supply perspective based on the characteristics of the product, its price and intended use. Similarly, in the case of *Surinder Singh Barmi v The Board of*

Control for Cricket in India (BCCI), Case No. 61/2010, it was held that the relevant market was settled on the thought of demand substitutability of different types of amusement or entertainment. It was held that a cricket match couldn't be held to be substitutable by some other game dependent on neither qualities nor the intention of the person watching the cricket match.

Relevant Geographic Market

A market comprising the area in which the condition of competition for supply or demand of goods or services are distinctly homogeneous and can also be distinguished from conditions prevailing in the neighbouring areas.

Factors determining the relevant geographic market:

1. Regulatory trade barriers.
2. Local specialization requirements.
3. National procurement policies.
4. Adequate distribution facilities.
5. Transport cost.
6. Language.
7. Consumer preference.
8. Need for secure or regular supplies or rapid after-sales service.

In the case of *Bijaya Poddar v. Coal India Ltd, Case No. 59 of 2013*, it was held that these are territories or areas where demand and supply of products of administrations can be said to be homogenous and discernable from markets in neighboring regions.

Similarly, in the case of *Atos Worldline v Verifoneindia, Case No. 56 of 2012*, it was held that naturally, a few factors at that point, as regulatory trade barriers, local detail necessities, national acquirement approaches, satisfactory conveyance offices, transport costs go under the domain of thought. Consequently, if every such factor were uniform all through the nation versus an item, the entire nation would be the relevant geological region.

Exercise:

1. Which section of Competition Act, 2002 defines combinations?
 - a) 4
 - b) 5
 - c) 6
 - d) 8

2. As per the explanation to Section 5 of Competition Act, group means two or more enterprises which, directly or indirectly, are in a position to exercise _____ percent or more of the voting rights in the other enterprise
 - a) 20
 - b) 26
 - c) 27
 - d) 35

3. What will be a lawful combination, this concept is specifically dealt under which section of Competition Act, 2002?
 - a) 8
 - b) 5
 - c) 6
 - d) 10

4. According to Explanation (C) appended to Section 5 of the Competition Act, 2002, the value of assets shall be determined by taking the _____ of the assets
 - a) market value
 - b) purchase value
 - c) sale value
 - d) book value

5. No person or enterprise shall enter into a combination which causes or is likely to cause an appreciable adverse effect on competition with relevant market in India and such a combination shall be void

- a) Section 40 of Competition Act
- b) Section 5 of Competition Act
- c) Section 6 of Competition Act
- d) Section 7 of Competition Act