CHAPTER 2
REVIEW OF LITERATURE AND RESEARCH METHODOLOGY

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2.1 Review of Literature

Competition law and practices is a subject of contemporary interest and adequate literature and data is available on the subject. In section below, researcher has briefly outlined the studies that have come across and are relevant to the topic.


The paper attempts to discuss the leniency programme in India and few other jurisdictions in order to draw useful lessons for the existing programme. Leniency programme is a very useful addition to any country’s competition law as also the experience in some of the developed jurisdictions show. It has clearly come out that transparency and certainty is at the very important for a leniency programme. If a company cannot accurately predict how it will be treated as a result of its corporate confession it is far less likely to report its wrongdoing, especially where there is no ongoing investigation. The researcher sees some scope of bettering the transparency and certainty in the provisions. The past experience in other jurisdictions, particularly in the U.S, the E.U and the U.K, has been very useful in coming out with suggestions. It is hoped that bringing about the suggested changes could deepen up the fight against cartel and offer a potential applicant more incentive than ever to come out and report his wrongdoing.


The present paper aims to analyze and assess the Competition enforcement regime with regard to Public Sector Undertakings. The PSUs in India are engaged in two kinds of Activities-Sovereign functions of the State and Non sovereign functions. The Competition Act, 2002 restricts its application to the non sovereign functions of the PSUs. Sovereign activities can be considered as public service obligations or other responsibilities that a public undertaking is required to undertake beyond its commercial activities. The research paper concludes that notion of competitive neutrality requires a level playing field for both the private and the Public Players in the Market and that the public players should not be given any competitive advantage by virtue of their government ownership. This doctrine has been partially enshrined under the Act since
preamble, section 19(3) (d), 19(4) (k), 19(3) (f) provide enough safeguard to actions taken by government in public interest. Thus, it is concluded that with regard to its application the doctrine is enshrined in a limited manner within the competition Act. This doctrine has also been upheld by the commission by proactively taking cognizance into the Acts of the Government bodies, however no contravention has been found.


   The research paper suggests that Competition Law is an entangled combination of an economies’ law, economics and policy making action that intend conduces favorable competitive environment in the economy in the country. Since it is seen as choleric to the overall economic development, principles of competition seek to safeguard this competitiveness of the country. The central principle is the favorable effect of competition in a country's domestic market that protects mis-utilization of economic power. The connection between economic development and competition law italicized time and same seems rather inevitable and the demand for this law seems like very urgent that might skeptically affect the competition in the economy, thus seems strategic for India. Thus, for this purpose, Indian Parliament enacted the Competition Act, 2002. The preamble and objectives of the Act also substantiate that the widespread economic development was a considerable factors to adopt the Act and yet are on its path. But after analyzing the bill it can be concluded that the present legislative proposals, as piloted in the House are scanty in conception and meager in execution.

4. **Oindrila De and Aditya Bhattcharjea Sepetmber 2012 “Cartels and the Competition Commission”**

   The CCI’s Rs.6,307 crores penalty on eleven big cement providing firms for cartelization has been the heaviest fine that this commission ever imposed since its inception. A detailed learning of this and similar other cases dealt by the CCI has fruitfully finished enquiries exhibits the functioning of a very different commission and law from that of the earlier MRTP Act. Its successes will certainly send the positive signals to the concerned parties about it and the results of its violation. Still, there is immense improvement possible in the Act and its enforcement before it is hoisted to global standards.
5. **G.R. Bhatia “Combating Cartel in Markets – Issues & Challenges”**

The study explores issues like an accurate definition of cartel, leniency program for defaulter, the quantum of penalty as per turn over or profit, provisions relating to international acts adversely affecting competition in India. It also aims to study co-operative agreements with international competition agencies to create healthy competitive environment. The research study stresses on a close coordination between CCI and various government departments as well as sectoral regulators to handle domestic and international cartels.

