

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Competition Law  
Semester-II (Batch: 2016-17)

LL.M. End Semester Examination: May-2017

Date: 8<sup>th</sup> May, 2017

Duration: 3 hours

Max. Marks: 70

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.

**Part-A**

Answer any five of the following questions  
(Maximum 500-550 words for each answer)

Marks  
(5x12=60)

- Q.1 Certain retail cement dealers periodically circulated amongst themselves a list containing names of wholesale cement dealers, who were reportedly selling cement bags directly to consumers. Although there was no agreement on the part of the retailers to refrain from dealing with the wholesalers whose names appeared on the list, many of the retail dealers stopped purchasing cement bags from the listed wholesalers.
- (a) What is meant by an agreement under the law of antitrust? Can it be inferred from the course of conduct followed by the retail cement dealers?
- (b) Whether a parallel action alone can be sufficient to establish a conspiracy?
- Q.2 Capricon, a small manufacturer of industrial sugar, has expanded its business by selling the bulk sugar packets to soft drinks industry. Capricon submitted a complaint to the competition authority that Zetron, a much larger producer of industrial sugar, is offering the products at below cost prices to the regular customers of Capricon in an effort to eliminate Capricon as a competitor.
- (a) Whether the action of Zetron amounts to predatory pricing? Evaluate in the light of both the US and EU competition laws.
- (b) How is predatory pricing technique as an abuse of dominance regulated under the Competition Act, 2002?
- Q.3 An information has been submitted to the Competition Commission of India (CCI) under section 19(1)(a) of the Competition Act, 2002 alleging that three prominent Indian car manufacturers, which are referred to as Original Equipment Manufacturers (OEMs), entered into exclusive agreements with their respective Original Equipment Suppliers (OESs) and authorized dealers imposing unfair prices on the sale of auto parts and restricting the free availability of genuine auto parts in the open market. These exclusive agreements therefore hindered the OESs from selling the auto spare parts directly to the independent car users and repairers in the market.
- (a) Whether the agreements entered into by the OEMs with their respective OESs and authorized dealers are anti-competitive?
- (b) Is there any abuse of dominant position by the OEMs in the relevant market?

- Q.4 United Brands, a US company, owned its own banana plantations in South America and enjoyed a large share of the banana market amounting to 40-45% in the European Community geographic market, which consisted of Germany, Benelux, Ireland, and Denmark. It shipped its Chiquita bananas to two unloading ports, where they were resold to various national distributors at significantly different prices, notwithstanding that the purchasers paid the freight costs to the various ripening installations. In the meanwhile, the United Brands refused to sell a Danish distributor who had promoted competing bananas.
- Whether the above-said situation of the United Brands amounted to discriminatory pricing?
  - Did the refusal to sell amount to the abuse of dominant position under Article 86 of the EC Treaty?
- Q.5 Eleven major Indian sugar producers are alleged to have been coordinating at various levels of production and supply of white and fruit sugars for the past three years. Upon investigation by the Indian fair trade regulator, price parallelism has been found existing across the above producers; whereas, there is no substantive proof of affirmative correlation of data involving quantity of production, cost of production, capacity utilization, annual sales, profit margins etc., amongst these producers.
- What is meant by cartelization? Whether the price parallelism is sufficient to hold the existence of a cartel amongst eleven major sugar producers?
  - Explicate the anti-competitive effects of cartelization in the light of Indian cartel cases.
- Q.6 Bentox Corporation (Bentox), a listed public limited company incorporated under the erstwhile Indian Companies Act, 1913, has engaged in the manufacture and sale of a range of batteries, which are supplied to the various sectors of the economy. Life Assure, a public limited company incorporated under the Companies Act, 1956, operates in the life insurance business having 3.5% market share. Life Assure is a joint venture between Bentox and Life Care Corporation (Life Care), a British Company, involved in global insurance and reinsurance operations. While Bentox and Life Care hold 50 per cent and 26 per cent equity share capital respectively, the remaining 24 per cent equity share capital is held by certain companies referred to as 'Indian Shareholders'. Now Bentox is going to hold sole control over Life Assure by acquiring the remaining 50 per cent equity share capital. Accordingly, on 10<sup>th</sup> April 2017 Bentox sent a notice, in pursuance to section 6(2) of the Competition Act, 2002, to the Competition Commission of India (CCI).
- Whether the present combination can be given effect to by the CCI? What type of a combination will it be?
  - What are the relevant factors the CCI shall have due regard to while examining a notice of proposed combination?

**Part-B**

**(Maximum 250-275 words for each answer)**

(2x5=  
10)

- Q.7 Write short notes on any two of the following:
- Doctrine of restraint of trade in the context of the development of competition law
  - Interface between competition law and intellectual property rights
  - Salient features of the Competition Act, 2002 vis-a-vis the erstwhile MRTP Act, 1969

\*\*\*