

Competition Act, 2002

Section 4 - Prohibition of Abuse of Dominant Position: Abuse of Dominant Position

41[(1) No enterprise or group shall abuse its dominant position.]

(2) There shall be an abuse of dominant position 2[under sub-section (1), if an enterprise or a group],---

(a) directly or indirectly, imposes unfair or discriminatory--

(i) condition in purchase or sale of goods or service; or

(ii) price in purchase or sale (including predatory price) of goods or service.

Explanation.--For the purposes of this clause, the unfair or discriminatory condition in purchase or sale of goods or service referred to in sub-clause (i) and unfair or discriminatory price in purchase or sale of goods (including predatory price) or service referred to in sub-clause (ii) shall not include such discriminatory condition or price which may be adopted to meet the competition; or

(b) limits or restricts--

(i) production of goods or provision of services or market therefor; or

(ii) technical or scientific development relating to goods or services to the prejudice of consumers; or

(c) indulges in practice or practices resulting in denial of market access 3[in any manner]; or

(d) makes conclusion of contracts subject to acceptance by other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts; or

(e) uses its dominant position in one relevant market to enter into, or protect, other relevant market.

Explanation.--For the purposes of this section, the expression--

(a) "dominant position" means a position of strength, enjoyed by an enterprise, in the relevant market, in India, which enables it to--

(i) operate independently of competitive forces prevailing in the relevant market; or

(ii) affect its competitors or consumers or the relevant market in its favour;

(b) "predatory price" means the sale of goods or provision of services, at a price which is below the cost, as may be determined by regulations, of production of the goods or provision of services, with a view to reduce competition or eliminate the competitors.

3[(c) "group" shall have the same meaning as assigned to it in clause (b) of the Explanation to section 5.]]

1. Substituted for the following by the Competition (Amendment) Act, 2007 [Act No. 39 of 2007].

"(1) No enterprise shall abuse its dominant position."

2. Substituted by the Competition (Amendment) Act, 2007 [Act No. 39 of 2007] for the words, brackets and figure "under sub-section (1), if an enterprise".

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

4. Effective date :20th May 2009- notified vide Ministry of Corporate Affairs Notification No S.O.1241(E) dated 15.05.2009.