6. **Ankesh Jain 2012 “Extra-Territorial Jurisdiction of Competition Commission of India”**

The object of the research paper is to study the jurisdictional powers of the CCI so as to entertain international combinations affecting India. The author by making use of various case laws establishes that Commission has jurisdiction over the international combinations and it is backed by the “Effect Doctrine” and the “Doctrine of Minimum Contact”. The paper suggests that Acquisition and Merger is a vogue word for promoting global transactions and the nations should strive to secure their interest. It is feud and also suggested in this paper that the commission can take jurisdiction on combinations only if has any effect on the economy of India. The limitation of the paper is that there is an exiguity of secondary data in the public domain and, with the Commission as it is in its infancy stage, recommended that how and in which circumstances the CCI will exercise its jurisdiction.


In this paper the author examines the modified Competition Act of India by analyzing the functioning of its predecessor, the MRTP ACT, 1969. The researcher highlights those previous works. A scan of recent cases analyzed for the study, shows that cases elaborated consumer contractual and complaints disputes that are not majority of competition. Some cartels are prosecuted, the growth of a rule of reason for vertical agreements was hamstrung by the legislature, and merger review is ceased in 1991. Thereafter, the verdicts increasingly tried to enforce “fair” business conduct “in the
public interest,” often safeguarding not competition but the competitors involvement. Though the new Act has various better characteristics, it is peppered with loopholes which might ignore hard-core predatory, cartels pricing, and potentially anticompetitive cross-border mergers, while it also perpetuates the earlier tendency to penalize “unfair” behavior with no effect on competition. The author argues that several institutional limitations that will also lessen the effectiveness of the Act and competition advocacy a plea for capacity building and staged execution.


Competition law does not define consumer or their associations. As per Section 36(A) (MRTP Act 1969) ‘unfair trade practice’ (UTP) was defined as a trade practice. But UTP’s are not a part of the Competition Act. It is however seen that if UTP’s are clubbed to the Competition Act then they would only increase the Commission’s burden which would detrack the Commission. It is argued that the primary objective of CCI is anti-competitive issue which should not be ignored by it in any circumstance.


“In January 2012, Rajkamal Films, an Indian production and distribution company, released Vishwaroopam, a spy thriller set in Afghanistan and the United States. The film’s content has been controversial — it was initially banned in one state — but there was also a dispute as to the manner of its distribution that may have wider implications for the Indian entertainment industry. The company wanted to simultaneously release its film through Direct-to-Home television networks as well as through cinemas, and the Tamil Nadu Theatre Owners’ Association threatened to boycott the film. In response, Rajkamal Films approached the Competition Commission of India for a ruling on the Association for restraint of trade. To what extent can a competition regulator intervene in disputes within an artistic industry? The author concludes that in a multilingual country like India, the Competition Commission will often be confronted by cultural and linguistic disputes presented in the garb of competition disputes. It needs to formulate clear guidelines that set out when competition laws should apply to the
entertainment industry. Otherwise it may find itself in the unenviable position of adjudicating politicized linguistic disputes that lie beyond its mandate.”


When a firm charge a price lower than the production cost so as to restrict competition, it is called predatory pricing. But a pre condition for it is a position of dominance in the market or otherwise it will not be in a position to effect competition. The study discusses the causes, effects and various tests to determine predatory pricing. The causes include a dominant position and physical and financial backing up resources. The effects of predatory pricing are entry and exit barriers in the relevant market. Recoupment text, cost or price texts and predatory intent text are different text of predatory pricing. Secondary source of data based on verdicts of judges, opinion of experts of the field are employed. The researcher also attempts to differentiate between predatory price and unfair price. The paper concludes that the responsibility to safeguard the consumers rests with the competition law and therefore the texts suggested in the study can reasonably employed to check the implementation of predatory pricing.


