



Competition policy and law vis-à-vis consumer welfare

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Abstract

India adopted a new LPG model of economic reform by having New Economic Policy (NEP) in 1991 to open up its economy and which in turn lead to “Competition” in almost each and every sector of Indian economy like business, manufacturing, financial etc. The increasing competition and technological development also leads to more demanding customers in the market. Unfortunately, it has been observed, that in an open market economy, some enterprises may undermine the market by resorting to anti-competitive practices such as cartels and abuse of dominance for short-term gains resulting in adverse impact on the economic efficiency. The unregulated markets have the tendency to assume monopolistic or near monopolistic character thereby affecting consumer and social welfare. Thus, these practices can completely nullify the benefits of competition and thereby embark the need for competition law and policy which seeks to check impediments to proper functioning of markets, and an authority to enforce it.

Keywords: globalisation, competition policy, competition law, consumer welfare, consumer rights

1. Introduction

“If the policy of the open market is to be achieved the benefit of the consumer must be kept uppermost in mind by the State”^[1].

The era of Liberalisation, Privatisation and Globalisation (LPG) brought many drastic and influential changes in the world. The Globalisation is defined by Anthony Giddens as the “intensification of worldwide social relations which link distant localities in such a way that local happenings are shaped by events occurring many miles away and vice-versa”^[2].

Therefore, globalisation is an offshoot of internationalization, which for more than a century has affected matters that are domestic or national and were made subject to bi- or multi-lateral cooperation in an institutionalized framework. Thus, the anti-competitive conduct engaged in by transnational corporations operating in the global market affects consumers all around the world^[3].

The economy of India has also undergone significant policy shifts in the beginning of the 1990^[4]. The then Finance Minister of India, Dr. Manmohan Singh, on July 24, 1991, made the announcement in his budget speech that “the grave economic crisis now facing our country requires determined action on the part of Government and it is essential to increase the degree of competition between firms in the domestic markets so that there are adequate incentives for raising productivity, improving efficiency and reducing costs”^[5].

Therefore, India adopted a new LPG model of economic reform by having New Economic Policy (NEP) in 1991 which consisted of three core elements namely, Liberalisation, Privatisation and Globalisation. It lead India to open up its economy and which in turn lead to “Competition” in almost each and every sector of Indian economy like business, manufacturing, financial etc. with the intent of lifting the economy of the country to a more proficient level by allowing

the private players to exist in the market along with Government. The increasing competition and technological development also leads to more demanding customers in the market. Unfortunately, it has been observed, that in an open market economy, some enterprises may undermine the market by resorting to anti-competitive practices such as cartels and abuse of dominance for short-term gains resulting in adverse impact on the economic efficiency. The unregulated markets have the tendency to assume monopolistic or near monopolistic character thereby affecting consumer and social welfare.

Thus, these practices can completely nullify the benefits of competition and thereby embark the need for competition law and policy which seeks to check impediments to proper functioning of markets, and an authority to enforce it. Nevertheless, for this reason, the countries across the globe are adopting hand-in-hand approach by embracing market economy along with enacting competition laws and setting up competition regulatory authority. The Competition or antitrust laws all over the world are primarily concerned with the regulation and prohibition of exercise of market power in some or the other way to have competitiveness in the market, i.e. free and fair market dealings^[6].

2. Market Structure

The market structure is broadly divided into Perfect Competition and Imperfect Competition (monopolistic competition). The Neo- classical economic theory plays a crucial role in competition policy, and is based on the presumption that society, or consumer welfare to use a more technical term, is better of when a state of perfect competition exists in a market^[7].

The Markets are where producers and consumers interact, and in theoretical world of “perfect” competition a market will produce an efficient result. Efficiency has a particular

meaning in economics; it is a situation in which no one can be made any better off, without someone else being made worse off (*pareto*). If any transaction exists which will make A better off and B no worse off then it is efficient for the transaction to take place, and so on until no further transactions are needed. This theoretical ideal permits to an examination of the extent to which observed markets structures diverge from “perfect competition” and the resulting harm^[8]. Moreover, the perfect competition model is abstract and unlikely to arise in practice due to improbability of all these conditions existing simultaneously. The theory is based on the prediction of different market outcomes from perfect competition at one end of the spectrum and monopoly at the other^[9]. The advantages of perfect competition are three-fold, i.e., it ensures allocative efficiency^[10], productive efficiency^[11] and dynamic efficiency^[12] which ultimately leads to increase in consumer welfare. The perfect competition or equilibrium between the supply and demand is an ideal market condition but is hard to be achieved in reality.

