

Competition Act, 2002

Chapter 1 - Preliminary

11. Short title extent and commencement.--

- (1) This Act may be called the Competition Act, 2002.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date 2as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

1. Effective from 31.03.2003 by Notification No. 340 (E) Dated 31.03.2003

2. Section 66 and section 50 w.e.f. 1st September, 2009 vide Notification No. SO2204(E) Dated 28.08.2009.

Section 2 - Definitions

In this Act, unless the context otherwise requires,--

2 (a) "acquisition" means, directly or indirectly, acquiring or agreeing to acquire--

- (i) shares, voting rights or assets of any enterprise; or
- (ii) control over management or control over assets of any enterprise;

2 (b) "agreement" includes any arrangement or understanding or action in concert,;--

(i) whether or not, such arrangement, understanding or action is formal or in writing; or

(ii) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings;

3[(ba) "Appellate Tribunal" means the Competition Appellate Tribunal established under sub-section (1) of section 53A.]

2 (c) "cartel" includes an association of producers, sellers, distributors, traders or service providers who, by agreement amongst themselves, limit, control, or attempt to control the production, distribution, sale or price of, or, trade in goods or provision of services;

1 (d) "Chairperson" means the Chairperson of the Commission appointed under sub-section (1) of section 8;

2 (e) "Commission" means the Competition Commission of India established under sub-section (1) of section 7;

2 (f) "consumer means any person who---

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, whether such purchase of goods is for resale or for any commercial purpose or for personal use;

(ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first-mentioned person whether such hiring or availing of services is for any commercial purpose or for personal use;

1 (g) "Director General" means the Director General appointed under sub-section (1) of section 16 and includes any Additional, Joint, Deputy or Assistant Directors General appointed under that section;

2 (h) "enterprise" means a person or a department of the Government, who or which is, or has been, engaged in any activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or the provision of services, of any kind, or in investment, or in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, either directly or through one or more of its units or divisions or subsidiaries, whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place or at different places, but does not include any activity of the Government relatable to the sovereign functions of the Government including all activities carried on by the departments of the Central Government dealing with atomic energy, currency, defence and space.

Explanation.--For the purposes of this clause,--

(a) "activity" includes profession or occupation;

(b) "article" includes a new article and "service" includes a new service;

(c) "unit" or "division", in relation to an enterprise, includes--

(i) a plant or factory established for the production, storage, supply, distribution, acquisition or control of any article or goods;

(ii) any branch or office established for the provision of any service;

2 (i) "goods" means goods as defined in the Sale of Goods Act, 1930 (8 of 1930) and includes--

(A) products manufactured, processed or mined;

(B) debentures, stocks and shares after allotment;

(C) in relation to goods supplied, distributed or controlled in India, goods imported into India;

1 (j) "Member" means a Member of the Commission appointed under sub-section (1) of section 8 and includes the Chairperson;

1 (k) "notification" means a notification published in the Official Gazette;

1 (l) "person" includes--

(i) an individual;

(ii) a Hindu undivided family;

(iii) a company;

(iv) a firm;

(v) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;

(vi) any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(vii) any body corporate incorporated by or under the laws of a country outside India;

(viii) a co-operative society registered under any law relating to cooperative societies;

(ix) a local authority;

(x) every artificial juridical person, not falling within any of the preceding sub-clauses;

2 (m) "practice" includes any practice relating to the carrying on of any trade by a person or an enterprise;

1 (n) "prescribed" means prescribed by rules made under this Act;

2 (o) "price", in relation to the sale of any goods or to the performance of any services, includes every valuable consideration, whether direct or indirect, or deferred, and includes any consideration which in effect relates to the sale of any goods or to the performance of any services although ostensibly relating to any other matter or thing;

2 (p) "public financial institution" means a public financial institution specified under section 4A of the Companies Act, 1956 (1 of 1956) and includes a State Financial, Industrial or Investment Corporation;

2 (q) "regulations" means the regulations made by the Commission under section 64;

2 (r) "relevant market" means the market which may be determined by the Commission with reference to the relevant product market or the relevant geographic market or with reference to both the markets;

2 (s) "relevant geographic market" means a market comprising the area in which the conditions of competition for supply of goods or provision of services or demand of goods or services, are distinctly homogenous and can be distinguished from the conditions prevailing in the neighbouring areas;

2 (t) "relevant product market" means a market comprising all those products or services which are regarded as interchangeable or substitutable by the consumer, by reason of characteristics of the products or services, their prices and intended use;

2 (u) "service" means service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or commercial matters such as banking, communication, education, financing, insurance, chit funds, real estate, transport, storage, material treatment, processing, supply of electrical or other energy, boarding, lodging, entertainment, amusement, construction, repair, conveying of news or information and advertising;

2 (v) "shares" means shares in the share capital of a company carrying voting rights and includes--

(i) any security which entitles the holder to receive shares with voting rights;

(ii) stock except where a distinction between stock and share is expressed or implied;

2 (w) "statutory authority" means any authority, board, corporation, council, institute, university or any other body corporate, established by or under any Central, State or Provincial Act for the purposes of regulating production or supply of goods or provision of any services or markets therefor or any matter connected therewith or incidental thereto;

2 (x) "trade" means any trade, business, industry, profession or occupation relating to the production, supply, distribution, storage or control of goods and includes the provision of any services;

2 (y) "turnover" includes value of sale of goods or services;

2 (z) words and expressions used but not defined in this Act and defined in the Companies Act, 1956 (1 of 1956) shall have the same meanings respectively assigned to them in that Act.

1. Effective from 31.03.2003 by Notification No. 340 (E) Dated 31.03.2003.

2. Effective from 19.06.2003 by Notification No. SO 715 (E) Dated 19.06.2003.

3. Inserted by the Competition (Amendment) Act, 2007 [Act No. 39 of 2007] w.e.f 12.10.2007.