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INTERNATIONAL TRENDS IN COMPETITION LAW

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Abstract

With the goal to uphold fair market competition, safeguard consumer interests, and enhance economic efficiency, competition law is crucial. The legal framework governing competition in India has changed dramatically over time. The implementation of the Competition Act, 2002 and the creation of the Competition Commission of India (CCI) marked a substantial advancement in the nation's efforts to suppress anti-competitive behavior. The field of competition law in India is anticipated to see several noteworthy improvements and changes in the years to come, mostly due to the influence of globalization, technological progress, and changing market conditions. The paper puts forth an analysis of the developments in the Anti-trust Law or the Competition law on the international platform in the recent years. The Market view of the major developments in international anti-trust law has been portrayed through this paper and analysis of what the Indian Market Competition Regulating Authority can learn from such developments.

Keywords – fair market, consumer interests, Competition law, Anti-trust Law, international platform.

Introduction

A market is a dynamic system in which resources, products, and services are traded between buyers and sellers. It is a intricate network of people, companies, and organisations involved in contracts rather than just a real physical location. There are many diverse categories of markets: from the local flea market to international stock exchanges. Studying the fundamental ideas, workings, forms, and effects of markets is necessary to comprehend the notion of markets. A market is fundamentally a resource allocation system. By enabling an equilibrium of supply and demand, it establishes the exchange rates and quantities of products and services. Market dynamics are guided by the forces of supply and demand, which are influenced by several factors such as production costs, client preferences, and external events. Market participants perform a variety of functions. Sellers put goods and services up for sale in an effort to maximize profits or achieve other objectives. Buyers want the best possible terms and conditions when obtaining the goods or services. These exchanges form the basis for transactions that occur through a range of channels, such as physical businesses, online, or intermediaries.

Effective markets are characterized by competitive dynamics that ensure the optimal distribution of resources. All pertinent information is represented in the pricing in these markets, and deals are made at fair prices. However, factors that can lead to market inefficiencies include externalities, market dominance, insufficient information, and government intervention. The government has a range of responsibilities in markets. It may intervene to maintain law and order, protect consumers, promote competition, regulate market activity, or fix flaws in the market. Regulatory frameworks aim to achieve a balance between social welfare considerations and economic efficiency in order to guarantee the equitable and efficient functioning of markets.

Numerous laws have been put in place to encourage a strong market system, requiring individuals to perform their financial and economic responsibilities carefully. In addition to outlawing price-fixing and market-dividing agreements, the legislation also forbids businesses from abusing their dominant market positions in an attempt to promote healthy competition. The primary rules and regulations must be acknowledged to market players in order to avoid breaking the law or being a victim of others' anti-competitive behavior, which entails heavy fines. Offenders may lose their eligibility to serve as directors in addition to facing penalties and, in certain cases, may be imprisoned.

Market studies can be used to investigate markets that lack competition, and mergers between companies may be prohibited by competition law if they have the potential to reduce competition. As a result, the Competition Act of 1988 prohibited anti-competitive agreements between firms illegal. By agreeing to raise prices with competitors, for example, participants are prohibited by the Act from setting conditions of trade or pricing. The parties involved must consent to limit their output in order to decrease competition, diversify the market, and refrain from treating consumers differently. The Act applies to any formal or informal agreement that prevents, restricts, or distorts competition. Contracts between businesses with a substantial combined market share are the main subject of the Act. Even the smallest business need to avoid getting involved in anti-competitive agreements, such as cartels.

Evolution of the Competition Law: Globally

With the advent of global studies, nearly every country has implemented legislation pertaining to competition. As a result of worldwide research, nearly all countries have passed rules governing competition, and the European Union and United Nations regularly communicate with international law enforcement. Due to globalization, the antitrust laws' economic wellbeing is gradually becoming to be quite significant. Therefore, the establishment of the World Bank, the Organization for Economic Co-operation and Development (OECD), and the International Competition Network (ICN) throughout time should promote the adoption of antitrust laws that support innovation and economic progress.

