

COMPETITION

ACT, 2002

LAW CAPSULE

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**Practices that should be avoided by the
Enterprises and to protect the interest of
the consumer as per Competition Act,
2002:**

The Preamble of the Act states that this is an Act to establish a Commission to prevent anti-competitive practices, promote and sustain competition, protect the interests of the consumers and ensure freedom of trade in markets in India. Given below are the practices that should be avoided by each enterprise:

1. As per Section 3 of the Act, the enterprises should prohibit certain agreements, which are considered to be anti- competitive in nature. Agreements which cause or are likely to cause appreciable adverse effect on competition are anti-competitive agreements. They may be :
 - a) horizontal agreements:- those that are between enterprises at the same stage of the production chain.
Ex- Price fixing, Bid rigging, Market sharing, Cartel between two rivals.
 - b) Vertical agreements:- Vertical agreements are those that are between enterprises at different stages of the production chain
Ex- Tie in, Refusal to deal, Resale price maintenance.

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2. According to Section 4 of the Act, no enterprise shall abuse its dominant position by imposing unfair or discriminatory conditions or limiting and restricting production of goods or services or indulging in practices resulting in denial of market excess, selling price is below cost with intent to oust competitors, using dominant position one which is relevant market to enter, protect, other relevant market or through in any other mode which are prohibited.
3. As per section 5 the enterprise should avoid Conglomerate combinations - those that are between enterprises not in the same line of business or in the same relevant market and are least likely to cause appreciable adverse effect on competition. If any such proposed combination causes or is likely to cause appreciable adverse effect on competition, it cannot be permitted to take effect.

Ex- the acquisition of shares, voting rights, assets of another enterprise above certain prescribed threshold levels of value or control over other enterprise.
4. As per section 42 (1) of the Act, if the enterprises fails to comply with the following order and directions of the Commission:-
 - (a) Orders by given commission after the inquiry into anti-competitive agreements or abuse of dominant position.
 - (b) Division of enterprise done by the Commission enjoying dominant position.
 - (c) Order given by Commission on certain combinations
 - (d) Order given by the Commission against the acts taking place outside the India but having effect on the competition in India.
 - (e) Power of Commission to issue interim orders.
 - (f) Directions given by Commission to pay compensation in case of contravention of orders of the Commission.
 - (g) Power of the Commission to impose penalty for non- furnishing of information on combinations
Then the enterprise is punishable with the fine which may extend to rupees one lakh for each day on which non-compliance occurs, such may extend upto ten crore.
5. As per 42 (2) of the Act, if the enterprise fails to comply with the order or directions issued, or fails to pay the imposed under this section by the commission then:
 - it shall be punished with imprisonment for a term which may extent upto three years
 - with fine which may extent upto rupees twenty- five crore,
 or with both, as the Chief Metropolitan Magistrate, Delhi may deem fit.

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