The research study states that anti-competitive practices plague the pharmaceutical industry worldwide. Such practices may be categorised into primarily three classes: IPR related breaches, abuse of competition practices under from mergers and acquisitions and collusive and other anti-competitive practices. When India did not have a very effective competition regime, this problem could have caused many barriers to healthy development of an industry which otherwise had immense potential. The interface of Competition law and the IPR Law manifests itself mainly because of two reasons: One there is the need to promote research and development as the essence of IPR law is to ensure that the inventor gains due credit for the invention that he or she has created. Secondly, there is the need to make useful drugs available to the public at affordable prices. Also, patent rights provide the carrot for originators, allowing them exclusivity to manufacture the patented drug for only a limited period. Competition law provides the stick that prevents the originators from misusing their exclusivity and
safeguarding the entry of generics at the expiry of patents into the market. India is suffering problems in the global market because Indian generic drugs are restricted from entering the market. This has been done in different ways like declaring the drugs to be counterfeit drugs. At the global level, this can discourage the Indian pharmaceutical industry from producing the generic drugs. Before the problem becomes internal, it must be dealt with at the global level. It must be recognized that not allowing the Indian generic drugs to enter the global market not only hinders competition, but also doesn’t allow the sale of the drugs at a reasonable price. The author concludes that in the countries like Africa where diseases like AIDS are more prevalent and these drugs are required at a lower price, they cannot be accessed by all. Therefore, the need of the hour is not only ensuring an effective framework within the country; but before that creating global cooperation and understanding regarding antitrust issues and the patent law framework relating to the pharmaceutical sector.


This paper analyses the definition of 'enterprise' as defined under the Competition Act, 2002. It highlights that only business entities are not considered as an enterprise but revenue generating organizations including National Sports Federations fall under the purview of definition of an 'enterprise'. The author attempts to explain this with the help of the BCCI case study, a recent case decided by the Competition Commission of India. This paper also throws light on the factors that determine the dominant position and the abuse of the said dominant position.


The paper attempts to explore the linkages between competition law and anti dumping policies and how are they related and do these anti-dumping duties effect competition or not? The research-methodology adopted is mainly non-doctrinal and descriptive. The sources of data include secondary sources like articles, books and journals page. The researcher concludes that the main objective of anti-dumping law is to protect domestic industries which imply that less efficient industries must be protected.
According to Competition Act, 2002 less efficient industries should shut-down and exit market if they cannot compete. The author suggests that anti-dumping law has a protectionist flavour which competition law has not. These both contradict, they cannot exist together, they are oxymoron.


The authors through the research paper try to clear the ambiguity between competition law and competition policy. They conclude that although steps have been taken towards promotion of competition through the adoption of market reforms and enactment of competition laws, there is need for a more holistic approach (based on a long-term approach, policy cohesion, evolution of effective institutions, engagement of multiple stakeholders, among others) to ensure that a proper competition framework is evolved to attract investment for development.


The paper analyses the functioning of CCI and compares it with the competition commission of Singapore. Although the flow of information (as the complaints are called under the Act) started coming in right in the first few weeks of the enforcement powers being given to the CCI, and although the first investigation reports from the Director General began flowing in from September, 2009 onwards, it took a while for the CCI to start delivering its orders restraining erring market players or imposing penalties on them or their associations. The reasons for this were not far to seek. The CCI had to give an opportunity of being heard to the different parties involved. On May 25, 2011, disposing off the very first information before the CCI (Case No. 1 of 2009), the CCI agreed with the findings of the Director General (DG) that the United Producers and Distributors Forum (UPDF) had indulged in cartelizing conduct by way of not supplying prints of the motion pictures to multiplex theatres, but imposed a token penalty of Indian rupees 100,000 (only about USD $1,667) each on the cartelizing members. When compared with Singapore, wherein the first few cartel cases were used to showcase the determination of
the authority, this may have been an opportunity missed here by CCI. The researcher discusses the Paper Merchants Association of Delhi (PMAD) in Vijay Paper Merchant case (Case No. 7 of 2010) and also the case of National Stock Exchange (NSE) (Case No. 13 of 2009) and similar other cases.

