

Two Days Summer Master Class

Competition Law & Practice in India

(26th & 27th June, 2015) New Delhi



CUTS Institute for Regulation & Competition

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Objective of the Summer Master Class

CIRC is a premier research and capacity building institute focussing on economic regulation and Competition policy and law. It has been promoting and spreading awareness on Competition Law and its scope since the very inception of the institution. In pursuance of this objective, CIRC conceptualised a 2 day course on **“Competition Law & Practice in India”** to be held bi-annually in summer and winter. After the huge success of its earlier courses and workshops, CIRC successfully delivered a two days Summer Course from 26th June to 27th June, 2015 at New Delhi.

Methodology and Course Content

The course was designed to give participants a thorough understanding of the Competition Law of India with related case studies to understand the practical implications of the law in practice (see Annexure for detailed Agenda). The faculty comprised of the representatives from the Competition Commission of India (CCI), premier law firms of the country and CIRC with participants from different disciplines such as law, economics, commerce and management & professionals such as lawyers, economists and researchers. The course relied on sustained exposure and interactions of the participants with members of faculty with a view to allow participants the full advantage of rich theoretical and practical knowledge.

The course comprised of class-room lectures of 1 hour 30 minutes each - arranged thematically beginning with introductions to the specific provisions of the Competition Act, discussing the underlying theory and its practice and culminating with discussions on decided cases. Each session was followed by an open-house Q&A session. To assess the attentiveness and comprehension of students in each session, a Multiple Choice Quiz by the lecturer at the end of each lecture was also conducted. The Summer Course ended with a Panel Discussion and distribution of certificates.

Knowledge Sessions

Day I Session I

The first session on Day 1 was delivered by Mr. Saket Sharma, Associate Fellow, CIRC spanning the need and evolution of Competition/Anti-trust policy and laws for regulating anti-competitive practices in market. He discussed in detail the features of Competition Act 2002 simultaneously comparing it with the previous MRTP Act. Explaining the powers and functions of the Competition Commission Mr. Sharma supported his the whole session with numerous cases, Brahmdudd v. Union of India, CCI v. SAIL, Coal India Case being the most prominent ones. He also briefed the participants on the relation between the Competition Commission and Competition Appellate Tribunal, and Amendments to the Competition Act 2002. The session ended with a Q/ Ans session followed by a short tea break.

Day I Session II

The second session on the *regulation of anti-competitive agreements* was delivered by Mr. K.K Sharma, Head K.K. Sharma Law Offices, Delhi. He gave a case laws oriented presentation for explaining

in detail the concepts of Horizontal and Vertical Agreements and how they are detected and regulated by the Commission. Anti-competitive concerns in Pharma Patent Sector and the assessment of Appreciable adverse effect were two dominating and most interacting topics. Cartel cases and bid rigging cases were discussed with the technicalities of 'standard of proof' and 'burden of proof' in these cases and application of 'Per Se' vis-a-vis 'Rule of Reason' approaches.

Day I Session III

The third session on *controlling abuse of dominance* was delivered by Mr Saket Sharma, Associate Fellow, CIRC covering from basics of determining relevant market, assessing dominance and its abuse; he discussed the regulation of abuse of dominance in India giving a comparative overview of the regulatory framework in US and EU. The nuances in DLF Case were discussed elaborately w.r.t abuse of dominance cases in real estate sector. The session was followed by an interactive session of Q/ Ans.

Day II Session I

The first session, on second day of the Summer Course, was delivered by Mr Saket Sharma, Associate Fellow, CIRC; on *Case analysis of anti-competitive agreements and abuse of dominance*. Under the head anti-competitive agreement case laws Mr. Sharma acquainted the participants with numerous cases pertaining to cartels and bid-riggings. Case taken up as a subject of analysis was the International Vitamins Cartel. Leniency programme models were discussed with cases and examples from Pakistan model. Under the head of Abuse of Dominance case laws Mr. Sharma discussed LPG Cylinder case, Ideal Industrial Explosive Ltd. case and Pharma distributors' case. The case study discussion being held on the Coal India Case series was followed by a short tea break.

Day II Session II

The second session for the day II on *regulation of combinations under competition law* was dealt by Mr. Vijay Singh, Head School of Corporate Law, Indian Institute of Corporate Affairs. Mr. Singh discussed with case laws the regulatory framework in India for combinations. He differentiated between mergers and amalgamations explaining the different types of mergers and possibilities of anti-competitive combinations through them. During the interaction Holcim-Lafarge, Jet – Etihad and Sun-Ranbaxy were prime cases that were taken care of. Mr. Singh detailed the threshold limits and exemptions set out by the Competition Act for regulation of combinations by the commission. The session was followed by a MCQs session by the speaker to the participants and then a lunch break.

Day II Session III

The third session of the Second day of the summer workshop was an interactive discussion between the participants and the speaker Mr. Vijay Singh on *contemporary issues in competition law in India*. Mr. Singh covered two main heads being IP law and Competition Law interface and challenges faced by CCI due to overlapping of functions with sectoral regulators. Recent cases and issues present and forthcoming before the Competition Commission were discussed along

with how the policy needs to evolve with the needs. Amongst the numerous issues discussed in this session were of Standard Essential Patents (SEPs), FRANDs, parallel imports, basic framework of CCI and jurisdictional issues etc.

