The purpose of the chapter is to examine the provisions in the Monopolies and Restrictive Trade Practices Act, 1969 which aim at curbing monopolistic trade practices in India and to assess how far these provisions have been able to control monopolistic trade practices in India. The chapter also aims at suggesting some policy measures for more effective and efficient working of the Monopolies and Restrictive Trade Practices Act in relation to monopolistic trade practices.

MONOPOLISTIC TRADE PRACTICE : DEFINITION :

The Act defined monopolistic trade practice as a trade practice "which has or likely to have the effect of (i) maintaining the prices of goods or charges for the services at an unreasonable level by limiting, reducing or otherwise controlling the production, supply or distribution of goods of any description or the supply of any services or in any other manner; (ii) unreasonably preventing or lessening competition in the production, supply or distribution of any goods or in the supply of any services; (iii) limiting technical development or capital investment to the common detriment or allowing the quality of any goods produced, supplied or distributed, or any services rendered,"
in India to deteriorate, (iv) increasing unreasonably (a) the cost of production of any goods; or (b) charges for the provisions, or maintenance, of any services; (v) increasing unreasonably — (a) the prices at which goods are or may be, sold or re-sold or the charges at which the services are, or may be, provided; or (b) the profits which are, or may be, derived by the production, supply or distribution (including the sale or purchase) of any goods or by the provision of any services; (vi) preventing or lessening competition in the production, supply or distribution of any goods or in the provision or maintenance of any services by the adoption of unfair methods or unfair or deceptive practices. 1

MACHINERY FOR ADMINISTERING THE PROVISIONS:

The Monopolies and Restrictive Trade Practices Commission (MRTPC) may inquire into the monopolistic trade practices upon a reference made to it by the Central Government or upon its own knowledge or information. 2 If it appears to the Central Government that the owners of one or more undertakings are indulging in any practice which is or may be monopolistic trade practice, or that monopolistic trade practice prevails in respect of any goods or services, it can refer the matter to the Commission for inquiry. 3 If the

1. MRTP Act, Section 2(i).
2. MRTP Act, Section 10(b).
3. MRTP Act, Section 31(1).
Commission, on the basis of its enquiry, reports that the trade practice is actually operating or likely to operate against the public interest, the Central Government can make any order with a view to preventing or remedy the mischief of the trade practice. The nature of the orders which the Government can issue under the Act would include orders, (a) prohibiting the owner of the concerned undertakings, or the owners of the concerned undertakings, as the case may be, from continuing to indulge in such monopolistic trade practice; or (b) prohibiting the owners of any class of undertakings or undertaking generally, from continuing to indulge in any monopolistic trade practice in relation to such goods or services.

Any order made by the Central Government may include an order (a) regulating the production, storage, supply, distribution or control of any goods or service by the undertaking; (b) prohibiting any act, practice or commercial policy; (c) fixing standards for the goods used or produced; (d) declaring unlawful the making or carrying out any agreement; (e) requiring any party to an agreement determine the same; (f) regulating the profits which may be derived from the production, storage, supply, distribution or control of such goods or services.

4. MRTP Act, Section 31(2).
5. MRTP Act, Section 31 (2A).
of goods or from the provision of any service, (g) regulating
the quality of any goods or provision of any service so that
the standards may not deteriorate. The Act also stipulates
that the owners of the undertakings have to report the
followup action to the Central Government, within 30 days
from the date of receipt of the order about the monopolistic
trade practice. The Director General of Investigation and
Registration also is obliged to report about the compliance
with the orders within ninety days, to enable the Government
to take such action as it may think fit.

Presumption as to the public interest:

The Act lays down that every monopolistic trade
practice shall be deemed to be prejudicial to public interest
except where such practice has been expressly authorised by
an existing law; or the Central Government being satisfied
that any such trade practice is necessary for meeting defence
or security requirements; or for ensuring essential supplies
to the community; or to give effect to the terms of any
agreement to which the Central Government is a party, permits
the owner of any undertaking through a written order to carry
on such a practice. That means every monopolistic trade
practice is per se illegal.

