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Competition issues relating to abuse of dominance in physical market in India: A descriptive analysis

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Abstract
Competition law is basically a law to regulate the competition in the market. It is a means to implement competition policy and prevent the practices having adverse effect on competition. In India, the Competition Act, 2002 is the current competition regulatory framework. This research work has focused on defining the term abuse of dominance under section 4 of the said Act in explanatory manner and dealing with the issues arising due to it. The three factors, i.e. determination of relevant market, analysis of the dominant position, ascertaining the abuse of such dominant position, that are taken into consideration in order to ascertain the abuse of dominance by an enterprise are also discussed extensively. Since the enterprises in the market economy revolves around prices and strategies aimed at gaining profit and expanding their business, therefore they undertake certain unfair or discriminatory pricing practices that include predatory pricing as well, therefore endeavour has been made to explain the issues of predatory pricing, abuse of dominance in supply or in undertaking other anticompetitive practices and entering into anticompetitive agreements by abusing the dominant position in the market.

Keywords: Anticompetitive practices, competition, market, abuse of dominance, predatory price

Introduction
The Competition law in India provides for a business environment which allows the firms or existing market competitors to compete with each other and at the same time to provide opportunities for the new entrants to enter into the market and join the competition. Such kind of competition policy helps in promoting efficiency of the firms to do better business and also work in the interest of people of the society as they have enough choices in buying goods and services in such type of market which creates influential impact on the competition in the market.

However, there are prevailing a number of competition issues in the market that result in creating adverse effect on the competition or they even sometimes result in eliminating the competition in the market leading to the creation of monopolies and in consequence having negative impact on the consumers. The aim or the objective of the competition law is to promote sustain the fair competition in the market in order to uphold the interests of the consumers but these issues that are prevailing lead to the destruction or the non-fulfilment of the purpose of the Competition law. Therefore, continuous endeavours are being made by the regulating authorities to work in the interest of the market competition and the consumers by prohibiting and regulating such anticompetitive practices by the market enterprises. Some of the common issues prevailing in the physical market economy are:

- Formation of cartel.
- Bid rigging
- Abuse of dominance
- Anticompetitive mergers or amalgamations
- Other anticompetitive agreements, etc.

The term cartel is defined under section 2(c) of the Competition Act, 2002, according to this section, “cartel includes an association of producers, sellers, distributors, traders or service providers who, by agreement amongst themselves, limit control or attempt to control the production, distribution, sale or price of, or, trade in goods or provision of services.” The process by which cartels are formed can be termed as cartelisation and from the above-mentioned definition it can be simply concluded that cartel is a form of horizontal agreement.

Bid rigging is defined in Explanation to section 3 (3), it means “any agreement, between enterprises or association of enterprises or persons or association of persons engaged in identical or similar production or trading of goods or provision of services, which has the effect of eliminating or reducing competition for bids or adversely affecting or manipulating the process for bidding".

Abuse of dominance though as such is not defined in the Competition Act 2002 but though the provisions given under the Act regarding the abuse of dominant position, it can be defined as when an enterprise or a group of enterprises uses its dominant position in an exploitative manner in the relevant market then it is called as abuse of dominant position. The dominant position in the market is not prohibited under the Act but its abuse is prohibited [1].

Merger, amalgamation and acquisition come under the combination and section 5 of the Act deals with combinations. Combination within the Competition law is the merger between two or more enterprises or firms or acquisition of one enterprise by the other. Section 5 provides the threshold limit for the valid combination. However, Combinations of enterprises that have the potential to materially impair competition in the relevant Indian market are forbidden and, should they occur, are null and void under this Act [2]. In the case of Haridas Exports V. All India Float Glass Manufactures Association & others [3], "the Supreme Court observed that the words "adverse effect on competition" imply Acts, Contracts, Agreements or combinations which operate to the prejudice of the public interest by restricting competition or unduly obstructing it".

Other anticompetitive agreements include those that limit or control production, supply, market, technical developments, provision of services, etc. There are certain vertical agreements given under clause 4 of section 3 such as, tie-in-arrangement, exclusive supply agreement, resale price maintenance, etc. but they are not anticompetitive per se. If they cause an appreciable adverse effect on competition in India then only, they are considered as anticompetitive in nature and are therefore prohibited.

The above mentioned are the most common competitive issues prevailing in the physical market economy. However, this research work is mainly dealing with the competition issues relating to the abuse of dominance prevailing in the physical market economy.

