

UNIVERSITY OF PETROLEUM & ENERGY STUDIES

DEHRADUN

End Semester Examination – Dec 2017

Program/course: BA.,LL.B. (Hons.) ENERGY LAWS 2013 SEMESTER IX
BBA., LL.B. (Hons.) Corporate Laws 2013 SEMESTER X

Subject: Competition law

Max. Marks : 100

Code : LLBL 502

Duration : 3 Hrs

No. of page/s: Four

Section A – Objective Type /Short Questions – 10 Marks,

1. The powers of the Director General:
 - a) Is greater than the CCI
 - b) Is equal to the CCI
 - c) Lesser than the CCI
2. Appeals to the which court should be made against the tribunal orders?
 - a. District courts of trial
 - b. High courts
 - c. Supreme court
3. The competition act requires legal documentary evidence rather than circumstantial evidence to conduct inquiries (True or False)
4. Central government can supersede the decisions of the competition commission under certain circumstances (True or False)
5. Under India competition act there are criminal sanctions for abuse of dominance. (True or False)
6. The information disclosed to the commission is between _____ and the commission.
7. The corporate veil protects against contravention by the officials from Managing Directors downwards under the competition act (True or False)
8. The recovery of penalties if expedient may be made through _____ authority.
9. The discharging its functions under the competition Act, the competition commission has the same powers as are vested in a _____ under the Code of Civil Procedure, 1908(5 of 1908)
10. The appearance before the commission should be made by the head of the institution (True or False)

Section B - Conceptual Questions – 20 Marks.

1. Describe
 - a) Under what circumstances the central government can override the decisions of the CCI?
 - b) Broadly describe to what extent the CCI may penalize for abuse of dominance?

Section C – Analytical Type Question– 20 Marks

2. Describe the CCI's power to grant temporary injunction under section 33 of the Competition act 2002? Also the execution and enforcement of orders under CCI under Section 39 and appeals to the Supreme Court under section 53(T)? Generally what cannot be appealed in the Supreme court?
3. In the case on technical know-how for a leading Indian pharmaceutical company from a foreign MNC what was the restriction and what was its future effect as viewed by the Supreme court as an 'Obiter Dicta' beyond the then Monopolies and Restrictive trade Practices Act (MRTP)?

Section D – Application based problem / Case Study – 50

4. Chinese Car Tyres manufactured with their local rubber sold under variable costs (at material costs only) + 10% are sold in India at the landed costs (i.e. at the point of sale in India, landed price) after paying all customs, countervailing duties and other relevant taxes. The Chinese landed price works out to less than 50% of the available prices of Indian manufacturers. Tyre manufacturer's trade association complains of dumping prices and our government prohibits the sale also with the recommendation of the Competition commission of India (CCI). The Chinese government makes it appeal to the WTO dispute resolution as a trade barrier under MFN International Trade agreement. Assuming that all Indian cars both foreign and indigenous have a Chinese component of material of 49% in the overall cars that are assembled in India (the import content).
 - a) What would be the Chinese position at the WTO under circumstance? (10)
 - b) What would be the Indian stance? (Hint use 19(4) of the competition act) (20)

- 5. The Tata Engineering and Locomotive Company (Telco) had an exclusive territory wise distributors allocation in India for distribution for sale of its Heavy duty truck / Bus chassis market.**
- a) In the then market situation wherein the earlier MRTP was in force the decision of the Supreme court were made on resale maintenance as also sale exclusivity on distributers- analyze that decision on the points raised by Tata in its defense? (10)**
- b) What would be the defense of TELCO and the position of the Supreme Court in today's intense competitive "Chassis Market" with more than 20 players and the Competition act market definition of relevance under Sec 2 (r,s & t) would the Supreme court's decision have been the same Why or why not? (10)**

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Section A – Objective Type /Short Questions – 10 Marks,

1. Under section 19: The CCI may inquire into anti-competitive agreements or abuse of dominant position :
 - 1) Either on its _____ or on
 - 2) Receipt of any information, from any person, consumer or their association or _____ or 3) A reference made to it by the _____ or _____ government or a _____ body
2. The powers of the Director General:
 - d) Is greater than the CCI
 - e) Is equal to the CCI
 - f) Lesser than the CCI
3. Appeals to the tribunal should be made within ___ days of the orders of the CCI
4. Appeals to the which court should be made against the tribunal orders?
 - d. District courts of trial
 - e. High courts
 - f. Supreme court
5. In _____ days appeal should be made to _____ against orders of the tribunal.
6. The competition act requires legal documentary evidence rather than circumstantial evidence to conduct inquiries (True or False)
7. The number of persons in the CCI shall consist of not less than _____ members but not more than _____ members plus one _____ person.
8. The central government can supersede the decisions of the competition commission
9. The chairperson of the CCI shall not exceed _____ years and for the other members _____ years

10. Under 53 (O) of the competition act the appellate tribunal shall not be bound by the Code of _____ but principles of _____.

Section B - Conceptual Questions – 20 Marks.

- 1) Describe the process of inquiry into the investigation on abuse of dominance conducted under sec 29 of the competition and orders of the commission on certain combinations under section 31
- 2) Orders that can be passed by the CCI after inquiry into an agreement is anti-competitive or abuse of dominance under section 27?

Section C – Analytical Type Question– 20 Marks

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- 3) Describe the salient difference between the present Competition Act 2002 over the earlier MRTPC Act?
- 4) In the case on technical know-how for a leading Indian pharmaceutical company from a foreign MNC what was the restriction and what was its future effect as viewed by the Supreme court as an ‘Obiter Dicta’ beyond the then Monopolies and Restrictive trade Practices Act (MRTP)?

Section D – Application based problem / Case Study – 50

- 5) Under sec 19(4) of Chapter IV of the Competition Act 2002 rule of reason what are the factors that CCI should make an inquiry into in the under mentioned scenario :

Jawaharlal sweets (JS) are in the business of sweet manufacture in the city of Swetambar a medium town for the last 100 years. The company has been in the business in partnership and this is the third generation of proprietors. Over the years sweet meat manufacture has been mechanized and the company has really done well in so far that it has no mortgages or other need for external bank financing. Analyze the following in terms of the above inquiry in either 19(3) or 19(4) of the competition law:

- a) **JS sells his sweets in Swetambar at a variable cost plus a margin of 20% and is the dominant unmatched leader in this market. (10)**
 - b) **JS decides to go to the neighboring Dighambar market and uses his financial leverage to sell to Dighambar at less than cost. (10)**
 - c) **JS decides to advertise its promote its products through advertising packaging and other aggressive marketing methods such as charity shows etc (10)**
- 6) The Competition law / Antitrust operations across the world have taken a two mutually confronting positions , 1) Open access into National Markets by Multinational Company's supported by their respective countries of origin and 2) protectionist tendencies by National governments in favor of local industries and their monopolies. Please discuss the WTO analysis, decisions and processes on the basis of decided International case at the WTO dispute panel on Competition with reference to Telecommunication industry. (20)**