

TEXTBOOK ON INDIAN COMPETITION LAW. By Dr. Versha Vahini, Lexis Nexis, India, 2020, Pp.iii-280, Hardcover:Rs. 550/-, ISBN:978-93-8999-128-4.

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In this era of globalization, most of the nations across the world have not only favored free trade and fair market for sustainable economy, but also adopted robust competition law in their domestic jurisdictions. From last two decades, there have been major competition related issues surfaced in legal arena due to free and open market through anti-competitive agreements and use of dominant/monopolist position by enterprises or industries for their goods and services. India, being one of the major developing economies has also followed the path of competitive market and developed its own competition law jurisprudence for sustainable economic growth. The legislative history of competition law in India could be traced down with the major enactment of ‘Monopolies and Restrictive Trade Practices Act, 1969’ which remained operational with its effectiveness and weakness till the year 2002. Further, the ‘Competition Act, 2002’ was enacted with aims to prevent practice having adverse effect on competition; to promote the competition in markets; to protect consumer’s interest; and to ensure freedom of trade in Indian markets. The major subject matters regulated in this regard are: prohibition of anti-competitive agreements; abuse of dominant position of enterprise; and regulation of combinations besides other competition related policies and institutional arrangements. Since then, the competition law jurisprudence in India has taken firm shape with new amendments made, specific competition rules notified, orders and decisions given by competition authorities inspired by the competition related enactments of other jurisdictions such as United Kingdom (UK), United States of America (USA) and European Union (EU). Adding to her own part of contribution in this competition law jurisprudence, Dr. Versha Vahini, a renowned writer and scholar from India has made remarkable and timely publication of a book titled as ‘*Textbook on Indian Competition law*’.

The book in hand finds its unique place along with already published books as Vinod Dhull’s ‘*Competition Law Today: Concept, Issues and Law in Practice (2019)*’ and T. Ramappa’s ‘*Competition Law in India: Policy, Issues and Developments (2013)*’. It distinguishes itself with other competition law literatures due to its blend of theoretical and practical approach applied for economy, law and policy interface for free and fair competition; descriptive and analytical method used in interpretation and explanation of provisions and decisions on competition related matters; and reference of competition laws of other jurisdictions on different aspects and places. The book contains twelve chapters analyzing the fundamentals of competition law and policy; basic principles of competition law, important and relevant competition related definitions and expressions; nature, kinds and exceptions of anti-competitive agreements; abuse of dominant position; regulation of combinations; and composition and power of competition authorities established in India. At the end, it also includes highlights of the ‘Raghavan Committee Report’ for the background and justification of competition law in India.

In its first chapter, the book deals with fundamentals of competition law and policy introducing the concept of competition, its underlying theories and economic basis for development of law and policy. It also outlines the rationale and need for competition policy and law; its economic, social and political goals; and approaches required for determining

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choices of such goal(s) by the competition authorities. The second chapter discusses general framework of competition law in India outlining the historical trails, goals, scope and application in territorial and extra-territorial jurisdiction. It emphasizes at the end that 'the existing competition law endeavors to balance the consumer welfare standard and efficiency standard for progressive society.' Further, third chapter explains competition related relevant and important definitions and expressions required for interpretation and application in given context. The terms 'agreement'; 'understanding'; 'person acting in concert'; 'relevant market'; 'relevant geographic market'; and 'relevant product market' are adequately analyzed as per section 2 of the Act. 'Appreciable adverse effect on competition' has been examined giving the context from USA, EU and India. In this context, chapter four described two (II) legality principles such as 'Rule of *Reason*' and 'Rule *Per Se*' for restraint of trade or determining appreciable adverse effect on competition giving examples from USA, EU, and India. However, Supreme Court of India has recognized, upheld and applied both the rules for the agreements that causes or likely to cause appreciable adverse effect on competition on India.

