

Dynamics of Competition Law, Policy and Enforcement

Course Outline

Competition law and policy play a pivotal role in fostering economic growth, ensuring fair market practices, and protecting consumers' interests. Competition law helps maintain a level playing field for businesses, allowing new entrants to compete alongside established players, promoting market diversity, and preventing the concentration of economic power. Additionally, it contributes to the overall well-being of consumers by ensuring choices, quality, and affordability.

With the rapid technological developments, Competition Authorities across the globe have been grappling with complex digital market issues such as algorithmic collusion, data privacy, concentration of power in the hands of a few tech-giants. A robust legal framework tailored to the unique nature and characteristics of the digital market is needed to ensure fair competition, innovation and consumer welfare. In 2023, substantial amendments were made to the Indian Competition Act, 2002, which are aligned with the global best practices. Recently, MCA has introduced the Draft Digital Competition Law Bill, 2024. It proposes ex-ante regulations to curb anti-competitive practices of Big Tech companies. It is argued that this legislation will play a pivotal role in creating a fairer and more competitive digital ecosystem in the country.

This is a basic course that aims to discuss the laws regulating anti-competitive agreements, abuse of dominance and combinations. Furthermore, it will also encompass discussion on various anti-competitive practices in the digital market. The discussion of the course will primarily focus on the Indian Competition Act, 2002, 2023 amendments and the Draft Digital Competition Law Bill, 2024. Reference will also be made to other jurisdictions. Besides discussing types of anti-competitive conduct, the course will cover the enforcement aspects of competition law, emphasising public enforcement while also addressing private enforcement. The course will introduce practical challenges in the field of competition law and provide a theoretical perspective on these issues.

Course Aim

- To introduce various kinds of anti-competitive practices and the legal framework governing the same.
- To understand the economic aspects of various anti-competitive practices.
- To be aware of myriads of anti-competitive issues in the digital market.
- To understand mechanisms of enforcement of competition law and challenges pertaining to that.
- This course aims to equip students with a comprehensive understanding of competition law, its practical challenges, and theoretical foundations, focusing on the evolving landscape of digital markets and enforcement issues.

Reading List

- Richard Whish and David Bailey, Competition Law, OUP (9th Edition)
- Alison Jones, Brenda Sufrin and Niamh Dunne, EU Competition Law- Texts, Cases and Materials, OUP (7th Edition)
- Ariel Ezrachi, EU Competition Law An Analytical Guide to the Leading Cases, (Hart Publishing 2014)
- Ezrachi, Ariel & Stucke, Maurice, Virtual Competition: The problems and perils of algorithm-driven economy (Harvard University Press 2016)
- Samir Gandhi, Arunima Chatterjee & Shreya Singh, “India: Cartel”, Global Competition Law Review (March 2020)
- Aditya Bhattacharjea and Oindrila De, “India's Cartel Penalty Practices, Optimal Restitution and Deterrence”, Institute of Economic Growth Working Paper 424
- Vikash Kathuria, Vertical Restraints Under Indian Competition Law: Whither Law and Economics, Journal of Antitrust Enforcement (2021)
- Malik, P., Malhotra, N., Tamarappoo, R. et al. Legal Treatment of Abuse of Dominance in Indian Competition Law: Adopting an Effects-Based Approach. Rev Ind Organ 54, 435–464 (2019)
- Ibáñez Colomo, Pablo, A Contribution to ‘Shaping Competition Policy in the Era of Digitisation’ (2018)
- Aditi Gopalakrishnan, Toshit Shandilya, Shreya Singh and Karan Sood (AZB & Partners), Cartel leniency in India: Overview, Practical Law (Thomson Reuters), 2020.