Abuse of Dominance

In the Competition Act, 2002, the term 'dominant position' is defined as:

"Dominant position means a position of strength, enjoyed by an enterprise, in the relevant market, in India, which enables it to

1. Operate independently of competitive forces prevailing in the relevant market; or
2. Affect its competitors or consumers or the relevant market in its favour:" [4]

In case of "United Brand V. Commission of European Communities," [5] the European Commission has defined dominance as:

"a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by affording it the power to behave to an appreciable extent independently of its competitors, customers, and consumer."

It is not illegal in India to hold a dominant position within the relevant market as it can be obtained by legal means of competition, for example, by selling better products than other competitors at suitable prices. The only problem arises when such position is abused by the position holder resulting in the negative impact on competition in the market as the abuse of dominant position is prohibited under the Competition Act in the words that "no enterprise or group shall abuse its dominant position" [5]. Therefore, the provisions of the competition law apply or come into force only in the situation when the position of the enterprise suppresses the competition in the market.

In every investigation related to abuse of dominance, there are basically three key elements that are analysed and taken into consideration by the Competition Commission of India to ascertain the abuse of dominant position by the enterprise under investigation. They are as follows:

- Determination of relevant market
- To determine whether the enterprise being investigated into has a dominant position in the industry.
- If the concerned enterprise is found to have a dominant position in the relevant market in India, then to ascertain whether such enterprise has engaged in any activity that can be considered as an abuse of dominant position under section 4 of the Competition Act, 2002.

Determination of Relevant Market

In order to determine whether there exists a dominant position of an enterprise or not, it is important to ascertain the relevant market for that enterprise. The term relevant market is defined under section 2(r) of this Act [6] as:

"Relevant market means the market which may be determined by the commission with reference to the relevant product market or the relevant or the geographic market or with reference to both the market".

The idea of relevancy is applied in business to determine whether goods and companies are directly competing with one another. Therefore, the market where the competition is held is the relevant market. Additionally, all substitute goods and geographic areas make up the relevant market, severely restricting the competitiveness of the goods and areas of interest i.e. they face the tough competition if they go for the price hike of such products. In such situations, the extent to which enterprises can increase their prices above the normal competition level depends on the following:

- Probability for consumers to buy substitute products available.
- Ability of other enterprises to supply those products.

The fewer the substitutes available in the market or the more difficult it is for other competing enterprises to supply those products, the less elastic the demand curve will be and there is also the probability of higher prices. Therefore, it is important to ascertain the relevant market while inquiring into abuse of dominance in different cases that fall under this law. Finding a relevant market is mostly about defining the area or range in which the enterprise's position is to be examined for dominance and misuse. In order to determine whether a market constitutes a 'relevant market' or not for the purposes of "the Competition Act 2002", the Competition Commission of India shall have due regard to the 'relevant geographic market' and the 'relevant product market' [7].

Relevant Geographic Market

The term 'relevant geographic market' is defined under section 2(s) of this Act [8] as:

"Relevant geographic market means a market comprising the area in which the conditions of competition for the supply of goods or provision of services or demand of goods or services are distinctly homogenous and can be distinguished from the conditions prevailing in the neighbouring areas."

Geographic market means to find geographical area of the market within which competition takes place. "This market talks about the location of producers or sellers of the product or service" [9]. "The Competition Commission of India shall have due regard to all or any of the following factors while determining the relevant geographic market- [10]

- Regulatory trade barriers
- Local specification requirement
- National procurement policies
- Adequate distribution facilities
- Transport cost and language
- Consumer preference
- Need for secure or regular supplies or rapid after-sales services."

Relevant Product Market

The term relevant product market is defined under section 2(t) of this Act as [11]:

"a market comprising all those products or services which are regarded as interchangeable or substitutable by the consumer, by reason of characteristics of the products or services, their prices and intended use".

In general, a relevant product market refers to two types of substitutability: (1) "demand side substitution," in which a small price increase benefits the market player because consumers can choose to use the substitute good or service; and (2) "supply side substitution," in which other market participants can raise the supply of the good or service, negating the impact of all price increases. "The Competition Commission of India shall have due regard to all or any of the following factors while determining the relevant product market- [12]

- Physical characteristics or end use of goods
- Price of goods or service
- Consumer preference
- Exclusion of in-house production
- Existence of specialised producers
- Classification of industrial products"

Determination of dominant position

The statutory definition of the term dominant position is given under clause (a) of second explanation to section 4. However, in general terms it can be defined as position of strength or power possessed by an enterprise and by virtue of this position it has the ability to operate independently of the competitive forces prevailing in the relevant market and also due to such position it has ability to affect the competitors, consumers or the competition in the relevant market.

