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## ANTITRUST LAWS IN INDIA: WHAT THEY MEAN FOR BUSINESSES AND CONSUMERS

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### ABSTRACT

*Competition laws in India currently are guided by the Competition Act, 2002. The intent of such laws is to ensure healthy competition amongst businesses. The laws, thus, demand businesses to develop competition legal strategies. Additionally, laws are also intended to protect the interests of the consumers by ensuring that no business indulges in anti-competitive practices, which could lead to high prices for consumers to pay, less choice and even damage to commerce as a whole. This explores why this law matters and its effect on businesses and consumers. This blog also highlights the enforcement mechanism of antitrust laws in India.<sup>1</sup>*

### WHY ANTITRUST LAW MATTERS

Antitrust law matters because competitive markets are generally efficient and save consumers' money by lowering prices while improving quality and fostering innovation. Conduct that involves cartelisation, abuse of dominance or other unfair predatory behaviour to undermine rivals is therefore bad for the individual business that tries to do it, and bad for the market. In India, the Competition Act, 2002 replaced the old Monopolies and Restrictive Trade Practices Act, 1969 with a view to graft on some sound competition thinking.<sup>2</sup>

The purpose of the Competition Act is to achieve the foregoing objectives by regulating trade through promotion of and sustaining of competition in markets, wherever competition is creating conditions of freedom and fairness, in all areas and to stop creation of monopolies and creation of anti-competitive practices and further to regulate combinations and to prevent

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<sup>1</sup> Competition Act, No. 12 of 2003, India Code (2003); Competition Commission of India, Antitrust, <https://www.cci.gov.in/antitrust>.

<sup>2</sup> Competition Commission of India, Antitrust, <https://www.cci.gov.in/antitrust>.

practices having adverse impact on Competition to comply with businesses growth, and mergers or amalgamations, and pricing of products and dealing with competitors etc.<sup>3</sup>

### **WHAT THE LAW PROHIBITS**

The Competition Act (the “Act”) sets out three forms of anti-competitive conduct that are prohibited. These can be summarized as anti-competitive agreements/arrangements, abuse of dominant position and combinations that may affect competition. Anti-competitive agreements can be further separated into those which are Horizontal Agreement/Arrangements and those that are Vertical Agreement/Arrangements. Horizontal agreements are agreements between competitors. Vertical agreements on the other hand are between businesses at different levels of the supply chain. Also certain conduct has been specifically emphasized, including price fixing, limitations on production or supply, market allocation and bid-rigging etc. these have been described as particularly grave infringement of competition law.<sup>4</sup>

It is important to note that abuse of dominance as defined by law is not the mere holding of a dominant position. Rather it is the abuse of such position as a dominant player to unfairly dump on customers, unfairly stifle competition, or to interfere with marketplace competition in other disruptive ways. Also subject to review in order to ensure that they do not have an adverse effect on competition are mergers and acquisitions.

### **EFFECTS ON BUSINESSES**

Antitrust compliance has become an integral component of a company’s overall strategy, rather than simply another risk management consideration. More than simple pricing discussions with competitors, agreements to share markets, or coordinated bid responses can result in severe consequences. Similarly, distribution agreements, exclusive dealing, customer-specific discounts, and loyalty programs can give rise to claims that such conduct has the capacity to restrict competition.<sup>5</sup>

Apart from impacting outsourcing and joint ventures, the law can also affect mergers and acquisitions, especially large value transactions which may require pre-referral competition review. This can result in delays, behavioural commitments or even structural remedies if the

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<sup>3</sup> S.S. Rana & Co., Competition Law or Anti-Trust Law in India, <https://ssrana.in/corporate-laws/competition-law/>.

<sup>4</sup> Competition Commission of India, Antitrust, <https://www.cci.gov.in/antitrust>; Competition Act, No. 12 of 2003, India Code (2003).

<sup>5</sup> Competition Commission of India, Antitrust, <https://www.cci.gov.in/antitrust>

transaction is deemed to be adverse to competition. Consequently, for a foreign company, the usual due diligence on antitrust issues is as important as it is for tax, labour and regulatory issues.<sup>6</sup>

Far from being opposed to businesses, the regime is supportive of those that compete fairly on merit, innovate and grow. If a business succeeds under the new regime, it is likely to prosper safely, developing a good relationship with the regulators as well as with customers and investors.

### **EFFECTS ON CONSUMERS**

Consumers may be unaware of the protections that antitrust laws afford against often inconspicuous harm to competition and to markets. Collusion by companies can drive up prices, decrease output, and reduce choice for consumers. Abuse of dominance by a single firm can result in unfairly high prices, inadequate services, and anti-competitive practices that keep competitive goods and services off the market.<sup>7</sup>

Competition brings wider consumer benefits, such as lower prices, better quality goods and increased innovation. This is particularly relevant in sectors such as telecoms, e-commerce, food delivery and design & creation of new logistics solutions as well as other digital platform markets. Although most consumers won't know all the details of the competition laws that affect these markets, they can be likely to experience the consequences, in terms of price and quality of service.<sup>8</sup>

### **ENFORCEMENT IN INDIA**

These regulations are enforced by the Competition Commission of India, or CCI, primarily through public enforcement. It investigates complaints as well as market conduct and transactions and can impose heavy penalties on companies found to be in violation. The effects of anti-competitive conduct can permeate an entire market, and therefore cannot simply be solved by one buyer or seller.<sup>9</sup>

Enforcement suggests serious commitment to competition compliance by corporations in India. This means that employees at the day-to-day level, as well as specialised compliance personnel,

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<sup>6</sup> B&B Assocs. LLP, Antitrust Laws in India, <https://bnblegal.com/article/antitrust-laws-in-india/>.

<sup>7</sup> Competition Commission of India, Antitrust, <https://www.cci.gov.in/antitrust>

<sup>8</sup> India Briefing, Antitrust Law in India: A Primer for Foreign Companies, <https://www.india-briefing.com/news/anti-trust-law-india-primer-foreign-companies-16332.html/>.

<sup>9</sup> Competition Commission of India, Antitrust, <https://www.cci.gov.in/antitrust>

lawyers handling contracts, HR personnel ensuring that no unlawful collaboration occurs between competitors, accountants/Finances teams ensuring that merger thresholds are crossed and disclosure requirements satisfied. For the ordinary citizen, antitrust law is not just empty words; it should have an actual impact on the way markets behave.<sup>10</sup>

## **CONCLUSION**

Antitrust laws in India are ultimately about keeping markets open, fair, and competitive. Businesses must compete aggressively but lawfully, while consumers benefit from lower risk of collusion, abuse, and market concentration. As India's economy becomes more digital and more concentrated in key sectors, competition law will remain one of the most important guardrails of market fairness.

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<sup>10</sup> B&B Assocs. LLP, Antitrust Laws in India, <https://bnblegal.com/article/antitrust-laws-in-india/>