In perfect competition, there are infinite numbers of producers and consumers, homogeneous products, perfect information as to market, desire to maximise profits and satisfaction. The assumption to this is that no consumer or producer is able to influence the price of the product, and that the price at which item is sold exactly matches the cost of making it. But in observed markets, these presumptions break down because consumers and producers will be able to influence the price of the products which are not homogeneous and neither group is likely to have perfect information about the market place. Thus, the antithesis of perfect competition is monopoly, with monopolistic or imperfect competition lying somewhere between the two. A monopoly is market in which there is only one producer and has the power to determine the price at which the product is sold^[13].

However, the imperfect competition or monopolistic behaviour among competitors to survive in the market leads to the market distortion or market failure which gives way to enactment of rules and regulations to regulate market structure to achieve an ideal level of perfect competition.

3. Competition Policy and Competition Law

The two elements known as Competition Policy and Competition law are required to maintain competition in the economy^[14]: There is no statutorily recognized definition of the term “competition”. Generally, the state of competition in a market denotes a situation where the players of market, i.e. Competitors, compete with one another to attract maximum consumer demand as compared to their counterparts.

The word “Competition” is derived from the Latin word “*Competitio*” (rivalry) which means the activity or condition of striving to gain or win something by defeating or establishing superiority over others^[15]. The word “competition” is very aptly defined by World Bank in 1999 as “a situation in a market in which firms or sellers independently strive for buyers’ patronage in order to achieve a particular business objective, for example profit sales or market share”^[16]. It means Competition introduces greater market efficiency in an economy by encouraging innovation, technical development, lower price and better quality of products and services and variety of choices for the

consumers.

The Competition law and competition policy are two distinct concepts. The competition policy includes number of government policies that affect the functioning of the markets like competition law, trade policy, industrial policy, disinvestment policy, Foreign Direct Investment policy, fiscal policy, labour policy etc. whereas, the competition law is a means to implement competition policy and prevent anti-competitive practices by firms and unnecessary government interventions. Therefore, competition policy is a wider concept than competition law meaning thereby that competition law is a subset of competition policy.

The foundation of the competition policy in India is laid down in the Directive Principles of State Policy (DPSP) under Article 38 and 39 of the Constitution of India, 1950. The Article 38 cast a positive duty on the State to secure a social order for the promotion of welfare of the people. The socialist principles contained in Article 39 direct that the State shall channel its policies towards securing that the ownership and control of material resources of the community are so distributed as best to sub-serve the common good^[17] and that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment^[18].

The policies and practices are to be formulated and scrutinized on the touchstone of competition by taking appropriate measures. These measures come within the umbrella of competition policy. “Competition Policy” therefore involves^[19]:

1. Competition law prohibiting anti-competitive conduct by businesses
2. Sectoral regulatory laws to check situations where market fails
3. Government policies that enhance competition in local and national markets (such as liberalised trade policy, relaxed foreign investment and ownership requirements, regulatory reforms)

The implementation of competition policy requires the assessment of a wide range of policy instruments, which goes beyond the traditional legislative prohibitions. The different government policies that may encourage or adversely affect competition and hence consumer welfare, particularly, in the context of the present globalising environment includes trade policy, industrial policy, privatisation or disinvestment policy, Foreign Direct Investment (FDI) policy, fiscal policy, intellectual property policy, labour policy, consumer policy, small-scale sector policy, regional development policy, environment policy and many more^[20].

So, competition policy means government measures, policies, statutes, and regulations including a competition law, aimed at promoting competitive market structure and behavior of entities in an economy. Thus, the competition policy requires a seat at many policy-making tables. The assessment of the various policy instruments is done on the touchstone of “nine principles” of competition policy. These principles provide guidelines to different branches of the Government and agencies at all levels in maintaining the appropriate competition dimension, while taking any action or decision, which would have an impact on the economy and consumers.