Determination of the dominance is a preceding condition that needs to be completed in order to establish the abuse of dominance. Abuse of dominance is only possible if the concerned firm has a dominant position in the relevant market. But at this time, the Indian government's Raghavan Committee established that while dominance is a prerequisite for proving the misuse of a dominating position, it is by no means a sufficient one. It is not considered a violation of the Competition Act of 2002 to be a dominating player in a market.

"The Competition Commission of India shall have due regard to all or any of the following factors while inquiring whether an enterprise enjoys a dominant position or not- [13]

- Market share of the enterprise.
- Size and resources of the enterprise.
- Size and importance of the competitors.
- Economic power of the enterprise including commercial advantages over competitors.
- Vertical integration of the enterprises or sale or service network of such enterprises.
- Dependence of consumers on the enterprise.
- Monopoly or dominant position whether acquired as a result of any statute or by virtue of being a government company or a public sector undertaking or otherwise.
- Entry barriers including barriers such as regulatory barriers, financial risk, high capital cost of entry, marketing entry barriers, technical entry barriers, economies of scale, high cost of substitutable goods or service for consumers.
- Countervailing buying power
- Market structure and size of market.
- Social obligations and social costs.
- Relative advantage by way of the contribution to the economic development, by the enterprise enjoying a dominant position having or likely to have an appreciable adverse effect on competition.
- Any other factor which the Commission may consider relevant for the inquiry."

To analyse the abuse of dominance by a dominant enterprise

In the case of Hoffmann-La Roche V. Commission, [14] the European Court of Justice for the first time gave a general definition of abuse in the following words, it is an "objective concept relating to the behaviour of an undertaking in a dominant position which is such as to influence the structure of a market where, as a result of the very presence of the undertaking in question, the degree of competition is weakened and which, through recourse to methods different from those which condition normal competition in products or services on the basis of the transactions of commercial operators, has the effect of hindering the maintenance of the degree of competition still existing in the market or the growth of that competition [15]."

To be in a dominant position does not mean that it is the violation of the competition law as per Competition Act, 2002. Sometime this position is natural and essential for enterprises and market competition for efficiency and innovation in production and marketing resulting in the enhanced competition in the market. However, concern arises when the abuse of such dominant position occurs with the dominant enterprise directly or indirectly imposing unfair conditions to finish competitors or to eliminate competition or to affect the competition in any way.

Following are the conditions when the abuse of dominant position takes place- [16]

"If an enterprise or a group of enterprises:

Directly or indirectly impose unfair or discriminatory-

- Conditions in purchase or sale of goods and service, or

- Price in purchase or sale of goods or service and it includes predatory price as well.

Limits or restricts
- Production of goods or services or market, or
- Technical development regarding goods or services to the prejudice of consumers.
- Indulges in practices which result in denial of market access.
- Makes conclusion of contracts subject to acceptance by other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.
- Uses its dominance in one relevant market to enter into or protect other relevant market."

Predatory Pricing

The term predatory pricing is defined under clause (b) of second explanation to section 4 of the Competition Act, 2002 as:

"Predatory pricing means the sale of goods or provision of services, at a price which is below the cost, as may be determined by regulations, of production of the goods or provision of services, with a view to reduce competition or eliminate the competitors."

In simple terms it can be understood as an act where the dominant enterprise reduces the prices of their products to a very low extent below the cost of production with the purpose of driving the competitors out of the market or with the purpose of reducing the competition in the market. Thus, when the purpose is accomplished i.e. when the competitors are driven out of the market, the predator raises the prices to reap the benefits, rewards or to recoup the losses and even make extra profits.

An enterprise would be considered to have abused its position of dominance, or abuse of dominant position as defined by section 4 of the Competition Act, 2002, if an allegation of predatory pricing is proven. The Competition Commission of India investigates claims of predatory pricing in India not only when the practice has actually had an exclusionary effect, such as driving out competitors or decreasing competition in the relevant market, but also when it is likely to have such an effect or achieve such objectives.

Price cost tests are the most commonly used tools to identify predatory pricing and is used almost across all jurisdictions in some form or the other. The tests examine whether the company or the firm or the enterprise is incurring some losses for legitimate reasons or just for predatory pricing. Thus, these tests look into the detailed accounts of the enterprises and compare their costs and prices to reach the conclusion.