Competition laws have become a mainstay of regulation in market economies.[1] "By 2010, 126 countries had adopted a competition law, most of them within the last three decades. These countries combined produce roughly 95% of the world GDP, further illustrating the significance of competition policy in regulating global markets. Despite the rise in the importance of competition law around the world, cross-national measures of competition law have remained limited. Most existing cross-national research on competition regulation relies on a binary coding of whether a competition law exists or not, which ignores significant variation in the actual content of those laws"[2]. While some academicians have tried to record the more intricate details in the laws framed, the magnitude of the tasks has led most researchers to build datasets that rely on small samples of countries or years. As a consequence of this,

[1] Anu Bradford, Adam S. Chilton, *Competition Law Around the World From 1889 to 2010: The Competition Law Index*, 14 JOURNAL OF COMPETITION LAW & ECONOMICS 393 (2018).
[2] Anu Bradford, Adam S. Chilton, *Competition Law Around the World From 1889 to 2010: The Competition Law Index*, 14 JOURNAL OF COMPETITION LAW & ECONOMICS 393 (2018).

there has not been a thorough assessment of competition laws across a spectrum of nations and decades, which jeopardizes attempts to precisely determine the causes and consequences of competition law.

Contrary to popular belief, Canada was the first nation to enact antitrust or competition laws in the globe in 1889. The United States did not do so until much later. In 1890, the United States became the second nation to enact a competition legislation. However, because the legislation has been implemented more vigorously in the US, many people believe that it is the first of its kind worldwide.[3]

The desire, among other objectives, from agrarian interests to counter the collusive actions of merchants involved in the trade and distribution of farm commodities, such as cattle or agricultural produce, was the driving force behind the adoption of a competition legislation. They functioned as buyers' cartels, or monopsonies. In the USA, these conspiratorial groups were in fact referred to as "trusts." Hence so the phrase "anti-trust" or "trust busting" emerged.[4] In addition to the pricing of goods brought to market, other antifree market strategies such as determining what and how much each farmer would produce, who he may sell to, the terms of payment, etc., would also be covered by the agreement. Governments responded favorably to the requests of farmers, small companies, and consumers since they represent a potent lobby with voting power. As a result, competition laws were created in the US and Canada. Finland's first experience with enforcing competition started in 1837 with a court ruling based on monopsony. Owners of timber processing mills banded together to control forest producers' pricing and output. After the parties who had been wronged filed a lawsuit, a judge overturned it. There was no direct result of this initiative in the enactment of competition legislation.

However, in 1928, a policy discussion on industrial combinations arose as the public demanded that "rings and trusts" be investigated and under control. The discussion failed to pick up momentum again until 1948, when it was brought up again. This sparked a committee's establishment, which resulted in the submission of its report in 1952 and the first competition legislation in Finland was enactment in 1958. The Chapelier Law of 1791, which forbade members of the same trade from gathering to further their mutual interests, set the groundwork for the development of competition laws in France. This entailed buying from low-cost

[3] Pradeep S Mehta, Simon J Evenett, *Evolution of Competition Policy and Law*, CUTS Centre for Competition, Investment & Economic Regulation. *Available at*: www.cuts-international.org

[4] Shah, Aakash, The Globalization of Antitrust Law: History and Future (May 25, 2022). Available at SSRN: https://ssrn.com/abstract=4119639 or http://dx.doi.org/10.2139/ssrn.4119639

manufacturers or selling to clients. Any united effort to influence prices in a way that may stifle free competition was outlawed under the 1810 Penal Code. Thus, it becomes just as crucial to comprehend why nations enact competition rules after outlining the development of competition policies and laws.

I. Start	II Enhancement	III Advancement	IV Maturity
Competition advocacy and public education + control of horizontal restraints + checking abuse of dominance + exceptions and exemptions, including on well - defined public interest grounds + technical assistance and compliance education	Merger control + control of vertical restraints + development of the effects doctrine	Regulation + international co-operation arrangements	Second generation international arrangements + initiative-taking competition advocacy

Stages of institutional development of competition regimes[5]

An overview of the major developments internationally, especially in United State (US) and European Union (EU), in the competition regime has been demonstrated by this paper and analysis of what India can learn from such developments.