16. **Meghna Chandra “An Analysis of Orders of CCI With Respect to Anti-Competitive Agreements” Internship Project Report, National Law University, January 2013**

   The researcher attempts to recognize the concept of anti-competitive practice, to analyse Commission’s order that relate to anti-competitive agreements and to learn the justification of competition laws along with interest of consumer. She also tries to gauge the free applicability of Section 3(1) and the outlook of the Commission in light of theories of statutory legislative and interpretation intent and adopted doctrinal method using primary data from its official website. The author concludes that Section 3(1) never implored freely. Agreements between an end consumer and an enterprise can be checked; hybrid agreements can also be brought under check; agreements between enterprises not in the similar chain of production also are reckoned under Section 3(1). At the same time, any concern that relates to opening up of inquiry’s floodgate and orders can be expertly pacified by the stringent parameters given under Section 19(3) which should be utilized for assessing Appreciable Adverse Effect on Competition.

17. **Mallika Ramachandran “Comparative Study: Law on Abuse of Dominant Position”, University School of Law and Legal Studies Guru Gobind Singh Indraprastha University January- May 2006**

   This paper attempts to compare the provisions of competition law on the abuse of dominance and corresponding concepts of the United States, United Kingdom, European Communities, Germany, South Africa and India. In the Competition laws of all the jurisdictions studied, the size of a firm or its dominant position as such is not prohibited. But, abuse of dominance /misuse of market power/ monopoly or the attempt to monopolize are considered bad under all competition laws despite the differences in concepts enumerated in the law and manner of determination. Under the laws of most jurisdictions, the first step in determining whether there is an abuse of dominance, misuse of market power or “monopoly or an attempt to monopolize” is defining the relevant
market. In defining the relevant market, both the relevant product market and the relevant geographic market have to be defined. The second step is determining whether the concerned undertaking or enterprise or firm is dominant or has monopoly power or a major degree of market power. Dominance or monopoly power or market power of undertakings is defined in most jurisdictions on the basis of the undertakings ability to operate independently of competition or to raise/control prices. A number of factors are to be taken into consideration to determine dominance/ economic power / monopoly power. Such criteria may have been specified in the statute itself such as in Germany and India or may have to be determined from decided cases. Market share seems to be the most important criterion in all jurisdictions. “Barriers to entry to the market” seems to be another criterion taken into account in all jurisdictions. Other criteria taken into account such as regulatory barriers, size and structure of the market, links with other undertakings etc, and the importance attached as such criteria vary in different jurisdictions although there may be some common factors. The author highlights that total market power or the complete elimination of opportunity for competition is not necessary in order to attract the provisions regarding the abuse of dominance. What is required is a dominant position or a substantial degree of market power.


The research study is based to find out various competition issues involved in the case and to find out whether Google has misused its dominant position in the market of relevance. It also brings forth the legal remedies available under Indian and foreign laws to make case for or against google. The researcher collects data from both primary and secondary sources, interpretation of cases and library search. The author suggests that investigation against Google is required because once in such a situation, Microsoft tried to kill the competition in the browser market by bundling in Internet Explorer for free with Windows Operating System. However after a case against Microsoft for maintaining this exclusivity, the company changed its policy and gave users the option to use any browser. However despite the provision of an option of browser, the user still retained considerable control over the services it chooses to use it. On the other hand, in case of Google, the Google’s Chrome, android smart phones and Chrome OS all encourage use
of Google’s Search, which makes a thorough investigation even more essential. The
issues identified in respect of Google definitely raise doubt about the conduct of the
Google and needs in-depth investigation to determine whether such practices relating to
search engines and advertising search market are also being resorted to in India. This is
because Indian market also has number of vertical search engines which may be feeling
the brunt. Moreover, the issues are very complex due to the technology involved and can
be understood well with the in-depth investigation.