6. MRTP Act, Section 31(3).
7. MRTP Act, Section 31 (4)(a).
8. MRTP Act, Section 31 (4)(b).
9. MRTP Act, Section 32.
Inquiry into monopolistic trade practice while investigating into restrictive trade practice:

The Act provides that if the Commission, during the course of its inquiry into the restrictive trade practice finds that the owner of any undertaking is indulging in monopolistic trade practices, it may after passing necessary orders with respect to restrictive trade practices as it may consider necessary submit the case along with its findings to the Central Government with regard to monopolistic trade practices for necessary action under Section 31\textsuperscript{10}.

Power of the Commission to grant temporary injunction and award compensation:

The Act empowers the MRTP Commission to grant temporary injunction restraining the undertakings from carrying on monopolistic trade practices until the conclusion of the enquiry, if it is proved that the practice is likely to affect prejudicially the public interest\textsuperscript{11}. The MRTP Commission has also power to award compensation to the affected parties in case it is held that as a result of certain monopolistic trade practices loss or damage has been caused\textsuperscript{12}.

\begin{itemize}
\item[10.] MRTP Act, Section 37(4).
\item[11.] MRTP Act, Section 12A.
\item[12.] MRTP Act, Section 12B.
\end{itemize}
CONTROL OF MONOPOLISTIC TRADE PRACTICES - INDIAN EXPERIENCE:

Ever since the Act came into force, the Central Government has referred to the MRP Commission only three cases for enquiry into monopolistic trade practices which relate to the M/s Cococola Export Corporation, M/s Cadbury Fry India Ltd., and M/s Colgate Palmolive (India) Private Ltd., while the reference regarding Coca-cola was made in July 1973, the references regarding Cadbury Fry and Colgate were made in March 1974. The Government has brought out the following practices as constituting monopolistic trade practices in the above cases:

Cadbury Fry (India) Ltd.: 

In the case of M/s Cadbury Fry (India) Ltd., it is charged that (i) paying a high rate of royalty at the rate of 5 per cent of the gross price of such chocolate products to its parent company in the United Kingdom, particularly when the nature of such products does not involve sophisticated technical know-how or innovation; (ii) excessive payment of retailers' margin up to 18 to 20 per cent of the trade price of such products; (iii) earning profits about 40 per cent

13. The type of monopolistic trade practices resorted to by the Coca-cola Export Company have not been specified in the Annual Reports pertaining to the execution of the provisions of the MRP Act, which are the main source of information for this analysis. Any how, Coca-cola export company wound up its operations in India due to other reasons.
on the total capital employed by the said company;
(iv) unreasonably increasing the prices of such chocolate
products for a number of years, so as to earn unreasonable
profits by taking advantage of the monopolistic position
of the company and (v) not reducing the incidence of the
administrative overheads, particularly the advertisement
expenses of the company, would constitute monopolistic
trade practice on the part of the company.  

Colgate Palmolive (India) Ltd.:  

In the case of M/s Colgate Palmolive (India) Private
Ltd., it is said that (i) earning a very high gross profit
rate on sales around 31 per cent and 42 to 44 per cent on
the cost of sales as against a reasonable return of 5 per
cent on cost of sales; (ii) earning exorbitant rate of
profit at the rate of nearly 118 per cent in 1970 and over
158 per cent in 1971 on the total capital employed; (iii) ear­
ing an unreasonable net profit after taxes of over 50 per
cent in 1970 and 46 per cent in 1971 on the average capital
employed by the company to the detriment of the consumer;
(iv) reaping profits without much large investment in India
in the form of fixed block in buildings etc., and not incurring
substantial expenditure on research and development

14. The Fourth Annual Administrative Report on the working
of the Monopolies and Restrictive Trade Practices
in India with a view to producing consumer items of better quality at cheaper rate for the benefit of the consumer and (v) selling not only what the company produces but also a few products which it gets manufactured in other units and allowing such products to be sold under its own brand name while these products are manufactured for Colgate by outside agencies with indigenous raw materials and know-how and the company thus generating unreasonable profits to the detriment of the consumer and the smaller units which produce such products, would definitely constitute monopolistic trade practices, on the part of the company. 15.