International Cartels

International refers primarily to "membership composition: the companies involved in the cartel need to be headquartered in at least two different countries. The database refers to the nationality of the parent company regardless of the geographic extension of the cartel."[6]

[5] Pradeep S Mehta, Simon J Evenett, *Evolution of Competition Policy and Law*, CUTS Centre for Competition, Investment & Economic Regulation. *Available at*: www.cuts-international.org

[6] The Oecd International Cartels Database, https://qdd.oecd.org/subject.aspx?Subject=OECD_HIC.

Is such vigorous prosecution necessary, given firms' incentive to compete and the increased competitive pressure of global markets? The response varies according to one's assessment of cartel stability in the context of the challenges they encounter. Cartels are formed by producers with the intention of raising price and limiting supply in order to increase profit. The industry's earnings are collectively maximized when prices are raised to, essentially, the level that a monopolist would set. However, forming and sustaining a cartel is a difficult undertaking, and cartels must overcome three major obstacles. [7]

The "US and the EU have prioritized prosecuting transnational cartel offences. The Department of Justice (DoJ) in the United States has been actively pursuing cartels that have global reach. The majority of the DOJ's investigations have focused on alleged transnational cartel crimes, and a growing number of the defendants are foreign corporations. The DOJ has been active in expanding the worldwide reach of US cartel enforcement, given that the majority of production has relocated outside of the USA, mostly to Asia. Additionally, there has been a noticeable increase in the length of jail sentences as well as the penalties that are being issued."[8]

Winning a jury trial against a foreign defendant charged with illegal price-fixing is perhaps one of the biggest developments. A federal jury in the Northern District of California found on March 13, 2012, that two top officials of AU Optronics, an American subsidiary, and the Taiwanese maker of thin-film transistor liquid crystal display (TFT-LCD) panels were guilty of price-fixing. This trial is the result of an investigation into possible global cartel conduct in the TFT–LCD market, with a focus on AUO, Sharp Corp., Chunghwa Picture Tubes Ltd., Samsung Electronics Co. Ltd., Chi Mei Optoelectronics, and Hann Star Display Corp. "When Samsung told the DOJ about the price-fixing scheme, the inquiry was started. LG Philips, Sharp, Chunghwa, Chi Mei, Hann star agreed to plead guilty and to pay fines. Some of the executives of these companies also agreed to plead guilty and serve prison terms. AUO is a Taiwanese company and is one of the world's leading manufacturers of TFT-LCD panels. However, AUO decided to contest the Antitrust Division's case"[9].

"The Division alleged that, from 2001 to 2006, the defendants conspired at more than 60 meetings (called "Crystal Meetings", most of which took place in Taiwan) with competitors to

[7] Margaret C. Levenstein & Valerie Y. Suslow, *International Cartels*, 2 COMPETITION LAW AND POLICY 1107 (ABA Section of Antitrust Law) 2008.

[8] Shalaka Patil et al., COMPETITION LAW IN INDIA : Jurisprudential Trends and the way forward. 63 - 70 (2013).

[9] Shalaka Patil et al., COMPETITION LAW IN INDIA : Jurisprudential Trends and the way forward. 63 - 70 (2013).

fix the prices of TFT-LCD panels". The "DOJ's evidence included testimony by cooperating witnesses from some of the other TFT-LCD" makers and a former "AUO America employee". "AUO's counsel later argued that AUO had been lying to its competitors at the Crystal Meetings and, instead of aligning its prices, AUO actually set its prices below the price to which the conspirators had agreed. Similarly in the EU, the European Commission fined six LCD panel producers, all of whom were foreign companies, for operating a cartel by way of which the companies agreed prices, exchanged information on future production planning, capacity utilization, pricing and other commercial conditions". Even the European Commission held that while all the cartel participants were foreign companies, it noted the effect on customers in Europe. Commissioner Almunia said "Foreign companies like European ones need to understand that if they want to do business in Europe, they must play fair."[10]

