

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Competition Law  
Semester- VIII (Batch: 2018-23)

End Semester Online Examination: May 2022

Date: 14<sup>th</sup> May, 2022

Duration: 8 hours

Max. Marks: 50

**Instructions:**

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: 700-750 words.

- |   | <b>Marks</b>         |
|---|----------------------|
| <p>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.</p> <p>a) Can an agreement be inferred from the course of conduct followed by the retail cement dealers? Examine.</p> <p>b) Whether a parallel action alone can be sufficient to establish a conspiracy? Explicate.</p>  | <p>(5x2=<br/>10)</p> |
| <p>Q.2 Phoenix, a US manufacturer of rubber products, entered into an agreement with White Hawk, a prominent US retailer, for selling the products to the Philadelphia's consumers. Phoenix through the agreement set a minimum resale price that White Hawk could charge to the consumers. White Hawk, after sometime, started discounting the products in violation of the agreed resale price. Consequently, Phoenix discontinued selling the products to White Hawk and it resulted in a substantial amount of loss to the latter. White Hawk filed a suit, seeking to invalidate the minimum price maintenance under the <i>per se</i> violation standard. (Note: it is a hypothetical case and used only for examination purpose)</p> <p>a) Whether the suit is maintainable presently under the <i>per se</i> violation standard? Decide the above case of minimum resale price maintenance in accordance with the relevant case laws decided under the US antitrust jurisdiction.</p> <p>b) What is the position of the <i>per se</i> violation standard under Indian competition law? Elucidate.</p> | <p>(5x2=<br/>10)</p> |
| <p>Q.3 'While the formation of a cartel amounts to an anti-competitive trade practice, which is indisputably against the public interest, the existence of cartel is seldom proved by direct evidence.' Explain the burden of proof of cartelization under relevant provision/s of the Competition Act, 2002 with the help of decided cases.</p>  | <p>(10)</p>          |

- Q.4 'While mergers can have an appalling effect as they can raise competition concerns, corporate reorganization in the form of mergers may be in line with the requirements of dynamic competition. The greater the potential adverse competitive effect of a merger the greater must be cognizable efficiencies in order to conclude that the merger will not have an anti-competitive effect in the relevant market.' (5x2=10)
- a) Explain the various types of combinations having appreciable adverse effect on competition under relevant provision/s of the Competition Act, 2002.
  - b) Elucidate the procedural requirements for a particular combination to take effect under the Competition Act, 2002.
- Q.5 Du Pont, an American chemical company, produced almost 75% of the cellophane, a flexible packaging material, sold in the United States, but it was found that cellophane constituted less than 20% of all sales of flexible packaging materials. (5x2=10)
- a) Whether Du Pont was found to have held a monopoly position in the relevant market? Elaborate.
  - b) What is the significance of SSNIP test in determining relevant product market under antitrust analysis? Explicate

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