The companies challenged these references in writ petitions filed in Delhi High Court in September 1973 and April 1974 on the ground that the undertakings concerned should be given an opportunity of being heard even before such references were made to the Commission and that it should not be based merely on the subjective views formed by the Government in such cases. The court stayed the enquiry proceedings before the Commission. The writ petitions were heard together in October 1979 and were dismissed by a single Judgement dated December 13, 1979. The Companies, however, have gone in an appeal to the Supreme Court. No further reference about the monopolistic trade practice has

15. Ibid., pp.19-20.
been made by the Central Government probably because the outcome of the earlier three references was not known and the procedure adopted by the Government in making a reference has been challenged by writ petitions in the Courts of Law.

M/s Avery (India) Ltd.

The Commission on its part instituted *suo motu* inquiry under Section 10(b) against M/s Avery (India) Ltd., in July 1975, which is engaged in the manufacture, sale and servicing of weighing machines. The company is alleged to be indulging in such trade practices, as:

a) fixing prices of weighing machines unrelated to and without taking into account the actual cost of production and supply thereof;

b) maintaining prices of weighing machines at an unreasonable level and increasing unreasonably the prices at which weighing machines are sold and the charges at which weighing machines are serviced and repaired; and

c) increasing unreasonably the profits derived from the production, supply and distribution of weighing machines and from the performance of servicing (including repairs) of weighing machines.\(^\text{16}\)

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\(^{16}\) See the *Fifth Annual Administrative Report on the working of the Monopolies and Restrictive Trade Practices Commission (Government of India, 1976)*, p.60.
Avery challenged the jurisdiction of the Commission to conduct an enquiry on three principal grounds. Firstly, it was pointed out that the Commission, as defined in the Act, must necessarily consist of a Chairman, and at least two other members and argued that since the body conducting the enquiry had only one member, it had no jurisdiction to so. Secondly, it was contended that on true and correct construction of Section 10(b), the Commission did not have power to conduct a *suo motu* enquiry independently of Section 37(4) inquiry. It was pointed out that such an enquiry if permitted to be held, would be futile and without *sequitur,* that is even if the Commission finds that the undertaking is indulging in a monopolistic trade practice, it can only submit a report to the Central Government which cannot pass any remedial measures under Section 31(3) because the passing of such measures is linked only to references made by the Government under Section 31(1). Thirdly, it was contended that on a true and proper construction, Section 10(b) empowered an enquiry into monopolistic trade practice indulged in by only a monopolistic undertaking and therefore, the

18. The Commission at that time was functioning with only one member and without Chairman.
19. The MRTP (Amendment) Act, 1984, removed this technical lacuna and made it clear that MRTP Commission could conduct an enquiry into monopolistic trade practice on its own and submit its report to the Central Government.
Commission did not have jurisdiction to conduct the enquiry as it was found not to be a monopolist undertaking by the Central Government.

The Commission subsequently rejected these contentions of Avery in its order dated September 2, 1977. In regard to the first contention, the MRTP Commission (only member) stated that Section 16(2) of the Act clearly provides that the powers of the Commission may be exercised by benches formed by the Chairman of the Commission from among the members and there is nothing to suggest that it comes into force when the Commission has more than three members. It also pointed out that Section 18(1) provides that the Commission has the power to regulate the delegation of such powers or functions to one or more members as the Commission may specify. Accordingly, the Chairman constituted a Bench consisting of only one member for exercising and discharging all the powers and functions of the Commission. Moreover, Section 6(4) also provides that no act or proceedings of the Commission shall be invalidated by reason of mere existence of any vacancy among its members or any defect in the constitution of the Commission.