In the case of AKZO, [18] The European Court of Justice observed that a dominant undertaking has no profit as such from the use of such prices, because sales at such prices produce losses unless the purpose of the undertaking is to oust the competitors from the market or reduce the competition in the market in order to raise prices.

Abuse of dominant position in supply [19]

In general, refusal to supply is lawful as a matter of right of a manufacturer to choose its supplier who can market its product efficiently in accordance with trading policies. But it becomes unlawful when manufacturers enter into an agreement regarding such supply deal and such agreement causes appreciable adverse effects on the competition or other competitors in the market. Then such agreements are considered as anti-competitive and are prohibited under section 3 of the Competition Act, 2002.

However, when the manufacturers enter into anticompetitive agreements with the competitors of other suppliers so that their dominant position could sustain then it comes under the abuse of dominant position.

A foreign judgement can be cited here to clarify the above-mentioned point. In case of *Commercial Solvent Company* [20]. An important component of tuberculosis treatment, "amino butanol," was produced by a medical business named "Commercial solvent." The business declined to provide it to the manufacturer of medical devices, Zoja. The "Commercial solvent" corporation held a dominant position, according to the European Court of Justice, and it had a subsidiary company called ICI. This subsidiary faced fierce competition from Zoja. Consequently, the parent company's actions were viewed as a violation of competition law since they unlawfully prevented Zoja from growing its business by exploiting its dominating position**.**

Indian Judicial Approach

The following cases show the trend of practice of abuse of dominant position in India and different interpretations made by the Indian Judiciary.

Starting with one of the most popular and landmark cases elucidating the concept of abuse of dominance in India

Shri Surinder Singh Barmi V. Board of Control for Cricket in India [21]

The BCCI is responsible for overseeing and managing cricket as a sport in India, including media broadcasting, event planning, and regulation. The source of information in this instance was a cricket enthusiast who claimed to have seen various abnormalities in the way the BCCI, which runs the professional league Indian Premier League, was run. The BCCI was accused of a number of things, including irregularities in the granting of franchise rights for team ownership, broadcast rights, sponsorship rights, etc.

Key issues involved
- Whether BCCI is an enterprise under Competition Act, 2002?
- What is de-facto status of BCCI- a regulator or an organiser or both?
- Whether the BCCI's activities in relation to the IPL's organization violate any of the requirements of the Competition Act, 2002, specifically section 4?

Decision
- The BCCI is a commercial sponsor of cricket and acts as the de-facto regulator of the game in India. It also hosts cricket matches.
- BCCI's revenue generating capacity makes it fall under the term 'enterprise' in the Competition Act, 2002.
- According to the CCI, the BCCI has a dominating position in the relevant market i.e., for private professional cricket leagues and events in India. It has also exploited this position, which has led to anti-competitive behaviour that is banned by section 4 of the Competition Act, 2002.

Reasons cited by the CCI in support of its decision

- In India, cricket is de facto regulated by the BCCI. Any potential private professional league must obtain its approval because it is authorized by the International Cricket Council's bylaws to license or approve cricket tournaments in India. It was also at a major business advantage due to its infrastructure ownership.
- The panel noted that BCCI's commercial and regulatory responsibilities overlapped and that there was no clear separation between them.
- Then CCI further examined certain agreements made by BCCI where in one of such agreements, it had agreed not to organise, recognise, sanction or support any other professional domestic T-20 tournament which is competitive to the IPL.
- CCI claimed that it violated section 4(2)(c) of the Competition Act, 2002 since it prevented any prospective competitor from accessing the market.
- Therefore, BCCI was held liable for abuse of its dominant position and penalty of around rupees 52 crores was imposed on it.
- Potential competitors were given access to the market and constraints were lifted on BCCI's ability to use its regulatory powers regarding the business operations involved.

Competition Commission of India V. M/S Fast Way Transmission Pvt. Ltd & others [22]

In this case, the Supreme Court of India overturned the order of the Competition Appellate Tribunal though it does not exist now and confirmed the Competition Commission of India's order against Fast Way Transmission Pvt. Ltd. confirming the abuse of dominance by multi-system operators (MSOs)

Facts of the case

In this case information was filed by a broadcaster of a television channel (Kansan News Private Limited) against a group of MSOs who carried the channel to viewers of Cable TV. It means that the MSOs act as mediators between the broadcaster and the last-mile cable operators who further transmit the signals to the subscribers in their respective areas through the cable network. MSO functions are regulated by the rules or regulations framed by the TRAI. The MSOs unilaterally terminated the Channel Placement Agreement **(**CPA) with the broadcaster then the broadcaster approached the Competition Commission of India alleging the violation of the provisions of the Competition Act.