19. Shalaka Patil, Payel Chatterjee, Shashank Gautam, M S Ananth, Aditi Jha,
Simone Reis, Pratibha Jain “Competition Law In India A Report On
Jurisprudential Trends And Way Forward Introduction” April 2013

The authors find that Competition law analysis entails composite economic and
legal considerations. The Commission orders suggests that it has been called upon very
early since its formation to determine composite antitrust issues that were from the
actions or enterprises that are engaged in a very heterogeneous market.

The COMPAT or Supreme Court has never gives any final order relating either to
Section 3 or 4. Thus to identify and analyze jurisprudential trends at such early stage of
growth of competition law in India is very difficult. However the study has recognized
few key trends in the orders of Competition Commission of India. There is also a gradual
increase in the number of complaints the CCI receives from different informants to the
CCI, that shows growing awareness about this new legislation. In terms of relying on
foreign authorities, the CCI tends to rely more on EU authorities, primarily because the
Competition Act is fashioned on the lines of TFEU. The analysis highlights to certain
inconsistencies in CCI’s orders, like the CCI orders have been incoherent while applying
economic principles in analyzing the market, establishing abuse of dominance. CCI’s
capricious standards in imposing fine and excessive reliance on circumstantial evidence
have also been a primary concern area for the industry.

Science Research Network, January 2014

This research paper has been under taken with the hypothesis that basic principles
of the competition law are similar in all the jurisdictions namely EC and UK and the
Antitrust Laws of the US. The paper has undertaken the approach of socio-legal research
and is purely based on study and analysis of secondary data available in library and on
the internet. After a clear perusal of all the laws in various jurisdictions the author
concludes that the competition laws of India, EC, UK and the Antitrust Laws of the US
have some common features. In entirety the basic principles governing the competition
laws are almost similar and have been included in all the legislatures. However, all the
laws have some different provision to implement these particulars principles. After
analysing the entire laws the author concludes that these laws implement the basic
principles namely, anti-competitive agreements, abuse of dominant position and
combinations in different ways.

2.2 Research Gaps

After reviewing the available literature related to the topic, the researcher found
that few studies highlighted the issue of anti competitive agreements and the concept of
cartels and the issues and challenges related to them. Few other research papers discussed
the subject of dominant position under the Competition Act. Another study made a
comparative assessment of the competition policies of US, UK, European communities,
Germany, South Africa and India. Further more certain studies related to the aspect of
regulations, mergers and combinations. A few research articles also discussed the
loopholes in the predecessor of competition Act 2002, i.e. the MRTP Act and the need for
repealing the same. The research papers were also dealing with consumer interest and
protection and application of competition laws and its principles on PSU’s. There were
still other research papers which discussed the amendments in the regulatory framework
of the Competition Act, 2002 and its impact. But there is no research study that analyses
the functioning of competition commission of India as a whole i.e. studying the rules
regarding prohibition of anti-competitive agreements, role of CCI in curbing abuse of
dominant position and the procedures followed by CCI for regulation of combinations.
The review of literature supports the facts that the research study will add value in the
field of Competition Law and Practices. Today, since 2009 it has been quite some time
that the CCI has become fully operational. Lot has been done on competition and related
issued but a few specific studies are available to analyze the working of CCI which is the
focus of present study i.e. A Study of Functioning and Performance of Competition
Commission of India.
2.3 Research Methodology

In the broadest sense, research can be defined as a systematic process of gathering data, information and facts for the advancement of knowledge. It is an organized and systematic way of finding valid answers to the selected research questions. The process of research must be scientific, systematic and follow a series of steps. The research includes creative work undertaken on a systematic basis in order to increase the collection of knowledge and to use it to develop new applications. It is used to ascertain facts, reaffirm the consequences of previous work, solve new or existing problems, support theorems, or develop new theories. A research project may also be an expansion of past work in the field. To test the validity of instruments, procedures, or experiments, research may reproduce elements of previous projects, or the project as a whole.

