

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**
Course: **Competition Law**
Semester-II (Batch: 2015-16)

LL.M. End Semester Examination: May-2016

Date: 16th May, 2016

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 Indian Steel Dealers Association (ISDA) alleged before the Competition Commission of India (CCI) that certain domestic steel manufacturers operating in an oligopolistic market situation had engaged in arbitrary and disproportionate pricing of stainless steel materials. ISDA further alleged that while the domestic steel manufacturers increased prices when the prices of iron ore went up, they had not reduced the prices of stainless steel materials when the prices of iron ore came down; and hence, the pricing strategy was anti-competitive.
- (a) Whether the above-said situation amounted to a cartelized behaviour on the part of domestic steel manufacturers?
- (b) What are the factors the CCI can take into account in the above-said situation as to the determination of the existence of a cartel?
- Q.2 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 said television stations invoked their copyright to seek an injunction. Magill complained to the European Commission and the Commission process commenced.
- (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? Critically evaluate.
- Q.3 'Air Ganga' notifies its decision to acquire 'Air Yamuna' before the Competition Commission of India (CCI) on 11th April 2016 for approval in pursuance to section 6(2) of the Competition Act, 2002. Both being low-cost 'Indian airlines' are headquartered at Mumbai connecting around 24 cities of the country; and they jointly account for nearly about 82% of India's short-haul traffic to and from Mumbai. Previously, both the

- airlines along with other airlines at times had entered rigorous price competition to lure passengers.
- (a) Whether the proposed combination can be given effect to by the CCI? Evaluate.
- (b) What are the relevant factors the CCI shall have due regard to while examining the notice of proposed combination?
- Q.4 Microsoft, a US multinational computer technology corporation, in the beginning of 1990s started selling its Windows Operating System together with its web browser, Internet Explorer. The Company had acquired more than 90% market share in the worldwide market for Intel-compatible personal computer systems. In May 1998 the US Department of Justice and 20 US States filed anti-trust cases against Microsoft Corporation pursuant to the Sherman Anti-trust Act, 1890.
- (a) Whether the above situation amounted to tying?
- (b) Whether the Microsoft did attempt to monopolize web browser market?
- (c) What was the outcome of the case?
- Q.5 Hoffman-La Roche (La Roche), a Swiss pharmaceutical giant, had the market shares for various vitamins in European Community market ranging from 47% to 95%. As argued by the European Commission, La Roche was found to have had 47% market share for Vitamin A.
- (a) Whether La Roche was held to be in a dominant position in the Vitamin A market? Explicate.
- (b) What are the determinative factors for deciding the dominant position under the Competition Act, 2002?
- Q.6 Certain retail tyre dealers periodically circulated amongst themselves a list containing names of wholesale tyre dealers, who were reportedly selling tyres 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 tyres from the listed wholesalers.
- (a) What is meant by an agreement under the law of antitrust?
- (b) Can an agreement be inferred from the course of conduct followed by the retail tyre dealers?
- (c) Whether a parallel action alone can be sufficient to establish a conspiracy?

Part-B (Compulsory)

(Maximum 250-275 words for each answer)

(2x5=
10)

- Q.7 Write short notes on **any two** of the following:
- (a) SSNIP test as tool in product market definition
- (b) Salient features of the Competition Act, 2002 *vis-a-vis* the erstwhile MRTP Act, 1969
- (c) Doctrine of restraint of trade in the context of the development of competition law
