

Competition Act 2002

The Competition Act 2002 is the law which restricts anti-competitive agreements, controls corporate exploitation of dominant positions and forbids mergers, all of which have a significant negative impact on competition inside India.

The Competition Commission of India and the Competition Appellate Tribunal have been constituted in compliance with the Competition Act 2002 provisions.

History of Competition Act 2002

Justice KC Das Gupta, a Supreme Court justice, oversaw the establishment of the Monopolies Inquiry Commission. The commission's goal was to learn more about the impact and scope of monopolistic & restrictive trade policies in significant Indian economic sectors. The Competition Act 2002 is an act or law that guarantees free and reasonable competition in business and prohibits any ineffective or unnecessary interference by the government.

The monopolies & Restrictive Trade Practices Act of 1969 was replaced by it. Its definition was flawed and too primitive to prevent wealth accumulation in a small number of hands and monopolistic practices. Parliament approved the legislation in January 2003 and then revised it in 2007. The primary goal of the Competition Act 2002 is to establish a foundation for creating the competition commission.

Definitions under Competition Act 2002

The definitions given under the Competition Act 2002 are as follows,

- **Acquisition:** The agreement to directly or indirectly acquire shares, voting rights, or assets authority over any firm is referred to as an acquisition.
- **Cartel:** An organisation of manufacturers and sellers that restricts control over the distribution, sale, or advertising of commodities by a previously negotiated agreement.
- **Position:** A dominating position is a company's strength in the relevant market. It gives the business freedom to operate and the power to sway the market in its favour.
- **Predatory pricing:** It is the practice of artificially driving down the cost of products and services to prevent competition.
- **Rule of the reason:** It analyzes a course of action based on its commercial rationale and effects on the consumer and the competition.

Objectives of Competition Act 2002

The Competition Act 2002 is a piece of law that aims to protect consumer interests from anti-competitive behaviour, foster and maintain market competition, defend consumer rights, and ensure the freedom of trade of other market players. The new legislation has replaced the old MRTP Act, which only previously applied to India and prohibited monopolies and other restrictive trade practices.

The Competition Appellate Tribunal, the Competition Commission of India (CCI), and the National Competition Policy (NCP) are the three primary parts of the competition law upon which the Competition Act was constructed. This legislation was passed primarily to ensure that market competition functions as intended and that consumers can access a wider range of goods at fair prices.

Penalties and Offence under Competition Act 2002

If any enterprise or individual fails to abide by the orders as well as directors of the competition made available under sections 27, 28, 31, etc., for any irrational reason, the competition commission, which was formed with the primary purpose of promoting trade agreements, has levied certain violations as well as penalties under the competition act 2002. Every instance of non-compliance increases the penalty, which might reach more than a lakh.

Following the Competition Act 2002 provisions for legitimate business execution, the Director-General is appointed by the Competition Commission of India or CCI. The company can submit an application to the Appellate Tribunal for compensation under Section 53N of the Competition Act 2002.

Features of Competition Act 2002

The Competition Act 2002 has the following features:

- **Anti-Agreements:** No person or business may participate in production, supply, or distribution activities that would have a detrimental effect on India's competitive environment. Such agreements are considered illegal in any form.
- **Abuse of dominating position:** If a business or a connected person is discovered to have engaged in unfair or discriminatory actions, this is seen as an abuse of a dominant position under the Competition Act 2002. A party will be the subject of an inquiry by the relevant authorities if it is discovered that they have abused their position.
- **Combinations:** According to the act, a combination is a set of conditions that result in mergers or acquisitions. The Competition Commission of India would examine the parties concerned if such combinations exceeded the restrictions set forth by the Competition Act 2002.
- **Competition Commission of India:** This independent organization has the authority to enter into contracts and, if such contracts are broken, to bring legal action against the violators. The Commission, which has a maximum of six members, is in charge of upholding and advancing consumer interests to establish the optimum conditions for economic competition. Under the Competition Act 2002, the Commission's other responsibility is to provide advice to the Indian government on matters related to economic competition and to raise public awareness of the problem.

Section 3 of Competition Act 2002

Section 3 of The Competition Act, 2002 prohibits any agreement between companies or people that would materially undermine Indian competition. There are some exceptions to this rule.

There is a list of the agreements that are deemed anti-competitive under Section 3(3) of the Competition Act 2002, including:

- Setting the price or any other kind of trade condition (i.e. price-fixing).
- Restricting or controlling the provision of services, investments, markets, technical development, or manufacturing (i.e. limiting production).

- Allocating a given geographical market, a certain good or service, a specified number of customers, or a production source (i.e. market sharing).
- Obstructing or limiting the entry of rivals into the market (i.e. entry control).

Any agreements reached between companies, groups of companies, or individuals, or between groups of people, about the manufacture, distribution, allocation, storage, gathering, or acquisition of goods or the rendering of services related to

- Development and research
- Technical data
- Standards
- Evaluating resources
- Access to cutting-edge technologies
- Marketing
- Activities involving exports.

Section 4 of the Competition Act 2002

Along with excessive dominance and anti-competitive agreements, the dominating position is another factor that the Competition Act 2002 outlaws. Dominance is one of the main aspects that competition law, sometimes referred to as antitrust law, addresses. A firm's or a group of enterprises' capacity to impact output or price in the pertinent market is referred to as "dominance." The term "abuse" describes when someone uses their authority improperly, exploitatively, or excessively. To misuse, exploit, or overuse a dominating position in the relevant market, one must do so. Section 4(2) of the Competition Act 2002 states that to determine whether a business holds a dominating position, all or all of the following factors must be taken into account:

- Size and resources of the company;
- The size and importance of its adversaries;
- The company's financial strength comprises competitive advantages over other enterprises, such as the appropriate patents, licenses, and permits;
- Vertical integration of the company, including any forward or backwards integration;
- Having access to sources of goods or raw materials is essential for competing successfully in a market when such supply is dependent on other companies;
- Being able to enter markets for goods or services when there is a dependency on other firms is essential for effectively competing in those markets.