The competition policy is to be backed by competition law for enforcement of its objectives. The competition laws are introduced to regulate the manner in which businesses are conducted, so as to create a level playing field with effective competition in the market. Thereby, the competition law is a sub-set of the competition policy. The Raghavan Committee had observed that “*the competition law must emerge out of a national competition policy, which must be evolved to serve the basic goals of economic reforms by building a competitive market economy.*”

In the absence of a proper competitive environment, we may find ourselves with a first class competition law but no competition. We may also end up by protecting the competitor and not the competitive system. Hence, the Committee decided that it must at the outset record the need for a competition policy and the necessary prerequisites to create a competitive environment before spelling out the competition policy and law ^[22].

4. Need for Competition Act, 2002

In the wake of LPG policy, the momentum gathered in India that the present Monopolistic and Restrictive Trade Practices Act, 1969 (MRTP Act, 1969) was not equipped adequately enough to tackle the competition aspect of the Indian economy which is facing the heat of competition from domestic players as well as from global giants, which called for “level playing field” (a situation in which everyone has a fair and equal chance of succeeding) and investor-friendly environment. Hence, the changing world scenario demands that competition laws to shift the focus from curbing monopolies to encouraging companies to invest and grow, thereby promoting competition while preventing any abuse of market power.

The natural corollary of all this is that the Indian market should be geared to face competition from within the country and outside. Hence as a fruit of globalisation, the Government of India has regarded “competition” a serious policy issue and this led to the departure from the MRTP Act, 1969 to the present Competition Act, 2002, which follows the philosophy of modern competition laws and aims at fostering competition and at protecting Indian markets against anti-competitive practices by enterprises ^[22]. The Act prohibits anti-competitive agreements ^[23] and abuse of dominant position by enterprises ^[24], and regulates combinations consisting of mergers, amalgamations and acquisitions ^[25], and thus lays down practices from which enterprises should desist. The purpose of formulating a competition law in India was to shift the focus from curbing monopolies to promoting competition.

The competition eliminates the poor performing products or services and leaves only good and outstanding products for the general masses to consume. Consumers need good quality products at lower prices. If there is competition in the market, the market players in order to survive will be compelled to bow down to the demands of the consumer, i.e. quality products at lower prices. The Competition law, therefore, is designed for the regulation of competition, thereby ensuring economic growth and consumer welfare. For achieving these objectives, the Competition Act, 2002 has provided for the establishment of a regulatory body, the Competition Commission of India (CCI) ^[26], to govern fair competition in market and secure consumer welfare. Therefore, competition

law concerns intervention in the market place when there is some problem with the competitive process or when there is market failure ^[27].

Hence, competition in a market contributes to the progress of an economy as it ensures better products and services, offers wider choice, promotes efficiency and increases consumer welfare.

5. Various Dimensions of process of competition

1. Competition as a process of rivalry: This is the meaning normally attributed to the word because rivalry is the means by which a competitively structured industry creates and confers benefits. Identifying competition with rivalry makes rivalry an end in and of itself, no matter how many or how large the benefits flowing from the elimination of rivalry. Thus, it always invites the wholly erroneous conclusion that elimination of rivalry is always illegal. But at times, restricting rivalry might be more beneficial to economic efficiency and consumer welfare ^[28].

2. Competition as the absence of restraint: Competition might be understood as the absence of restraint over an economic activities of one undertaking by another undertaking ^[29].

3. Competition as a state of perfect competition: As per Stigler’s words, the state of market in which the individual buyer or seller does not influence the price by his purchases or sales, i.e., the elasticity of supply facing any buyer is infinite, and the elasticity of demand facing any seller is infinite. For such a competitive market to arise four conditions must be satisfied, i.e., the perfect knowledge, large numbers, product homogeneity and divisibility of output ^[30].

4. Competition as the existence of fragmented industries and markets: Competition was also understood as the existence of fragmented industries and markets preserved through the protection of viable, small, locally owned businesses ^[31].