20. The Amendment Act also removed this defect by making it possible for inquiry to be undertaken when it is felt that "the owners of the one or more undertakings are indulging in any trade practices which is or may be a monopolistic trade practice". The definition of monopolistic undertaking has been abolished.
Regarding the second contention of M/s Avery the Commission stated that Section 37(4) is concerned only with monopolistic trade practices resorted to by monopolistic undertakings and with regard to the definition of monopolistic trade practice in Section 2(1), it is quite possible that non-monopolistic undertaking might resort to monopolistic trade practice, and therefore, there was no reason why the Commission would not take action in respect of those practices which are resorted to by non-monopolistic undertakings under Section 10(b). About the non-sequitur of the proceedings the Commission opined that simply because the Act has not specified the manner in which the enquiry under Section 10(b) has to be completed, there was no reason why the power of the Commission should be defeated, the inquiry could be concluded in the same manner in which the inquiry under Section 37(4) was to be concluded, namely by submitting the case to the Central Government with the findings regarding the existence of monopolistic trade practices.

The Commission with regard to the third objection of M/s Avery stated that simply because the undertaking had not been registered as a dominant/monopolistic undertaking there was no reason to suppose that the commission had no jurisdiction to inquire into the question of monopolistic nature of the undertaking. The suo moto powers under Section 10(b) are self contained and the question of monopolistic
nature of the undertaking has to be decided under the self contained provision of Section 2(j). Further, the examination of monopolistic trade practices can be undertaken even in respect of undertakings which are neither dominant nor monopolistic if they resort to monopolistic trade practices as defined in the Act. However, N/s Avery filed an appeal before the Supreme Court against the Commission's order. Further proceedings before the Commission have been stayed by the Supreme Court.

Gramophone Company of India Ltd.

The Commission also initiated action under Section 37(4) against two companies namely Gramophone Company of India Ltd., and Graphite India Ltd. In the case of Gramophone Company of India, proceedings were initiated by the Commission under Section 37(1) on the application of the Registrar made against the company in respect of certain restrictive trade practices. During the pendency of the proceedings, the Director of Investigation and Deputy Secretary of the Commission wanted to proceed under Section 37(4) with regard to monopolistic trade practices practised by the latter, which filed two applications for cancellation of a letter and a notice sent to it for that purpose. The company, contented that, before

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the Commission can take action under Section 37(4), there has to be a 'finding' that it was a monopolistic undertaking and that it was indulging in restrictive trade practices. Such a 'finding' cannot be given unless the Commission's enquiry about restrictive trade practices was complete. Hence, there got to be a completed enquiry first into the restrictive trade practice before proceeding to enquire about monopolistic trade practices under Section 37(4).

The Commission however, repelling the contention, held that the word 'find' in Section 37(4) did not involve a judicial determination but meant only 'to come upon or meet with or to come to perceive' and could mean only a tentative inference not akin to a 'finding'. The enquiry into monopolistic trade practices under Section 37(4) could be simultaneous with the enquiry relating to restrictive trade practices. The idea in making this provision was to avoid multiplicity of proceedings. The conditions for the application of Section 37(4) are that (i) the Commission should find during the course of enquiry under Section 37(1) that there is a monopolistic undertaking and that it is indulging in restrictive trade practices, and (ii) that the Commission should make the necessary order with regard to restrictive trade practices. Once these two conditions are
fulfilled, the Commission may submit its findings with regard to monopolistic trade practices to the Central Government. This would be possible only when an opportunity of being heard was given to the undertaking with regard to monopolistic trade practices. Therefore, a completed enquiry under Section 37(1) and findings with regard to restrictive trade practices in such enquiry were not considered to be conditions precedent to the exercise of power under Section 37(4) by the Commission. But the company filed a writ petition in the Delhi court and obtained a stay against the enquiry proceedings. The writ petition is still pending.