Recently, "the European Commission has fined seven international groups of companies a total of € 1, 470, 515, 000" for participating in cartels in the cathode ray tubes (CRT) industry. These companies fixed prices, shared markets, allocated customers between themselves and restricted their output over a period of ten years. One cartel concerned color picture tubes used for televisions and the other one-color display tubes used in computer monitors. "Chunghwa, LG Electronics, Philips and Samsung SDI participated in both cartels, while Panasonic, Toshiba, MTPD and Technicolor (for merely Thomson) participated only in the cartel for television tubes". Chunghwa received full immunity, as it was the first to reveal their existence to the Commission. Commissioner Almunia said: "These cartels for cathode ray tubes are 'textbook cartels,' they feature all the worst kinds of anticompetitive behavior that are strictly forbidden to companies doing business in Europe."[11]

The rise in cartel enforcement has been caused by a number of factors, but two of the primary factors are cooperation between international competition agencies and successful amnesty/leniency programs. If companies and people reveal their cartel behavior and assist in the investigation of the cartel, they may be eligible for Amnesty / Leniency programs,[12] which save them from criminal conviction, fines, and jail time as long as they fulfil the program's terms. Moreover, antitrust agencies are working together more frequently to look into global

[10] Shalaka Patil et al., COMPETITION LAW IN INDIA : Jurisprudential Trends and the way forward. 63 - 70 (2013).

[11] Press corner, European Commission http://europa.eu/rapid/press-release_IP-10-1685_en.htm?locale=en.

[12] News and Announcements, Good. Smart. Business. Profit. (Jan. 25, 2024), https://ethisphere.com/about/news/.

cartels. Multiple jurisdictions have coordinated "dawn raids." The DOJ uses the mutual legal assistance treaties (MLATs), which the United States has ratified with more than 50 nations, in cases involving transnational cartels.

A "good example of this international co-operation could be seen in February 2003 when the United States, the European Commission, Canada, and Japan coordinated surprise inspections, interviews, and other investigative activity in a cartel investigation relating to heat stabilizers and impact modifiers". [13]

While heavy fines and protracted jail terms have been the hallmark of US cartel enforcement in recent years, imprisonment sentences were previously mostly imposed on US citizens and residents. The prosecution and conviction of foreign nationals for breaking US antitrust laws is the newest trend. Increased foreigners are now serving jail terms in the United States. These instances demonstrate the need of multinational corporations—or even Indian businesses—that supply products and/or services to the United States and/or Europe being cognizant of US antitrust laws and EU competition laws. To mitigate risks, businesses must create appropriate compliance plans. These compliance initiatives ought to guarantee that due diligence, especially in the case of antitrust or competition legislation, is held each time there is a merger. The compliance programs of businesses operating or having subsidiaries in nations with lesser compliance standards have to be closely and frequently observed. Given the likelihood of employees switching to rivals, resources ought to be allocated to providing them with proper training.

In addition, since "cartel investigations across various jurisdictions have usually focused on certain industries, there is a fair chance that the TFT–LCD industry and the cathode ray tube industry may also be investigated by the CCI."[14] "The other industries affected by cartel investigations / prosecutions include air and water transportation, computer components, automobile parts, glass, detergents, chemicals etc."[15].

Competition Law and Intellectual Property Law

Intellectual Property (IP) law fosters creation and innovation, however providing monopoly, though limited for a period of time. The goal of competition law is to create a free and equitable market for the benefit of consumers.

[13] Press corner, European Commission http://europa.eu/rapid/press-release_IP-10-1685_en.htm?locale=en.
[14] Press corner, European Commission http://europa.eu/rapid/press-release_IP-10-1685_en.htm?locale=en.
[15] Press corner, European Commission http://europa.eu/rapid/press-release_IP-10-1685_en.htm?locale=en.

