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UNDERSTANDING ANTI TRUST LAW IN INDIA

~Megha Vasudeva

Markets are often spoken of as if they can regulate themselves through the invisible force of competition. In theory, rivalry keeps prices fair, rewards efficiency, and benefits consumers. In practice, however, competition does not always remain pure or self-sustaining. Left entirely unchecked, it can be manipulated. Businesses may secretly coordinate with one another, dominant firms may edge out competitors, and mergers may quietly reduce meaningful choice in the market. Anti-trust law steps in at this precise point not to punish success, but to ensure that market power is not misused.

In India, this field is primarily governed by the Competition Act, 2002. Enacted in the wake of economic liberalization, the statute marked a clear departure from India's earlier state-controlled economic model. It reflects a shift toward a market-driven framework where regulation exists not to control growth, but to protect the competitive process itself. The goal is not merely to prevent monopolies as a matter of size, but to preserve fairness in how markets function.

FROM CONTROLLING MONOPOLIES TO REGULATING CONDUCT

India's earlier regime under the Monopolies and Restrictive Trade Practices Act, 1969 was shaped by a very different economic philosophy. At that time, concentration of economic power itself was seen as inherently problematic. However, the reforms of the 1990s altered this perspective. With globalization and structural economic changes, the focus shifted from how large a firm was to how it behaved. Scale was no longer automatically suspect; the real concern became whether a company's conduct distorted competition.

The Competition Act institutionalized this modern outlook and established the Competition Commission of India (CCI) as the central enforcement authority. The CCI is entrusted with investigating anti-competitive agreements, examining allegations of abuse of dominance, and reviewing mergers and acquisitions. Through these functions, it has become a key actor in shaping India's market structure and maintaining competitive balance.

ANTI-COMPETITIVE AGREEMENTS AND COLLUSION

One of the most serious threats to competitive markets arises when businesses agree not to compete. When competitors fix prices, divide territories, or rig bids, the market mechanism is effectively replaced by coordination. Consumers may not immediately see the arrangement, but they bear the consequences through higher prices, restricted output, and fewer choices.

The Competition Act treats certain horizontal agreements particularly cartels with strict scrutiny because of their natural tendency to harm competition. The logic is straightforward: markets function efficiently only when businesses make independent decisions. Once that independence is replaced by collective planning, consumer welfare and economic efficiency suffer. The real challenge, however, lies in enforcement. Cartels rarely operate openly; they are concealed and often proven through circumstantial evidence rather than direct admission.

ABUSE OF DOMINANCE: POWER VERSUS MISUSE

A significant strength of the Competition Act lies in its careful distinction between dominance and abuse. The law does not penalize a company simply for being large or successful. Enterprises may attain dominance through innovation, efficiency, or superior strategy and such success is not unlawful. Intervention becomes necessary only when that position is used to exclude competitors, impose unfair conditions, or restrict access to markets.

Determining dominance requires defining the relevant market and evaluating factors such as market share, entry barriers, and economic dependence. This assessment becomes particularly complex in digital markets, where traditional indicators may not fully capture competitive realities. Cases involving major technology platforms like Google have demonstrated how control over data, algorithms, and digital ecosystems can create new forms of market power. In these settings, competition law increasingly overlaps with broader questions about innovation, consumer autonomy, and platform governance.

MERGER CONTROL AS A PREVENTIVE TOOL

Competition law is not limited to addressing misconduct after it occurs. The Competition Act also introduces a forward-looking mechanism through merger control. When proposed combinations exceed certain financial thresholds, they must be notified to the CCI for approval. The purpose is preventive: to ensure that structural changes in the market do not substantially lessen competition before harm materializes.

This reflects an important insight that anti-competitive harm may stem not only from behavior but also from excessive concentration. In industries witnessing rapid consolidation, merger review plays a crucial role in preserving long-term competitiveness and preventing the quiet erosion of market rivalry.

COMPETITION LAW IN A CHANGING ECONOMY

India's competition regime now operates within an economy that is deeply digital, interconnected, and constantly evolving. Concerns such as algorithmic pricing, network effects, and platform dependency pose fresh challenges to traditional legal frameworks. As economic realities shift, regulatory approaches must evolve accordingly.

Recent legislative amendments and policy discussions suggest that competition law in India is not static. Its continued effectiveness will depend not only on the strength of statutory provisions but also on institutional capacity, economic expertise, and consistent interpretation.

PRESERVING THE COMPETITIVE PROCESS

At its core, anti-trust law in India seeks to protect the competitive process itself. It aims to ensure that markets remain open and contestable and not skewed by collusion or distorted by unchecked dominance. In doing so, it walks a careful line between safeguarding economic freedom and enabling necessary regulatory oversight.

As India continues to grow as a major global economy, the integrity of its markets becomes increasingly important. Understanding anti-trust law is therefore not simply an academic pursuit. It is central to understanding how economic power is distributed, regulated, and legitimized within a liberalizing constitutional framework.

Engagement with competition law must extend beyond regulators and corporations. Scholars, practitioners, and students alike have a role to play in critically examining how effectively the law responds to changing market dynamics. The future of fair competition depends not only on enforcement, but on sustained legal thought, debate, and vigilance