

Name:	 UPES UNIVERSITY WITH A PURPOSE
Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
Online End Semester Examination, May 2020

Course: Competition Law
Program: B.Tech. LLB (Computer Science with Engineering) LL.B. (Hons.) (Cyber Law) 2015
Course Code: LLBL502

Semester: XI
Time 03 hrs.
Max. Marks: 100

SECTION A

- 1. Each Question will carry 5 Marks**
- 2. Instruction: Answer in 30-50 words**

S. No.	Questions	CO
Q 1	How is collective dominance and its abuse treated under the Competition Act?	CO2
Q2	What is SSNIP test? Do you think it is always an effective mechanism to determine relevant market?	CO1
Q3	How are joint ventures treated under Competition Act, 2002?	CO3
Q4	What is a hardcore cartel?	CO2
Q5	When can a scheme of merger come under the purview of CCI?	CO1
Q6	What is the difference between predatory and penetrative pricing?	CO2

SECTION B

- 1. Each question will carry 10 marks**
- 2. Instruction: Answer in 100-150 words**

Q 7.	“The regulation of vertical agreements by competition law is anything but straightforward. Economic theories suggest that if inter brand competition exists, then restrictions on intra brand competition should not be capable of restricting competition.” Discuss this statement.	CO2
Q 8	“The main argument against oligopoly is that the characteristics of the market (in which oligopolists operate) are such that oligopolists are interdependent on one another and may not be able to charge competitive prices.” In this context, discuss: (a) The concept of oligopolistic interdependence (b) Detection of cartels/concerted practices in such markets with the help of circumstantial evidence	CO4
Q 9	“Price discrimination is harmful to the competitive process. Yet there is no per se prohibition of the same, as price discrimination may increase allocative efficiency.” With reference to this statement, discuss: (a) The efficiencies of price discrimination (b) Price discrimination as an abuse of dominance	CO3
Q 10	Briefly explain the following drawbacks that the combination control provisions had in the Competition Act, 2002 and the Competition Commission of India (Procedure in Regard to the Transaction of Business Relating to Combinations) Regulations, 2011: a) The ambiguity surrounding the issue of ‘control’ b) The pre-combination consultation process	CO4
Q 11	Briefly explain the twin concepts of efficiency defence and failing firm defence argued by merging entities against the argument that such merger ought to be prohibited for having appreciable adverse effect on market competition.	CO3

Section C

1. Each Question carries 20 Marks. Each sub question carries 10 marks

2. Instruction: Answer in 250-300 words

Q.12	<p>Smart Travels Pvt. Ltd. (“Smart Co”) was set up in Delhi, in April 2008. Initially it started operations in Mumbai and Delhi with 500 cabs in each city. In November 2009, Smart Co introduced its services in Bangalore and Kolkata with 200 cabs each. All these cabs were owned by Smart Co and expenses regarding fuel, salary of drivers, insurance, permit, fleet maintenance etc. were borne by the company. The cars were fitted with a Global Positioning System (GPS) and meter, and the drivers were provided with smart phones with the mobile application (a software for radio cab business), locked from downloading any other competing networks’ application. Smart Co quickly gained popularity as a premium cab service among urban Indians. By July 2014, Smart Co was getting around 500 point-to-point trips per cab per month on average and had a market share of around 30% of the radio cab market in the urban cities where it operated. While Smart Co was building up its market share in India, competing with traditional taxi services, Mr. Krishnan, a young technology entrepreneur, started exploring the possibility of offering cheaper cab services, through a technology aggregator model. He incorporated Hola Pvt. Ltd. (Hola) in July 2014. Hola followed a purely aggregator model. The company did not own cabs in its own name. Instead, it set up a platform for a network of cabs and customers, which included provision of a call-center, software applications for mobiles and internet GPS, feedback system, quality maintenance check lists (both for cars and drivers), setting up of the price charging formula and prices. In the aggregator model, the fleet operators, or individual drivers with their own cabs, attached themselves to Hola which entered into a revenue sharing arrangement with the drivers. The drivers were also given incentives based on performance, that is, minimum number of trips in a given period, loyalty, feedback from customers etc. The prices of Hola cabs were extremely competitive from the very beginning. Within the first 1 year of its launch, Hola acquired a market share of 40% and operated a fleet size of 500 in each of the top Indian cities - Mumbai, Delhi, Bangalore and Kolkata - with each cab doing more than 700 point-to-point trips per cab per month on average. One advantage of Hola was that its services were much cheaper than Smart Co and other radio cab operators. However, radio cab operators felt that the competitive pricing was due to below cost pricing, as Hola was able to use surge pricing strategically during peak hours to charge prices above competitive levels, and make up for losses sustained. Consequently, when Smart Co lost around 8% of the radio cab market share in India from July 2014 to July 2016, it alleged that this was due to unfair pricing by Hola, which made Smart Co cabs seem unreasonably expensive to its consumers. However, Mr. Krishnan claimed that this was due to the superiority of the economics of the aggregator-based model. In the meantime, another market player, Hyper Pvt. Ltd. (“Hyper”) also based on the aggregator model, started following a pricing strategy similar to Hola. Hyper however, being a new entrant had very small market share. Hola argued that since there was competition in the market between Hola and Hyper, it was not possible for Hola to increase prices above competitive levels. Smart Co has now approached the Competition Commission of India (CCI) claiming Hola to be in violation of Section 4 of the Competition Act, 2002. The CCI has directed you, the Director General (DG) to conduct investigation into the matter. You are required to give a detailed opinion on this case after considering the following:</p> <ul style="list-style-type: none">(a) the relevant market and dominance, if any, in the relevant market(c) price abuse alleged here and the law on the same	CO4
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