CCI's Proceedings

According to the commission, the MSOs were connected to one another and formed a "group" under the Competition Act. Additionally, it held a dominating position in the pertinent Punjabi and Chandigarh cable TV services market. The MSOs contested the CCI's jurisdiction, arguing that a broadcaster-MSO dispute belongs exclusively to the Telecom Disputes Settlement and Appellate Tribunal (TDSAT). It was also brought to the attention of the TDSAT that the broadcaster had previously filed a case contesting the CPA's termination. They further argued that the Competition Act did not apply to their actions since they were motivated by technical and business considerations rather than an abuse of dominance.

However, the CCI rejected their contentions and held that MSOs conduct was an abuse of dominance on their part and it resulted in the denial of market access and thus it is a violation of section 4(2) of the competition Act, 2002. Therefore, a penalty of rupees 84 million was imposed on the group of MSOs.

An appeal was filed against the order of CCI by the group of MSOs, The Competition Appellate Tribunal overturned the CCI's decision on the grounds that the broadcaster and the MSOs were not competitors, and that only one competitor may cause the denial of market access under section 4(2)(c) of the Competition Act, 2002.

Case before the Supreme Court of India

Consequently, the CCI approached the Supreme Court of India challenging the decision of the appellate tribunal. The Competition Commission of India contended that the appellate tribunal has construed the Competition Act in a constricted manner which is inconsistent with the objectives of the Competition Act and the positive role of the CCI under the statute. However, the MSOs claimed that they had adequate technical and commercial justifications to fire the CPA, including:

- Utilizing an analogue platform, which reduced the available channels to 80 as against 550 now.
- Out of all the news channels, the broadcaster had the lowest target rating point (TRP).

Based on the aforementioned arguments, the MSOs contended that no penalty should have been imposed on them because the termination of the agreement was not due to their dominating position.

The CCI and the MSOs were partially agreed upon by the Supreme Court. It did not, however, address the question of jurisdiction directly; instead, it emphasized the Competition Act's non-obstante clause, which makes it very plain that the Act's provisions will take precedence over any conflicting provisions in other laws. Consequently, even in cases where the fundamental circumstances are similar, the Supreme Court held that the Competition Act grants the CCI power to safeguard competition, and that this jurisdiction can coexist with that of other sectoral regulators or other bodies.

The Supreme Court even went so far as to say that once dominance is established, its implications are taken into consideration, regardless of whether the parties are competitors or not. As a result, the Court determined that the only pertinent reason was the MSOs' illegal termination of the CPA, which prevented them from accessing the market. Consequently, the Supreme Court upheld the CCI's decision and reversed the appellate tribunal's ruling in this respect.

The Supreme Court did, however, also point out that, given the circumstances of the current case and the arguments put forth by the MSOs, no sanctions should have been applied to them. The Supreme Court determined that their arguments were factually accurate, meaning thereby that the explanation given for the agreement's termination was also acceptable.

In the above decision the Supreme Court adopted a balanced approach to enforce the competition law. The decision to set aside the penalty based on the justifications given by the MSOs was based on the decision given by the Supreme Court in the case of Excel Crop Care Ltd. v. CCI. [23] In the said case, the Supreme Court applied the doctrine of 'objective justification', according to this doctrine, "if a conduct alleged to be abusive is objectively justified, then the same cannot be considered abusive and thus, anti-competitive" [24].

MCX stock exchange Ltd. V. National Stock Exchange of India Ltd. [25]

In this case following were the facts and issues

In this instance, the issue of predatory pricing arose. In August 2008, the NSE and the MCX, respectively, began trading currency derivatives. MCX filed a case in November 2009 alleging that NSE had abused its dominant position by waiving its transcription, data feed, and admission costs, so isolating the competition. The Competition Commission of India found out currency derivative to be the relevant market. NSC asserted that the pricing was promotional rather than predatory and attributed the low price to the early stages of the business. It further asserted that waivers were granted in order to increase market share and increase buyer profitability.

Held: the commission found out that the segment was no longer in its nascent stage. NSEs pricing was found to be beyond promotional as there was no need for the zero-pricing policy. The commission found the NSE liable as it had abused its dominant position. The Indian Competition Commission, however, found the price to be unreasonable because its weaker competitors could not continue to support such policies, even though it did not view it as predatory. The commission fined NSE Rs. 55.5 crores and ordered it to immediately stop engaging in discriminatory practices, unfair pricing, and unjustly leveraging its dominant position.