"Both bodies of law share the same basic objective of promoting consumer welfare and an efficient allocation of resources. IPR promotes dynamic competition by encouraging undertakings to invest in developing new or improved products and processes. So does competition by putting pressure on undertakings to innovate. Therefore, both IPR and competition are necessary to promote innovation and ensure competitive exploitation thereof."[16]

Intellectual property rights and competition law are "two separate legal regimes having distinct objectives and purposes. Intellectual property rights are the exclusive rights conferred upon the creator or the inventor of the property to use and enjoy his creation or invention exclusively. It also affords inventors, and authors in the case of copyright, protection from imitation and give rights holders substantial discretion over how to use or license their intellectual property."[17]

"Intellectual property typically is both a key input into and a byproduct of successful innovation, which is a principal factor in fostering a dynamic, growing economy by stimulating competition in new products, new market and new technologies. Intellectual property, therefore, is a highly valued asset, and it has been granted substantial legal protection by the nations of the world."[18]

When the holder of an intellectual property right (IPR) monopoly attempts to misuse the monopoly, there is an underlying conflict. In response to the United States, Google Inc. has agreed to modify some business practices pertaining to how it managed its patented inventions through a historic consent agreement. FTC complaint and the ensuing inquiries.

Intellectual property rights (IPR) "have become a significant and pervasive aspect of economic activity, including market rivalry. IP rights confer temporary exclusive rights that safeguard investments in research and some creative activities." [19]The relationship between competition and intellectual property law has become increasingly relevant as the economy becomes more digital and intangible assets become more valuable to the economy as a whole.

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[16] Arutyun Arutyunyan, "Intellectual Property Law vs. Essential Facility Doctrine: Microsoft vs. Commission" available at http://www.ies.ee/iesp/No4/Arutyunyan.pdf accessed on 23/03/10

[17] Supreet Kaur, *Interface between Intellectual Property and Competition Law : Essential Facilities Doctrine* (April 4, 2011) Available at SSRN: https://ssrn.com/abstract=1802450 or http://dx.doi.org/10.2139/ssrn.1802450.

[18] Supreet Kaur, *Interface between Intellectual Property and Competition Law : Essential Facilities Doctrine* (April 4, 2011) Available at SSRN: https://ssrn.com/abstract=1802450 or http://dx.doi.org/10.2139/ssrn.1802450.

[19] Supreet Kaur, *Interface between Intellectual Property and Competition Law : Essential Facilities Doctrine* (April 4, 2011) Available at SSRN: https://ssrn.com/abstract=1802450 or http://dx.doi.org/10.2139/ssrn.1802450.

Businesses in the telecom and information technology sectors usually use voluntary standard-setting organisations (SSOs) to guarantee the interoperability of their products. By promoting the use of shared platforms by competing manufacturers, the SSOs publish technological standards that benefit customers by boosting competition, innovation, product quality, and choice.

Problems arise when a patented technology is adopted by a "SSO as a technology standard. Before a standard is adopted, several players are competing to get their technology accepted as a standard. However, once a particular technology is accepted as a standard, most of the other players will have to necessarily make substantial investments to adopt the standard. This may at times also include a significant switching cost from their own technology to the standard. Entire industries may get locked into a particular technology. If this technology is patented, it gives the patent holder massive market power and the ability to demand excessive royalties, where the royalties do not reflect the actual market value of the technology, but the opportunity cost and switching cost of moving away from the standard technology. The high royalties are eventually passed on to the end consumers. The increased value that can be extracted by the patentee due to switching costs on its patents is known as "hold-up value." Besides harming competition, hold-up value undermines the entire institution of SSOs and decreases"[20] the incentive to participate in the standard-setting process.

Google is a multinational technology corporation that has a sizable portfolio of patents through its subsidiary Motorola, including patents covering video compression, wireless local area networks, and standards for cellular phone and data communications. Motorola has long been a member of SSOs, and Google actively participates in a number of them.[21] Manufacturers of game consoles, laptops, set-top boxes, and other smart devices with internet connection, including smartphones and tablets, are usually required to abide by one or more of the technological standards. The Federal Trade Commission (FTC) claimed that Motorola had falsely requested injunctions and exclusion orders against willing licensees of its SEPs, having previously promised to license its SEPs on FRAND terms.[22] Following the purchase of Motorola in May 2012, Google continued with Motorola's procedures.

[20]Shalaka Patil et al., COMPETITION LAW IN INDIA : Jurisprudential Trends and the way forward. 63 - 70 (2013).
[21] Quentin Hardy, Google Buys Motorola For Patent Parts, (Aug. 15, 2011), https://www.forbes.com/sites/quentinhardy/2011/08/15/google-buys-motorola-for-patent-parts/?sh=6ba1612fff5a.
[22] Facts about Google's acquisition of Motorola, https://www.google.com/press/motorola/.