5. Competition as a state of economic freedom and dispersal of private economic power: Competition is a process whereby the market players participate in economy without constraints from accumulated private or public power. So, the goal of competition policy is seen as a protection of individual economic freedom as an end in itself so that the distributive concerns lead to use competition law to protect the competitors and small and medium sized enterprises ^[32].

6. Competition as a state of affairs that maximises consumer welfare: The best definition of competition as provided by Chicago School that competition may be read as designating a state of affairs in which consumer welfare cannot be increased by moving to an alternative state of affairs through the intervention of antitrust law and that, conversely, monopoly designates a situation in which consumer welfare could be so improved so that to monopolise would be to use practices inimical to consumer welfare. This interpretation of competition coincides with everyday parlance as the competition for the man in the street implies low prices, innovation and choice among differing products. Competition thus equates with

consumer welfare as the sole meaning thereby that antitrust law's sole goal is the maximization of consumer welfare. Consumer welfare is greatest when society's economic resources are allocated so that consumers are able to satisfy their wants as fully as technological constraints permit. Consumer welfare, in this sense, is merely another term for the economic wealth of the nation^[33].

In India, the Competition Act, 2002^[34], is designed to ensure the following objectives, keeping in view of the economic development of the country, for the establishment of a Commission^[35]:

1. To prevent practices having adverse effect on competition,
2. To promote and sustain competition in markets,
3. To protect the interests of consumers and
4. To ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto.

Therefore, the competition policy and competition law are two distinct concepts but have common objective to promote competition and ensure consumer welfare, thereby, often used as synonymous and interchangeable to each other. In literal sense, the competition policy is a subset of competition, and competition policy's subset is competition law^[36]. Henceforth, the competition law is narrower in scope than the scope of competition policy.

6. Consumer Welfare

The term "Consumer welfare" is coined and defined by Judge Robert Bork, means all things that are good for consumers, such as low prices, innovation, and choice among different products. Under this definition, the consumer includes owners of firms and producers^[37].

The consumer is generally regarded as a king in the market. In simple words, "Consumer" is a broad label for any individuals or households that use goods and services generated within the economy. But there exists a difference in the way consumer is defined in the Consumer Protection Act, 1986 and the Competition Act, 2002.

The definition of "consumer" under the Consumer Protection Act, 1986 (CPA) is given as follows under Section 2 (1)(d) "consumer" means any person who—

1. buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or
2. hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly

promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person but does not include a person who avails of such services for any commercial purposes;

3. *Explanation.*— For the purposes of this clause, "commercial purpose" does not include use by a person of goods bought and used by him and services availed by him exclusively for the purposes of earning his livelihood by means of self-employment;
4. The CPA provides for the protection of interests of consumers and has provisions for the establishment of consumer councils and other authorities for the settlement of consumer disputes and matters connected therewith^[38].
5. However, the definition under the Competition Act, 2002 is given in Section 2(f) "consumer" means any person who—
6. buys any goods^[39] for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, whether such purchase of goods is for resale or for any commercial purpose or for personal use;
7. hires or avails of any services^[40] for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first-mentioned person whether such hiring or availing of services is for any commercial purpose or for personal use;

It can be argued that there is a difference as far as the scope of definition of Consumer is concerned in both these Acts. Under the competition law a trader who buys goods for commercial purposes is also considered as a consumer but the same person will not be treated as a consumer under the CPA. The definition of "consumer" under the CPA is more likely concerned with the private consumer and their protection whereas under the Competition Act, 2002, it is more in nature of public interest as whole which includes the protection of consumer interest along with the promotion of competition in the market to offer wider choices to consumers. Thus, the scope with respect to definition of consumer of competition law is larger than the CPA as evident from the preamble of both acts. The Competition Act enables a person who buys goods for resale to challenge anti-competitive practices as a consumer^[41]. Therefore, the specific exclusion of "person who obtains such goods for resale or for any commercial purpose" in the definition of consumer under CPA is expressly covered under the Competition Act, 2002. As the definition is wider under Competition Act, 2002 as compared to the CPA and so are the implications for the economy.