Belaire Owner's Association v. DLF Ltd. [26]

Facts of the case

In this instance, DLF, a significant player in the Indian real estate industry, was charged with abusing its market power by building and selling "high end residential units," which are of interest to potential buyers. The competition regulatory body concluded that DLF had an exceptional competitive advantage over its competitors due to its market practices, in addition to its size, resources, economic strength, and market share. Due to irregular information, expensive departure options, one-sided agreements, unfair conditions, and other things forced on the customers that hurt both them and the competition in the market, this power led to the exploitation of consumer bases.

The agreements made between DLF and the buyers were carefully examined by the Indian Competition Commission. DLF said that the one-sided contracts that buyers enter into are typical business practices and that practically every other player in the market uses similar tactics. The CCI, however, rejected the position, pointing out that DLF is a market leader and a trendsetter and is therefore not constrained by the actions of other smaller participants in the industry. Indeed, adolescents are compelled to adhere to certain trends or behaviours or risk being ejected from the market. According to the CCI, DLF has taken actions that have benefited it by adversely affecting competitors and customer behaviour.

Furthermore, the CCI said that such one-sided agreements should lead to a loss of clients under normal competitive market conditions since the customers would go to other possibilities, such as other real estate builders, but such events did not occur. This demonstrates unequivocally that DLF was functioning independently of the market's dominant competitive factors.

Decision of the CCI

Therefore, the CCI imposed a penalty of INR 630 crores and also directed DLF to cease and desist from formulating such one-sided agreements and including unfair conditions in them. The DLF was also directed to modify the unfair conditions that were already imposed on the buyers. Further, the Commission also stated that in order to determine whether there has been an abuse of the enterprise's dominating position under section 4(2) of the Competition Act, an investigation into the enterprise's dominant position must be conducted over an extended period of time.

Conclusion and Suggestion

This study has concentrated on providing an explanation of the term "abuse of dominance" and addressing the problems that result from it. There is also a thorough discussion of the three factors-identifying the relevant market, analysing the dominating position, and determining the misuse of that dominant position-that are taken into account when determining whether an organization is abusing its dominance. An effort has been made to explain the issues of predatory pricing, abuse of dominance in supply, or engaging in other anticompetitive practices and entering into certain unfair or discriminatory pricing practices because businesses in a market economy focus on prices and strategies aimed at gaining profit and expanding their business. As a result, these businesses also engage in predatory pricing, abuse of dominance in supply, undertaking other anticompetitive practices, etc.

The application of the Competition Act's statutory laws thus became pertinent with the rise in the abuse of dominant position. Such a law is intended to protect corporate autonomy and to promote an unprejudiced economic outlook free from concerns about any one party's dominant position in the market. Thus, everyone who want to do business in the market should have equal opportunities. But as long as it's healthy and promotes the growth of society as a whole, competition should prevail. But, when one begins to dominate the other in their own industries, it becomes disastrous. Therefore, the competition law aids in ensuring that the market and business operate independently. It gives everyone who wants to start a business equal opportunity. It's criminal provisions and adjudicatory authority discourage industries from abusing their dominating market positions because doing so not only costs them money but also damages their goodwill.

The Competition Act, 2002 clearly states that prima facie dominating position is not illegitimate, but no corporation has the right to exploit such a position. Thus, "the misuse of control, not the control itself, is forbidden by law." Consequently, it is reasonable to say that the Competition Law's Article 4 is a substantive clause that expressly forbids abusing a dominant position. It is CCI's responsibility to demonstrate both the existence of a dominating position and its abuse. Therefore, "dominance itself is not illegal, but abuse of a dominant position is."

The following suggestions have been put forth

More and more instances of abuse of dominant position are being observed as a result of industry consolidation and changing times. For this reason, it is critical to strictly enforce competition laws in order to stop this problem.

In certain instances, "vague wordings" of a rule require clarification such as phrases like "dominant position" and "relevant market" are very broad and ought to be rationalised and defined in a way so as to prevent misuse.

We must reach a consensus over the global viewpoint. Indian authorities can leverage global best practices and draw from the experience of more evolved and mature regulations, such as those of the US and EU.

Further, future success will hinge on how well the rules are applied and interpreted in a way that is profitable for businesses, as well as whether or not the Indian regulators are given enough funding to accomplish this. These things should be analysed and taken into consideration for effective regulation of market and such anti-competitive practices.

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