According to the FTC, "Motorola/Google enjoyed monopolistic power since the inclusion of Motorola/ Google's patents in the technology standards eliminated any possible alternatives for competitors of Google/Motorola.[23] To determine whether a firm enjoys monopolistic power, it is essential to determine the relevant market where this power is being appraised. According to FTC the relevant product market in this case was the technology covered by any Google owned SEP and all substitutes of that technology. Such monopolistic behavior would likely have the anti-competitive effects such as depriving end-consumers of competing products at lower costs, undermining efficiency of the standard setting process, raising costs of competitors' products and dampening competition.[24] The FTC did not find any pro-competitive benefits or any justification to outweigh the anti-competitive effects of Google's conduct. To remedy this concern, Google agreed to a Consent order which restricts Google from seeking injunctions on SEPs against potential licensees who are willing to enter into a license on FRAND terms. As a result, Google is prohibited from seeking injunctions, or obtaining or enforcing existing claims for injunctive relief, for FRAND-encumbered SEPs.[25] On the other side of the Atlantic, the European Commission has opened a formal investigation against Samsung and Motorola to assess whether the companies have used certain of its SEPs to distort competition abusively and in contravention of a commitment to an SSO."[26]

In this case, antitrust law intervenes when societal welfare is in jeopardy because of the intellectual property holder's actions, highlighting the fundamental conflict between competition law and intellectual property law. This case also demonstrates the implications of antitrust and competition legislation on a global and cross-border scale. For the majority of investigations and prosecutions, it has consistently been the case that a corporation or a specific industry that is the subject of an inquiry in one country is likely to trigger similar inquiries in other countries throughout the world.

Private Equity Investors and Liability of Parent Company

Investment banks or private equity firms are assumed to have significant influence over a subsidiary when they directly or indirectly own all or nearly all of the shares or voting rights

[23] Facts about Google's acquisition of Motorola, https://www.google.com/press/motorola/.
[24] Facts about Google's acquisition of Motorola, https://www.google.com/press/motorola/.

[25] Facts about Google's acquisition of Motorola, https://www.google.com/press/motorola/.
[26] Shalaka Patil et al., COMPETITION LAW IN INDIA : Jurisprudential Trends and the way forward. 63 - 70 (2013).

in the portfolio business. This implies that the investors are presumed to be accountable jointly and severally for any violations of competition law committed by the subsidiary. The guarantees pertaining to competition compliance and due diligence for past and present activity in acquisitions that result in them holding all or nearly all shares or voting rights should be closely examined by acquiring corporations.[27] The current ambiguity about the percentage of a subsidiary that represents "almost all" voting rights or "almost all" capital is not resolved by the CJEU ruling.

The ruling could also affect actions using private enforcement. The ruling could incentivize plaintiffs who allege harm from the anti-competitive actions of a portfolio business to file a lawsuit against the relevant investment firm as well. Given that investment firms typically have larger budgets than the companies in their portfolio, this alternative may be appealing.[28] This choice will also be appealing if the investment business is based in a country where private enforcement laws are more favorable to claimants than they are to the portfolio company. As a result, more plaintiffs could file lawsuits in "friendly" jurisdictions naming investment companies as key defendants.

The "European Community Courts have been imposing liability on a parent company for its subsidiary's participation in a cartel. The Courts test has not been to merely see if the parent company owns 100% of the subsidiary , but whether a parent which owns 100% of the subsidiary is a "single economic entity" wherein the subsidiary lacks autonomy with respect to commercial policy. The Courts have held that it is necessary to make a global assessment of the influence which the parent has over its subsidiary in deciding whether they are part of a single economic entity"[29]. The most important judgment in this area is the ECJ's ruling in the Akzo Nobel (Choline Chloride)[30] appeal which confirms that the Commission should look to all relevant economic, organizational and legal links which tie the subsidiary to the parent in order to assess whether they are part of one undertaking or not. [31]

[27] News Update Competition & Competition Litigation, Private equity investors exposed to parental liabi (Feb. 9, 2021), https://www.houthoff.com/insights/news-update/news-update-competition_competition-litigation-9-february-2021.