Chapter five discusses about anti-competitive agreements in general, outlining its nature and kinds (horizontal and vertical), legal framework dealing with such agreements, and factors relevant for determining appreciable adverse effect applicable to horizontal and vertical anti-competitive agreements with help of sections 3 and 19 of the Competition Act, 2002. In furtherance to this, chapter six specifically deals with 'horizontal agreements' as cartels for fixing the price and/or limiting the production, supply and distribution of goods and services in transport, chemical, cement, pharmaceuticals, film and travel industry. 'Refusal to deal' and 'bid rigging' are also analyzed taking the examples of cases from different sectors decided by the Competition Commission of India (CCI). Besides, chapter seven separately examines the 'vertical agreements' mentioned in section 3(4) of the Competition Act such as tie-in arrangements, exclusive supply agreement, exclusive distribution agreement, refusal to deal and resale price maintenance. All these kind of vertical anti-competitive agreements have been analyzed with relevant provisions of the Act and decisions of CCI and other courts. Further, chapter eight discusses certain exemptions and exceptions given against these anti-competitive agreements under the competition law in India. However, grant of such exemptions and exceptions does not weaken the enforcement of competition related provisions and decisions. Still, there have been analyzed certain exceptions given for the licensing of intellectual property rights and exemptions provided in the case of export agreements/cartels. Chapter nine provides the explanation on procedure for investigation and punishment for anti-competitive agreements/cartels as provided under section 26 of the Act. It also describes the leniency policy and programmes applicable in USA, EU and India against the punishment prescribed and sanction imposed to the cartels for anti-competitive agreements.

Chapter ten deals with abuse of dominant position by the enterprises or cartels through occupying the strength in relevant market in India. It provides explanations on statutory provisions, procedures and punishments for the abuse of dominant position taking examples from automobile, media, real estate, sports, and software industries. With help of case laws, it categorically analyses 'exclusionary abuses' as well as 'exploitive abuses' done in relevant market by these sectors detrimental to consumer and the market itself. Apart from this, chapter eleven outlines the relevant regulation prescribed for combinations under the Competition Act. It defines the term 'combination' as merger, amalgamation and acquisition of person or enterprise on the basis of section 5 of the Act. Such person or enterprise in combination is prohibited from entering into anti-competitive agreements which have

appreciable adverse effect on competition within relevant market in India. However, the approval for the combination is given and regulated under sections 6, 29, 30 and 31 of the Act. This chapter interestingly analyses the regulation of combination in two stages: '*Ex Ante*' and '*Post Facto*'. The last chapter explains about the competition authorities established for the administration, facilitation, investigation and dispute resolution of competition related matters in India. It discusses the composition, power and jurisdiction of Competition Commission of India (CCI), Competition Appellate Tribunal (COMPAT) and Supreme Court (SC). At the end of the book, there has been added an annexure of chapter IV titled as 'Contours of Competition Policy' as a highlight of the report of 'Raghavan Committee' (2000).

The book is properly written and designed to provide the basic and updated information, explanation, and decisions on competition related matters in India. However, the book has been unevenly organized with content and scope in different chapters. Chapter four and eleven have been devoted with very less pages compare to the chapter six and ten. It gives more emphasis on anticompetitive agreements and abuse of dominant position leaving other competition related issues and matters unbalanced with information and argument. The book also uses the laws and policies of other jurisdictions such as USA and EU, but avoided the reference of UK laws as by and large India follows the common law system in its jurisdiction. The role of 'Director General (DG)' and other related investigating agencies would have been given more place and reference in different chapters. There are certain emerging issues which are not dealt in this book such as competition advocacy, government intervention, and consumer education having deep relation with competition law in India. Still, this book provides comprehensive and clear standing on several vital areas of competition law through statutory provisions and rules, case laws from different jurisdictions, and procedures for investigation outlined in Indian context. It would be significant legal literature under competition law jurisprudence for the students pursuing bachelor and master course in law, economics and management. Above all, the author has tried her best with great zeal and devotion to bring this book in light of the day for legal studies.