**Graphite India Ltd.**

In the matter of Graphite India Ltd., also a *suo moti* enquiry in respect of certain restrictive trade practices practised by the company was started by the Commission under Section 37 to find out whether the company was a monopolistic undertaking in respect of production, sale and supply of Graphite Electrodes. The company contended that for the purpose of an enquiry into the restrictive trade practices, the status of the company was immaterial and therefore the Commission has no jurisdiction to enquire into its status as a monopolistic undertaking since the inquiry was for the purpose of restrictive trade practices alone. The Commission,
however, turned down this argument by holding that for the purpose of taking action under Section 37(4), an enquiry into the status of company was necessary and fair. It further held that:

"for the purpose of Section 37(4), where it appears to the Commission that an undertaking may be a monopolistic undertaking, in order to be fair to that undertaking, the notice of enquiry issued by the Commission states that even the status of the respondent as monopolistic undertaking would be inquired into so that a finding on the point could be arrived at. The status of the respondent as a monopolistic undertaking is material for that purpose and the Commission tries to confirm to rules of natural justice by giving an opportunity to the respondent on that issue. It is therefore, clear that the Commission has jurisdiction to enquire into the respondent's alleged position as monopolistic undertaking".

But a writ petition was filed in this case also in the Calcutta High Court against the enquiry proceedings and a stay was obtained.

ENQUIRIES MADE BY THE MRTP COMMISSION AFTER 1984 AMENDMENTS:

The MRTP Commission instituted three more monopolistic trade practices enquiries after passing MRTP (Amendment) Act, 1984. These three enquiries are briefly examined hereunder.
Society for Civic Rights, New Delhi, made an application under Section 12A of the MRTP Act, 1969, to the MRTP Commission praying for grant of a temporary injunction for restraining the All India Reporter Ltd., Nagpur from implementing its decision to raise the price of the journal from Rs. 30 to Rs. 40 per volume with effect from 1-1-1985. The application rests on the allegation that the enhancement of price of the journal is a monopolistic trade practice within the meaning of the Section 2(i) of the MRTP Act, 1969.

The Commission proceeding under Section 10(b) of MRTP Act ordered investigation by Additional Director General. The Additional Director General concluded that none of the ingredients required for a trade practice to be categorised as a monopolistic trade practice in terms of provisions of sub-section (i) of Section 2 of the MRTP Act, 1969 were present in the increase of prices by All India Reporter Ltd. According to Additional Director General, the increase in price of the journal "cannot be termed as an unreasonable increase in the context of the increase in prices of other law journals, and there is no evidence to indicate that there has been unreasonable increase in the cost of the

journal considering the overall inflationary trends covering items such as paper, ink, wages etc." Further the Additional Director General pointed out that the respondent has not been making unreasonable profits despite the increase in turnover during the period ending 31-12-1984. Accepting the findings of Additional Director General the Commission held that there is no prima facie case against the respondent and it has not been proved that he has indulged in any monopolistic trade practice and accordingly dismissed the application under Section 12A.

Bennet Coleman & Co., Ltd. 23:

The All India Newspapers Association, Calcutta filed a complaint with MRTP Commission against Bennett Coleman & Co., Ltd., alleging that they had indulged in the monopolistic trade practice by bringing out a new edition of their newspaper 'Times of India' from Jaipur without obtaining prior approval of the Central Government under Section 22 of the MRTP Act. The Newspapers Association requested the Commission to order investigation into the matter and make a report to the Central Government under Section 31(2) of the MRTP Act. Accordingly, the Commission ordered a preliminary investigation by the Director General of Investigation and Registration. The Director General concluded in his report that the respondent's action in bringing out a new

edition from Jaipur does not amount to monopolistic trade practice as defined in Section 2(i) of the Act.

