

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR****Course: NEL-IV: Competition Law
Semester-II (Batch: 2012-14)****End Term LL.M. Examination: April-May 2013****Date: 4th May, 2013****Duration: 3 hours****Max. Marks: 60****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.

**Answer any five of the following:
(Maximum 750 words for each answer)****Marks
(5x12=
60)**

- Q.1 “The MRTP Act, 1969, in comparison with competition laws of many countries, was found to be inadequate for fostering competition in the market and for reducing, if not eliminating, anti-competitive practices in the country’s domestic and international trade”. Elaborate the circumstances which led to the enactment of the Competition Act in 2002 having aimed at promoting competition in the Indian market.
- Q.2 ECS, a small producer of organic peroxides as an additive to flour, had planned to expand its business by selling the product also to the plastic industry. ECS complained that AKZO, a much larger producer of organic peroxides, was offering the product at below cost prices to ECS’s regular customers, in an effort to eliminate ECS as a competitor.
- (a) Whether the below cost pricing itself amounts to predatory pricing?
- (b) Explain the concept of predatory pricing as an abuse of dominant position in the light of the Competition Act, 2002.
- Q.3 No enterprise or association of enterprises or person or association of persons shall enter into any agreement in respect of production, supply, distribution, storage, acquisition or control of goods or provisions of services, which causes or likely to cause an appreciable adverse effect on competition within India”.
- (a) Explain the rationale for prohibition of anti-competitive agreements in the light of section 3 of the Competition Act, 2002.
- (b) Whether all anticompetitive agreements are per se illegal? Elucidate.
- Q.4 “National jurisdiction exists with respect to conduct which has an intentional or at least foreseeable effect on the nation’s commerce, and the effect is not insubstantial. The nationality of the wrongdoer is not important, nor is the locale of the activity, so long as the intent and effects are demonstrable”.
- (a) Explain the scope of application of the US anti-trust laws to international transactions.
- (b) Does the Competition Act, 2002 provide for extraterritorial application?

- Q.5 “No conventional restraint of trade can be enforced unless the covenant embodying it merely ancillary to the main purpose of a lawful contract, and necessary to protect the covenantee in the enjoyment of the legitimate fruits of the contract, or to protect him from the dangers of an unjust use of those fruits by the other party”. Explain in detail the doctrine of rule of reason evolved in the due course of time by the US Supreme Court in the light of section 1 of the Sherman Antitrust Act, 1890.

OR

Explain the historical development of competition law in light of the common law doctrine of restraint of trade.

- Q.6 RTE, ITV, and BBC, three television stations, dominant in the supply market for television listings in Ireland and Northern Ireland, had refused to license their copyright on the information contained in their respective programme listings to the Irish publisher Magill TV Guide Ltd. Magill then briefly attempted to produce its own television guide until the broadcasters invoked their copyright to seek an injunction. Magill complained to the Commission and the European Commission process commenced. The ECJ upheld the Commission and CFI decisions to order a compulsory license, drawing on the principle of exceptional circumstances.
- (a) Whether the refusal to license the copyright by three television stations to the Magill amounted to denial of essential facility? Elucidate.
 - (b) Whether the intellectual property rights are subject to scanner under competition law? Explain.
- Q.7 Write short notes on the following:
- (a) Powers and functions of the CCI
 - (b) Bid rigging
