

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **Competition Law**
Semester- **VIII (Batch: 2019-24)**

End Semester Examination: May 2023

Date: 11th May, 2023

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- 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: 550-600 words for each answer

Answer **any five** of the following:

Marks

- Q.1 On 12th April 2023, Lapron, an Indian pharmaceutical multinational having its prime global operations in the US and the EU, notified the CCI of its proposed acquisition of Intan, a major Indian generic drug maker. Both the parties to the notified transaction have also been operating in the animal healthcare segment, including animal health vaccines, pharmaceuticals and medicinal feed additives, in India through Animax, a 50/50 joint venture. During the Phase-I investigation, the CCI arrived at a *prima facie* opinion that the notified transaction post consummation is likely to cause an appreciable adverse effect on Indian generic drug market, as the parties will have a combined market share of around 48 per cent. (Note: It is a hypothetical case and used only for examination purpose) (10)
- a) Point out the remedies with which the CCI can approve the notified transaction under section 31 of the Competition Act, 2002.
 - b) Whether the instant transaction is subject to multi-jurisdictional merger filing requirements? Examine the consequence of failure by the acquirer to notify the jurisdictions it operates.
- Q.2 Ceplon, a small manufacturer of industrial sugar, has expanded its business by selling the bulk sugar packets to soft drinks industry. Ceplon submitted a complaint to the competition authority that Mascon, a much larger producer of industrial sugar, is offering the products at below cost prices to the regular customers of Ceplon in an effort to eliminate Ceplon as a competitor. (Note: It is a hypothetical case and used only for examination purpose) (10)
- a) Whether the action of Mascon does amount to predatory pricing? Evaluate in the light of the EU competition law.
 - b) Explain the cost benchmark applicable for predatory pricing as an abuse of dominance in the light of section 4 of the Competition Act, 2002.
- Q.3 On the basis of a *suo-moto* inquiry based on the information received from the Central Bureau of Investigation on 1st April 2014, the CCI has found three enterprises, M/s Pyramid Electronics, M/s Kanwar Electricals, and M/s Western Electric and Trading Company, to have cartelized in respect of tenders floated by India Railways for supply of Brushless DC fans and other electrical items, and imposed penalties on them along with (10)

their respective responsible office-bearers for the violation of section 3(3) of the Competition Act, 2002. Nevertheless, the CCI has granted leniency to an enterprise together with its officer based on its application under relevant provision of the Competition Act, 2002.

- a) What are the grounds under which the CCI has granted leniency to the concerned enterprise along with its officer? Explain.
- b) What is the maximum penalty that can be imposed under pertinent provision of the Competition Act, 2002 in the case of a bid rigging cartel? Explicate.

- Q.4 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. (10)
- a) What kinds of agreements have been entered into by the OEMs with their respective OESs and authorized dealers? Specify.
 - b) With respect to the above-stated facts, identify the relevant market in the light of section 3(4) of the Competition Act, 2002.
- Q.5 Certain retail timber dealers periodically circulated amongst themselves a list containing names of wholesale timber dealers, who were reportedly selling timber products 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 timber products from the listed wholesalers. (10)
- a) Under antitrust law whether an agreement can be inferred from the course of conduct followed by the retail timber dealers? Examine.
 - b) Whether a parallel action alone can be sufficient to establish a conspiracy? Clarify.
- Q.6 Write a short note on each of the following: (10)
- a) Tie-in and bundling agreements
 - b) Applicability of target exemption under Indian merger control regime