The Commission examined the possibility of the practice to be covered under situations mentioned in the definition of monopolistic trade practice and opined that the practice could be considered under Sub-clause (ii) of Section 2(i); i.e., a trade practice "which has or is likely to have the effect of unreasonably preventing or lessening competition in the production, supply or distribution of any goods or in the supply of any service". However, the Commission observed that even though the small newspapers published from Jaipur would not be able to compete with the Jaipur edition of the 'Times of India', it could not be said that the competitive edge which a big industrial house enjoys over a small industrial undertaking amounts to an unreasonable lessening or prevention of competition. The Commission further observed "the competition between small and big undertakings is bound to be unfair and therefore, any further growth of a big undertaking is bound to tilt the balance further against the small undertaking. This economic reality cannot be wished away and this commission will have jurisdiction only if in a particular case such a reality leads to the particular situation taken from the definition of monopolistic trade practice. It would be economic blasphemy to hold that mere expansion of an
undertaking, whether of enlargement of existing capacity of existing unit or by setting up a new unit, is a monopolistic trade practice". Accordingly the Commission decided that the respondents had not indulged in any monopolistic trade practice within the meaning of Section 2(1) of the MRTP Act.

Indian Metals & Ferro Alloys Ltd.:

The Commission instituted another enquiry against Indian Metals & Ferro Alloys Ltd., under Section 10(b), for allegedly indulging in monopolistic trade practice of unreasonably increasing the prices of silicon metal during 25-2-1982 to 16-8-1984 taking advantage of its monopoly position. The company objected to the enquiry on the ground that the increase in prices had taken place before the MRTP (Amendment) Act, 1984 coming into force and the practice of unreasonable increase in prices was not covered in any manner by the definition of monopolistic trade practice as embodied in preamended Act.

Accepting the contention of the respondent that the unreasonable increase in prices on 26-4-1984 could not be subject of enquiry as a monopolistic trade practice, the Commission however argued, that the enquiry could proceed

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because the notice of enquiry related to unreasonable increase of prices during the year 1984. Further the notice of enquiry clearly showed that on 17-8-1984 also the prices were increased and hence the increase in prices became monopolistic trade practice subsequent to the enforcement of MRTP (Amendment) Act 1984. The enquiry has not yet been disposed of by the Commission.

From the above discussion, it may be concluded that the efforts made by the Government and the MRTP Commission during the period 1970-84 i.e., prior to MRTP (Amendment) Act 1984, to institute enquiries against companies indulging in monopolistic trade practices have not been successful. The Central Government referred only three cases for inquiry and the Commission could not complete these enquiries due to legal hurdles. The Commission, on its part, instituted three more enquiries and in none of the enquiries it could complete the enquiry.

Even after removing the legal lacunae in the original Act in 1984 Amendment, the Commission could not take up more cases for enquiry. Only three cases have been taken up by the Commission and the Central Government has also not referred any cases to the Commission for enquiry. This does not mean

25. MRTP (Amendment) Act, 1984 has come into force on 1-8-1984.
that monopolistic trade practices are not prevalent in Indian economy. Actually, in developing countries like India, where the markets for certain products are limited, and the number of undertakings manufacturing and supplying such products or providing such services is small the possibility of monopolistic situations existing and therefore monopolistic trade practices being indulged in is considerable.

**Limitations:**

An important obstacle in the way of conducting more inquiries against companies indulging in monopolistic trade practices is that the sources of enquiry for monopolistic trade practice are limited, under the present Act. Only the Central Government can refer the cases to the Commission for enquiry; or the Commission should institute enquiries on its own knowledge or information. As in the case of restrictive trade practices, the Central Government is not actively engaged in referring the cases to the MRTP Commission. The Commission is also pre-occupied more with restrictive and unfair trade practices enquiries than monopolistic trade practices. Consumers' Associations and Director General of Investigation and Registration have no powers to complain against the companies indulging in monopolistic trade practices even under the amended Act. Hence it is necessary to empower the Commission to institute enquiries.
on the basis of consumers' complaint and on a reference
made to it by the Director General of Investigation and
Registration as in the case of other two practices namely,
restrictive and unfair trade practices.