Research methodology can be defined as a process used to collect information and data for the purpose of making business decisions. The methodology includes publication research, interviews, surveys and other research techniques, and could include both present and historical information. Research methodology is a systemic method/process dealing with identifying problem, collecting of facts or data, analysing these data and reaching at certain conclusion either in the form of solutions towards the problem concerned or certain generalizations for some theoretical formulation. It also comprised of a number of approaches and inter-related frequency overlapping procedures and practices. Since there are many aspects of research methodology, the line of action has to be chosen from a variety of alternatives. The choice of suitable method can be arrived at through assessment of objectives and comparison of various alternatives. This following section describes the problem statement, objectives of the study, research design, type of data and method of data collection, the sampling procedure, the survey procedure utilized, hypothesis to be tested and the various statistical techniques employed in the study.

2.3.1 Statement of the Problem/Description of the Problem

In the research process the first step is to define the research problem for the study. The research problem has been defined after going through the published research work done by other researchers on the same issue. After going through the literature
review related to the working of Competition Commission of India, it is found that very few research studies were conducted on the effectiveness of Competition Act in India. The overarching aim of the Competition Act is to create and sustain competitive markets and work for the welfare of the Indian consumer. There is the requirement to study the functioning of CCI, which always stands beside the Indian consumers, challenge the abuse or dominance or economic gains and investigates cartels in the key economic sectors, yet a systematic study is required which analyses the present status of the working of CCI, and its impact in making the Indian market more efficient and more competitive. It is required to study whether CCI has been proactive in responding to the needs and aspiration of Indian industry in the area of merger control. The strategic issue in the working of any organization is to have regulatory process. Hence, the problem statement of the present study can be stated as

“To study the functioning and performance of Competition Commission of India”.

This research study is basically exploratory in nature. It focuses on investigating the present working of CCI in India and the effectiveness of CCI in improving the level of competition and reducing the unethical cartels in India.

2.3.2 Objectives of the Study

The research study entitled "A Study of Functioning and Performance of Competition Commission of India” attempts to achieve the four objectives stated as follows:

1. To study and analyze the working of Competition Commission of India in curbing anti-competitive agreements.
2. To study and analyze the role of Competition Commission of India to prohibit abuse of dominant position.
3. To study and analyze the procedure followed by Competition Commission of India for regulations of combinations.
4. To assess the effectiveness of Competition Commission of India in attainment of its objectives
2.4 Hypothesis Formulation

The null hypothesis of One way ANOVA is written below.

\( H_0: \text{There is no significant difference in the opinion of respondents of different educational and professional backgrounds towards the after effects of implementation of Competition Act, 2002 and the working of CCI} \)

2.5 Research Design

Research design can be explained as a detailed outline of how an investigation will take place. A research design will typically include how data is to be collected, what instruments will be employed, how the instruments will be used and the intended means for analyzing data collected. This research study is an exploratory as well as descriptive research based on primary as well as secondary data sources. This research study also includes qualitative aspect of research approach as it considers words in addition to the quantitative analysis of the primary data collected from the survey method. This applies to all of the research objectives, which are based primarily on an interview as well as published sources. This was an optimum choice for research as the researcher aimed to gain a deeper understanding of the working of the Competition Commission of India and analyze its effectiveness for attaining the objectives of curbing anti-competitive agreements and reducing the cartels, prohibiting abuse of dominant position and regulate the combinations.

2.5.1 Data Collection Method

In order to achieve the first, second and the third objective pertaining to the study i.e. analyze the working of Competition Commission of India in curbing anti-competitive agreements, to study and analyze the role of Competition Commission of India to prohibit abuse of dominant position and to study and analyze the procedure followed by Competition Commission of India for regulations of combinations simultaneously secondary sources of data were employed. These secondary sources were primarily from the following:

- Annual reports of 2009-10, 10-11, 12-13, 13-14 of Competition Commission of India.
- The study reports and newsletters available at the official website of Competition Commission of India
- Literature available in the library of the head office of Competition Commission of India situated at Kasturba Gandhi Marg, New Delhi.
- Various journals of commerce and economics, news releases etc.
- Various websites and blogs of different lawyers and law firms.