[28] News Update Competition & Competition Litigation, Private equity investors exposed to parental liabi (Feb. 9, 2021), https://www.houthoff.com/insights/news-update/news-update-competition_competition-litigation-9-february-2021.

[29] Shalaka Patil et al., COMPETITION LAW IN INDIA : Jurisprudential Trends and the way forward. 63 - 70 (2013).

[30] Akzo Nobel v Commission [2009] ECR I-8237 (ECJ).

[31] Akzo Nobel v Commission [2009] ECR I-8237 (ECJ).

The Court held[32] that where despite having a separate legal personality, the subsidiary did not act autonomously on the market, the parent company and the subsidiary formed a single economic unit.[33] The degree to which a parent was aware of and complicit in the actions of its subsidiaries has served as the foundation for evaluating whether or not the parent is accountable for the behavior of its subsidiary. The premise that a parent business has decisive influence over its subsidiaries forms the basis of the main idea.[34] A corporation has the ability to refute the assumption. Nevertheless, no corporation in the EU has been able to convincingly refute this assumption.

Recently, the question of whether parental culpability should extend to a cartel member owned by a private equity firm surfaced during the Commission's Power Cables cartel investigations. Eventually, the commission filed a formal charge sheet to Goldman Sachs, a private equity firm that controlled Prysmian, which was located in Italy. This is a significant change, and investors and private equity firms should take extra care to ensure that the businesses in their portfolio are maintained and run efficiently under compliance programs.

Conclusion

In order to maintain fair market competition, protect consumer interests, and advance economic efficiency, competition law is essential. The legal framework governing competition in India has changed dramatically over time. The implementation of the Competition Act, 2002 and the creation of the Competition Commission of India (CCI) marked a substantial advancement in the nation's efforts to suppress anti-competitive behavior. The field of competition law in India is anticipated to see several noteworthy improvements and changes in the years to come, mostly due to the influence of globalization, technological progress, and changing market conditions. Competition law analysis entail complex legal and economic considerations. The CCI orders discussed above suggests that the CCI has been called upon exceedingly early in its existence to determine complex antitrust issues arising from the conduct or enterprises engaged in overly complex market.[35]

[32] Akzo Nobel v Commission [2009] ECR I-8237 (ECJ).
[33] Sergio Sorinas, ECJ clarifies rules on parental liability for infringements of EU competition law committed by wholly owned subsidiaries, Lexology (Sept. 16, 2009), https://www.lexology.com/library/detail.aspx?g=de2ba85e-10a6-465a-ae0b-c924b6788a33.
[34] . Imperial Chemical Industries Limited (ICI) v Commission [1979] ECR - 619
[35] Shalaka Patil et al., COMPETITION LAW IN INDIA : Jurisprudential Trends and the way forward. 63 - 70 (2013).

As of right now, neither the COMPAT nor the Supreme Court have issued a final ruling in any of the significant issues mentioned above that the CCI resolved and in which the parties filed an appeal of the CCI's decision.

It is so challenging to evaluate and pinpoint jurisprudential tendencies at this nascent juncture in the evolution of competition law in India. But our analysis has brought to light a few significant patterns in the directives that CCI has issued.it has been discovered that the CCI has been resolute in starting investigations against the SOEs; additionally, the number of information received by the CCI has been steadily rising, and informants from a variety of social groups have come forward to supply the commission with information, indicating a growing public awareness of this new legislation. Because the Competition Act is based on TFEU, the CCI tends to depend more on EU authorities when it comes to relying on foreign authorities.

The Competition Act represents a significant advancement in India's competition law system, since it supersedes the MRTP regime, which aimed to suppress monopolies and encourage market competition by outlawing actions that materially hinder competition. When it comes to how it does business and engages in advocacy, the CCI must exercise caution and consistency. It will be much easier for the sector to create pro-competitive business strategies within the constraints of the Competition Act if CCI adopts a consistent approach.

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