



FACULTY OF JURIDICAL SCIENCES

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

SUBJECT: COMPETITION LAW

SUBJECT CODE: BAL 901

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LECTURE 24

TOPIC: ABUSE OF DOMINANT POSITION

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Powers of the Commission

After request, the Commission may pass inter-alia any or the entirety of the following orders under Section 27 of the Act:

- 1) direct the parties to suspend and not to reappear into such an understanding;
- 2) direct the endeavour or enterprise concerned to alter or change the agreement.
- 3) direct the enterprise concerned to submit to such different requests as the Commission may pass and conform to the bearings, including payment of expenses, assuming any; and
- 4) pass such different orders or issues such directions as it might esteem fit.
- 5) can force such punishment as it might consider fit. The punishment can be up to 10% of the normal turnover for the last three preceding financial years of endless supply of such people or ventures which are parties to bid-rigging or collusive bidding.
- 6) Section 28 enables the Commission to coordinate the division of a venture or enterprise appreciating the prevailing situation to guarantee that such an undertaking doesn't showcase an abuse of dominant position.

Thus, the available remedies are, when the abuse of dominant position has been built up, the competition specialists can take certain measures for the same:

1. A restraining order.
2. The penalty which might be 10% of yearly turnover.
3. Direct the enterprise to make a move which the authority regards fit.
4. Give any other request which it might think fit.
5. Divide the prevailing endeavor.
6. In the instance of allure to the Competition Appellate Tribunal, the Tribunal may arrange for payment to the party bearing misfortune.

Interim Order

Under Section 33 of the Act, during the pendency of an investigation into abuse of dominant position, the Commission may incidentally control any party from duration with the alleged offending act until the completion of the order or until further order, without giving out to such gathering, where it esteems fundamental or necessary.

Exercise:

1. Dominant position means a position of strength enjoyed by an enterprise in _____ in India
 - a) Open market
 - b) Free market
 - c) Relevant market
 - d) Controlled market
2. The Commission shall, while inquiring whether an enterprise enjoys a dominant position or not, have due regard to following factor
 - a) Volume of enterprise
 - b) Strength of enterprise
 - c) Independence of consumers on enterprise
 - d) countervailing buying power

3. Any enterprise enjoys a dominant position or not shall be checked by
 - a) market share of the enterprise
 - b) size of enterprise
 - c) economic power of enterprise
 - d) all of these

4. If after inquiry, CCI find the involvement of any enterprise in any anti-competitive agreement or abuse of dominant position, it may impose such penalty which shall be not more than _____ of the average turnover for last three proceeding financial years
 - a) one percent
 - b) two percent
 - c) five percent
 - d) ten percent

5. The Competition Commission of India may order for division of enterprise enjoying dominant position
 - a) True
 - b) False