The fourth research objective of assessing the effectiveness of Competition Commission of India in attainment of its objectives is met through primary source of data. For primary data, a structured questionnaire was prepared and got filled up by the respondents. A few of the respondents were approached personally whereas due to time and resources constraints at the end of the researcher, other respondents were mailed the questionnaire. The email ids of these were available in the directory available on the official website of Competition Commission of India.

2.5.2 Designing and Developing Questionnaire

The data was collected by means of self administered questionnaire, which was developed in the following stages:-

(i) Identifying variables and developing first draft.
(ii) Pilot survey
(iii) Finalising the questionnaire
(iv) Reliability check

The final structured questionnaire is prepared using mainly close ended questions based on the specified choice option and some questions are open ended.

(i) Identifying variables and developing first draft

To ensure that the study is specifically about evaluating the functioning and performance of CCI, two criteria were imposed. First, the subjects had the awareness about the functioning of CCI. Second, the participants were associated directly or indirectly with the working of CCI. The self-designed questionnaire was designed for the research study.

(ii) Pilot survey

Actual data collection was preceded by a pilot survey. The pilot survey was carried out with a sample size of 10 professionals with a view to clarify questionnaire structure holistically and avoid any interpretation problems. Some basic problems were
also encountered during the data collection. Suggestions and comments were invited from the respondents. This process helped developing an insight to bring about required modifications in the overall configuration of the questionnaire by incorporating suggestions and observations. This also helped in improving the quality and texture of the questionnaire to ensure smooth data collection. After the pilot survey some statements were deleted, some were added and many were modified in terms of the language.

(iii) Finalizing the Questionnaire

The drafted questionnaire was finalized after the pilot survey. The final questionnaire comprised of two sections. The first section comprised of questions, which related with the demographic profile of the respondents.

The second section was designed in order to study the perception of respondents with respect to the attainments of the objectives of CCI in Indian corporate sector.

(iv) Reliability Analysis

The reliability of the questionnaire was measured at different stages to ensure that data collected was reliable and data could be analysed further. Cron Bach alpha values were computed at three stages, firstly after collecting data from 25 respondents and subsequently after the collecting data from 40 and 60 respondents.

2.5.3 Sample Design and Sample Size

(i) Sampling Method: The stratified sampling method is used in the research study while collecting primary data whereas census method is used while dealing with secondary data.

(ii) Sample Size: As per Section 35 of the Competition Act, 2002 any person, consumer or their association or trade association can file information before the commission. Central government, or a state government or a statutory authority can make a reference to the commission for making an inquiry. “Person” includes an individual, Hindu Undivided family (HUF), a firm, company, local authority, co-operative or an artificial judicial person. A “person” may either appear in person or authorize one or more chartered accountants or company secretaries, cost accountants or legal practitioners or any of his officers to present his case.
before the commission, Section 35 provides the following explanation for “Appearance before the Commission”

(a) “chartered accountants (means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act)”

(b) “company secretaries (means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act)”

(c) “cost and works accountants (means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act)”

(d) “legal practitioners (means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.”

The information can be filed on the issues like anti-competitive agreements, abuse of dominant position or a combination which causes or is likely to cause an appreciable effect on competition in the markets in India. The Competition Commission of India is a body corporate by the name aforesaid having perpetual succession and common seal. Section 7 of the Act provides that the head office of the commission will be at a place as the Central Government may decide from time to time and may establish offices at other places in India. But as of now the Commission has only one office at Hindustan Times House, Kasturba Gandhi Marg, New Delhi with no regional offices. There is no empanelled list of Chartered Accountants, Company Secretaries, Cost Accountants or Lawyers so no geographic distribution is possible while selecting the sample. Therefore the researcher while selecting the sample took into account the issues on which the information can be filed i.e. competitive agreements, dominant position and combinations. Till the latest annual report of the commission i.e. Annual Report of 2013-14, a total of 218 cases viz, 57 cases relating to Section 3 i.e competitive agreements, 58 cases of Section 4 i.e. dominant position and 103 cases of Section 5 i.e. combinations
have been reported. The annual report of 2014-15 is still not published on the website. The researcher visited the office of the CCI in person in September, 2015 to get an insight of the raw data relating to 2014-15 but the same was called strictly confidential till published and therefore not provided to the researcher. The researcher attempted to collect the responses of the parties involved in these 218 cases through a structured questionnaire. Finally, only 100 usable responses were sought and analysed. The sample size of 100 comprises of 22 cases relating to Section 3 i.e. competitive agreements, 21 cases relating to Section 4 i.e. dominant position and 57 cases relating to Section 5 i.e. combinations. In the sample of 100, the responses of 28 chartered accountants, 19 company secretaries, 14 cost and works accountants and 39 legal practitioners appearing before the CCI are sought.