Day II Session IV

Panel Discussion and Open Q&A Round

The last and the final session of the Summer Course proceedings was an intensive Panel Discussion chaired by Mr. Vijay Singh, Head School of Corporate Law, Indian Institute of Corporate Affairs and Mr. Saket Sharma, Associate Fellow, CIRC. The discussion was mainly on issues related to challenges faced by CCI, Powers of a Director General CCI and his functions in CCI investigations, and overall inquiry and investigative powers with the Commission under the Competition Act and Regulations. This was followed by open floor comments on the issues by all the panellists and a final Q&As amongst all participants. The Q& Ans session mainly involved career related queries of the participants. The panellists responded to all queries and stressed on greater need for more professionals in the field of competition law.

The Summer Course on “Competition Law & Practice in India” culminated with the panellists distributing the certificates to all the participants.

Annexure I

Two Days Summer Master Class Competition Law & Practice in India

(26th & 27th June, 2015)

Venue: Jawaharlal Nehru National Youth Centre,
219 Deen Dayal Upadhaya Marg, ITO, New Delhi-110002

AGENDA

Day I (Friday): 26th June, 2015

(09:30 Hrs. – 10:00 Hrs.) – Registration

Session I: 10:00 Hrs. – 11:30 Hrs.

Introduction to Competition Act & Policy (Mr Saket Sharma, Associate Fellow, CIRC)

- Evolution of Competition Law & Policy
- Objectives of Competition Law & Policy
- Erstwhile MRTP Act and Competition Act
- Salient Features of the Competition Act
- Authorities under the Act
- MCQs Quiz

Tea Break: 11:30 Hrs. – 11:45 Hrs.

Session II: 11:45 Hrs. – 13:15 Hrs.

Regulation of Anticompetitive Agreements (Mr. K.K. Sharma, Head K.K. Sharma Law Offices & Former Director General, Competition Commission of India)

- Horizontal Agreements
- Vertical Agreements
- 'Per Se' vis-à-vis 'Rule of Reason' Approach
- Assessing Appreciable Adverse Effect on Competition
- MCQs

Lunch Break: 13:15 Hrs. – 14:00 Hrs.

Session III: 14:00 Hrs. – 15:30 Hrs.

Controlling Abuse of Dominance (Mr Saket Sharma, Associate Fellow, CIRC)

- Regulation of Abuse of Dominance in India
- Steps for Analysing Dominant Position
- Exclusionary and Exploitative Abuses
- MCQs Quiz

Day II (Saturday): 27th June, 2015

Session III: 10:00 Hrs. – 11:30 Hrs.

Case Analysis: Anticompetitive Agreements and Abuse of Dominant Position (Mr Saket Sharma, Associate Fellow, CIRC)

- Case Analysis: Anticompetitive Agreements
- Case Analysis: Abuse of Dominant Position
- Discussion on a Case Study

Tea Break: 10:45 Hrs. – 11:15 Hrs.

Session V: 11:45 Hrs. – 13:15 Hrs.

Regulation of Combinations under Competition Law (Dr. Vijay Singh, Head, School of Corporate Law, Indian Institute of Corporate Affairs)

- Regulation of Combinations
- Thresholds, Notifications and Exemptions
- Assessing Appreciable Adverse Effect on Competition
- MCQs Quiz & Discussion on a Case Study (10-15 Mins.)

Lunch Break: 13:15 Hrs. – 14:00 Hrs.

Session VI: 14:00 Hrs. – 15:30 Hrs.

Contemporary Issues in Competition Law in India (Dr. Vijay Singh, Head, School of Corporate Law, Indian Institute of Corporate Affairs)

- Interface between Competition Law and Intellectual Property Law
- Competition Commission and Sectoral Regulators Overlap

Session VII: 15:30 Hrs. – 16:00 Hrs.

Panel Discussion & Open Q&A round on Competition Law Practice & Certificate Distribution (Dr. Vijay Singh, Head, School of Corporate Law, Indian Institute of Corporate Affairs & Mr Saket Sharma, Associate Fellow, CIRC)

About CIRC

The CUTS Institute for Regulation & Competition (CIRC), a premier research and capacity building institute was established in 2008 by CUTS International www.cuts-international.org CIRC has been conducting competition policy advocacy and undertaking training and academic courses on Competition Policy & Law and Economic Regulations.

With the mission to be a Centre of Excellence on Regulatory and Competition Issues, CIRC primarily focuses on economic regulation in infrastructure sectors, and competition policy and law with an objective of reaching out to the target audience in India and other developing countries in Asia and Africa. CIRC offers practical focus on educational and training programmes on economic regulation, and competition policy and law. The Institute aims to facilitate research to enhance understanding and explore inter-disciplinary linkages among the identified subjects. CIRC is striving hard in its endeavour to generate and disseminate knowledge on its thrust areas. Further, since its inception CIRC has taken varied initiatives to impart knowledge and train various stakeholders on these areas with aim to build capacity of these stakeholders, thus contributing to the economy in this knowledge intensive era. For further details on our initiatives, please visit website: www.circ.in