The National Competition Policy, 2011^[42] also stated that the primary role of competition policy is to ensure consumer welfare by encouraging optimal allocation of resources and

granting economic agents appropriate incentives to pursue productive efficiency, quality and

The dimensions of consumer welfare in form of various rights as per Section 6 of the CPA, 1986 are as follows^[43]:

- a. the right to be protected against the marketing of goods and services which are hazardous to life and property;
- b. the right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, as the case may be so as to protect the consumer against unfair trade practices;
- c. the right to be assured, wherever possible, access to a variety of goods and services at competitive prices;
- d. the right to be heard and to be assured that consumer's interests will receive due consideration at appropriate forums;
- e. the right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers; and the right to consumer education.

These consumer rights can be used as the touchstone of assessing the consumer welfare implications of competition law and policy and how they help or hinder in enforcement of the same. It was held in the case *Laxmi Engineering Works v. P.S.G. Industrial Institute*^[44] that a person who exclusively buys goods to use himself comes within the definition of Consumer in the CPA.

But the interesting aspect of the relation between competition law and consumer welfare is that the consumer interest is protected indirectly by protecting the freedom of actors to compete in markets. The reason for this is that freedom to compete generally leads to competition, and competition leads to an efficient allocation of resources and thus to consumer welfare.

7. Judicial Pronouncements

The Hon'ble SC in *Ashoka Smokeless Coal India (P) Ltd. v. UO*^[45] reflected on consumers' interest as follows:

"in a market governed by free economy where competition is the buzzword, producers may fix their own price. It is, however, difficult to give effect to the constitutional obligations of a State and the principles leading to a free economy at the same time. A level playing field is the key factor for invoking the new economy. Such a level playing field can be achieved when there are a number of suppliers and when there are competitors in the market enabling the consumer to exercise choices for the purpose of procurement of goods. If the policy of the open market as to be achieved the benefit of the consumer must be kept uppermost in mind by the State."

Later on, the Hon'ble SC in *CCI v. SAIL*^[46] observed that *"the main objective of competition law is to promote competition for creation of market responsive to consumer preferences."*

Therefore, the ultimate goal of competition is the interest of the consumer by having free and fair competition. So, competition law and consumerism becomes an instrument to

achieve economic efficiency and consumer welfare. Competition policy and law and consumer protection law have objectives at once overlapping and distinct. Consumer law protects the interests of consumers, individually and severally. Competition law, on the other hand, protects not only consumers but also protects competition in the market because competition ensures the progress of an economy by providing better products and services for the general masses to consume, offering wider choice, promote efficiency and increases consumer welfare.

8. Conclusion and Suggestions

So, if there is competition in the market, the market players in order to survive will be compelled to bow down to the demands of the consumer, i.e. quality products at lower prices. Thus, all this demands for regulations and thereby the Competition law is designed for ensuring economic growth. On one hand, the competition law operates at the level of market structure by prohibiting any behaviour or conduct that restricts, distorts or limits competition and uses economic analysis to determine whether an agreement is anti-competitive based on its appreciable adverse effects on competition. While on the other hand, Consumer law operates at the level of the relationship between individual traders and consumers and aims at ensuring that the trader's conduct does not impair the consumer's ability to choose or does not bring an unfair advantage to the trader by introducing a direct form of control on individual transactions. In spite of their different approaches, both laws are commonly considered to be complementary tools to ensure consumer welfare by protection of consumer interests. The Competition law is observed to ensure protection by indirect means whereas the consumer protection law provides direct protection of consumer interests.

Also, the protection of consumer interest is the parliamentary intention while drafting the Competition Act, 2002 which is clearly evident on the bare perusal of its preamble and Section 18 that specifies the duty of the CCI to eliminate practices having adverse effect on competition, promote and sustain competition in markets, protect interests of consumers and ensure freedom of trade in the market.

Thus, having a good law is not enough but it also needs appropriate supporting policies and effective enforcement on part of every stakeholder of society. The government is required to support a culture of competition where the design or objectives of any competition policy are to be considered also from the viewpoint of consumer because he is the king of the market. The various consumer movements by civil society and mass media can play a constructive and valuable role in the development of a culture of competition and increasing the consumer awareness.

Above all, the judiciary has to play a pivotal role by interpreting the law based on the changing socio-economic conditions of society and make time to time recommendations with respect to the required changes in law to ensure the fully and perfectly competitive markets in India.