2.5.4 Data Analysis and Methods

As data means raw information collected from sundry sources, this raw information needs filtrations in order to convert it into relevant information having been compiled, edited and coded i.e. it has to pass through a process of analysis and has to be interpreted accordingly before their meaning and implications are understood. Various statistical techniques such as Descriptive Statistics, Cross Tabs, Confirmatory Factor Analysis, Construct Analysis and One Way ANOVA are used for testing the hypothesis and drawing the inferences and conclusions about the relationship.

**Software Used:** In the research study, MS Excel, AMOS and SPSS 20 are used for the purpose of data analysis.

2.5.5 Limitations of Study

1. The study is subject to intelligence on part of the respondents.
2. The respondents showed reluctance in filling up the questionnaire.
3. The study is also limited due to time and resources constraints.
4. CCI and its role are studied in isolation form and no connection of it with any authority is studied in a joint manner.
2.6 Usefulness of the Present Study to the Society

The CCI is about to complete five years of enactment of Competition Act, 2002. CCI has been in a process of enforcing the various provisions of this Act in a consistent manner. CCI has gained significant expertise and experience in handling cases under various sections viz section 3, 4, 5 and 6. Several cases have gone to Competition Appellate Tribunal and competition awareness and jurisprudence is gradually building up in a developing country like India. In the Indian scenario, various stakeholders perceive competition regulations as a hurdle in carrying on the business. The present research study will analyze the functioning and performance of CCI, and thus remove the apprehensions in the minds of the industry as well as her stakeholders regarding competition and related issues. This will in turn inverse the level of awareness of the stakeholders so that they perceive the act as business friendly.

There is a desperate need for regulation of the markets in the era of globalization and liberalization in the absence of such regulatory governance, the large monopolistic firms, the various interested groups, could damage the process of competition and deprive markets of their ability of delivering efficient results. Through the study, the effectiveness of CCI in attainment of its objectives viz, curbing anti-competitive arguments, prohibit use of dominant position, regulations of mergers and acquisitions is analyzed so that its functioning is strengthened and the aforementioned problems do not put hurdle in its way, and will assist CCI in its efforts for protection of Indian consumer’s interest. The study attempts to report the cases presented before CCI under various sections, which would act as a ready reference for the society in future and provide a groundwork for the lawyers as well.

2.7 Vistas for Further Research

Undoubtedly, the present research study focuses each and every dimension and spectrum of Competition Commission of India but still minute aspects needs to be addressed. The broad base analysis of working, role, functioning etc enlightens to have deeper insights into the operations of CCI, but as a researcher I would like to advise further vistas for research into the individual objectives being framed in the study. It is further advised to conduct further studies in the upcoming span of five years so as to
analyse the working and effectiveness of CCI in chronological sequence. The prospective researchers can also explore the working of CCI at Asian and global levels so as to enrich the contents of the Act and increase its acceptance. Although the present research is an attempt by the researcher to explore broad base issues and parameters of the Competition Act, 2002 to prohibit anti competitive agreements, check the abuse of dominant position and regulate the combinations, yet a lot more is still untapped.

2.8 References

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