Another important defect under the present Act is
that the Commission does not have the power to pass the final
orders in respect of monopolistic trade practices. It can
only submit its report to the Central Government for appro-
priate action. However, the Commission has been given powers
under Section 12A of the Amended Act to grant temporary
injunctions, restraining the undertaking from carrying on
monopolistic trade practices until the conclusion of the
enquiry if it is proved that the practice is likely to
affect the public interest. So also Section 12B empowers
the Commission to award compensation to the affected parties,
in case it is held that as a result of certain monopolistic
trade practices loss or damage has been caused. It looks
very anomalous that the Commission has powers to grant
injunctions and award compensation but does not have powers
to pass final orders with respect to monopolistic trade
practices. Hence it is suggested that the Commission should
be given powers to pass final orders in respect of monopolistic
trade practices also as in the case of restrictive and unfair
trade practices.
The MRTP Commission should also be strengthened in order to enable it to do the work expeditiously. The recent Amendment to the Act increasing the strength of the Commission and providing for the creation of its benches in Madras, Calcutta and Bombay is a most welcome step in this direction. The Commission's research and administrative wings need to be strengthened.

Lastly, as the monopolistic positions tend to create complacency and destroy the urge to improved methods of production, the Commission has to examine from time to time the structure in the monopoly industry so that it can suggest suitable ways for effecting improvement and avoiding obsolescence.26

SUMMARY:

The main concern of this chapter is to examine the provisions of the Monopolies and Restrictive Trade Practices Act in curbing monopolistic trade practices in India, and to assess how far the provisions have been able to control monopolistic trade practices in India.

The Act gave an elaborate definition to the term 'monopolistic trade practice', and empowers the Commission to enquire into monopolistic trade practices upon a reference.

made to it by the Central Government or upon its own knowledge
or information. On the basis of enquiry if it reports to
the Central Government that the practice is actually operating
or likely to operate against the public interest, the Central
Government can issue orders to remedy the mischief. The Act
lays down that every monopolistic trade practice shall be
deemed to be prejudicial to the public interest except under
certain circumstances laid down under Section 32 of the Act.
The Act empowers the Commission to grant temporary injunctions
against erring firms and can award compensation to the aggri­
vended parties.

The Central Government referred only three cases to
the MRTF Commission for enquiry into monopolistic trade
practices during the period 1970-84. However, these cases
could not be disposed of by the Commission as the respondent
companies have gone in appeal to the Supreme Court questioning
the authority of the Central Government to refer the cases
to the Commission. The Commission on its own initiated
three more enquiries and in these cases also proceedings
could not be completed due to legal hurdles. Even after
removing the legal lacunae in the original Act in 1984 amend­
ment the Commission could not take up more cases for enquiry.
Only three cases have been taken up by the Commission and
the Central Government has also not referred any cases to the
Commission for enquiry. Thus it may be concluded that the efforts made by the Government and Monopolies and Restrictive Trade Practices Commission to institute enquiries against companies indulging the monopolistic trade practices have not been successful so far.

Under the present Act the sources of enquiry for monopolistic trade practices are limited unlike in the case of restrictive and unfair trade practices where the consumers associations and Director General of Investigation and Registration can also complain against companies resorting to unethical business practices. Hence it is suggested that the Commission should be empowered to institute enquiries on the basis of consumers' complaint and on a reference made to it by the Director General of Investigation and Registration as in the case of other two practices namely, restrictive and unfair trade practices. Further under the present Act the Commission does not have power to pass final orders in respect of monopolistic trade practices eventhough it has powers to grant temporary injunctions and award compensation to the aggrieved parties. Hence it is also suggested that the Commission should be given powers to pass final orders in respect of monopolistic trade practices as in the case of other two practices namely, restrictive and unfair trade practices.