9. References

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2. Anthony Giddens, *The Consequences of Modernity: Self and Society in the Late Modern Age*, 64 (1990).
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4. India's economic reforms began in 1991 under the Narsimha Rao Government to overcome balance of payment problem by accepting loan from International Monetary Fund (IMF) and World Bank with strings attached to open up Indian economy for Foreign Direct Investment (FDI).
5. Budget speech 1991-1992, available at <http://indiabudget.nic.in/bspeech/bs199192.pdf> (Sept 01, 2018, 10:50 PM).
6. The words Competition law (India), anti-trust law (United States of America), anti-monopoly law (China) or trade practices law (United Kingdom) are often used interchangeably. In the European Union, it is referred to as both antitrust and competition law. See *The Competition Act, 2002 in India, The Sherman Act, 1890 and Clayton Act, 1914 in USA; The Competition Act, 1998 and Enterprise Act, 2002 in UK*.
7. Barry J Rodger & Angus MacCulloch, *Competition Law and Policy in the EC and UK*, 9 (3rd ed. 2004). The classical theory stands for laissez-faire economic system in which transactions between private parties are free from government intervention such as regulation, privileges, tariffs and subsidies. Whereas, the Neo Classical theory of free markets holds that production and distribution of goods and services in competitive free markets maximizes social welfare and there are no barriers to entry so that competitive free markets deliver allocative, productive and dynamic efficiency.
8. Mark Furse, *Competition Law of UK and EC*, 7 (1999).
9. Barry J Rodger & Angus MacCulloch, *Competition Law and Policy in the EC and UK*, 9 (3rd ed. 2004).
10. The allocative efficiency ensures the effective allocation of resources.
11. The productive efficiency ensures that costs of production are kept at a minimum.
12. The dynamic efficiency promotes innovative practices.
13. Furse, *Supra* n 8, at 8.
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24. *The Competition Act, 2002, Section 4*.
25. *The Competition Act, 2002, Section 5 and Section 6*.
26. *The Competition Act, 2002, Section 7*.
27. Barry J Rodger & Angus MacCulloch, *Competition Law and policy in the EC and UK*, 1 (3rd ed. 2004).
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29. *Ibid*.
30. GJ Stigler, *The Theory of Price*, 87-88 (3rd ed. 1966).
31. Chief Justice Warren in *Brown Shoe Co. v. United States*, 370 US 294 (1962).
32. Richard Whish & David Bailey, *Competition Law*, 19-20 (7th ed. 2012).
33. Buttigieg, *Supra* n 28, at 6.
34. *The Competition Act, 2002 has removed the flaws by repealing the MRTP Act, 1969 to shift the focus from curbing monopolies to promoting competition*.
35. *The preamble and Section 18 of the Competition Act, 2002. See, CCI v. SAIL, (2010) 10 SCC 744*.
36. Dr. S Chakravarthy, *The need and rationale for and the objectives of competition policy and competition law*, available at <http://circ.in/pdf/CPS06-Rationale-For-Competition-Policy-Law.pdf> (Sept. 02, 2018, 08:10 PM).
37. Robert H Bork, *The Antitrust Paradox*, 61 (1978).
38. *The District Forum, State Commission and National Commission are the consumer dispute redressal agencies at district, state and central level respectively created under the CPA, 1986*.
39. As per Section 2(i) of the Competition Act, 2002, "goods" means goods as defined in the Sale of Goods Act, 1930 (3 of 1930) and includes—
 - (A) products manufactured, processed or mined;
 - (B) debentures, stocks and shares after allotment;
 - (C) in relation to goods supplied, distributed or controlled in India, goods imported into India;
40. As per Section 2(u) of the Competition Act, 2002, "service" means service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or

commercial matters such as banking, communication, education, financing, insurance, chit funds, real estate, transport, storage, material treatment, processing, supply of electrical or other energy, boarding, lodging, entertainment, amusement, construction, repair, conveying of news or information and advertising;

41. The CPA, 1986 reads as “An Act to provide for the better protection of the interest of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers’ disputes and for matters connected therewith” whereas the Competition Act, 2002 reads as “An Act to provide, keeping in view of the economic development of the country, for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto.”
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