

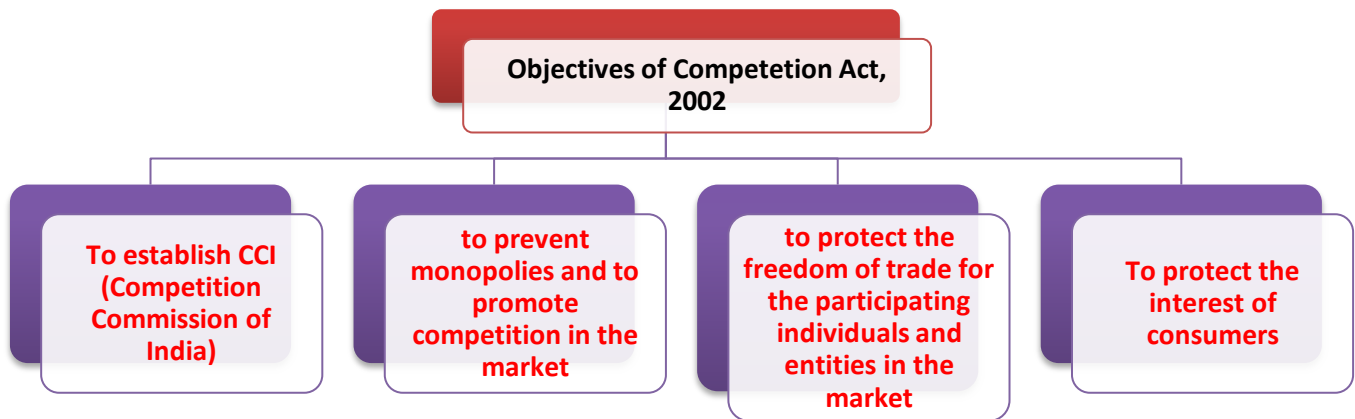


COMPETITION ACT, 2002

Introduction –

- Competition in the market means sellers striving independently for buyers’ patronage (support) to maximize profit (or other business objectives).
- A buyer prefers to buy a product at a price that maximizes his benefits whereas the seller prefers to sell the product at a price that maximizes his profit.

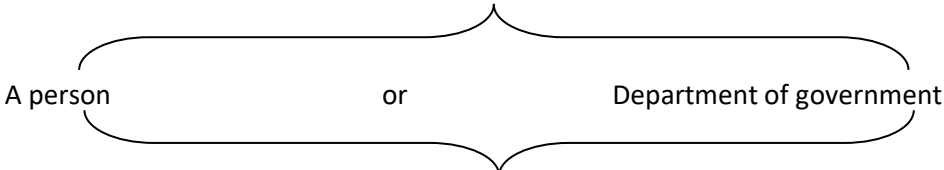
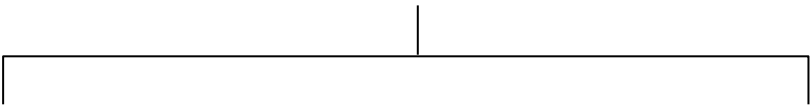
- The term ‘competition’ is generally understood as a process whereby the economic enterprises compete with each other to secure customers for their product.
- In the process, the enterprises compete to outsmart (defeat) their competitors, sometimes to eliminate their rivals.
- Competition in the sense of economic rivalry is unstable and has a natural tendency to give way to a monopoly.
- **Thus, competition kills competition.**



Important Definitions under the Act –

Term	Definition
Acquisition – Section 2(a)	It means directly or indirectly, acquiring or agreeing to acquire: <ul style="list-style-type: none"> a) shares, voting rights or assets of any enterprise; b) control over management or control over assets of any enterprise.
Agreement – Section 2(b)	Agreement includes any arrangement or understanding or action in concert – <ul style="list-style-type: none"> a) whether or not, such arrangement, understanding or concert is informal or in writing; or b) whether or not such arrangement, understanding or concert is intended to be enforceable by legal proceedings.
Cartel – Section 2(c)	Cartel includes an association of – <ul style="list-style-type: none"> a) producers; or b) sellers; or c) distributors; or d) traders or

	<p>e) service providers who, by agreement amongst themselves limit control or attempt to control the –</p> <p>a) production; or b) distribution; or c) sale or price of or, d) trade in goods or provision of services.</p> <p style="text-align: center;">Types of Cartel –</p> <p>a) International cartel – When not all of the enterprises in a cartel are based in the same country or when the cartel affects markets of more than one country.</p> <p>b) Import cartel – Comprises enterprises (including an association of enterprises) that get together for the purpose of imports into the country.</p> <p>c) Export cartel – Made up of enterprises based in one country with an agreement to cartelize markets in other countries.</p> <p style="text-align: center;">Objective of Cartel –</p> <p>To raise price above competitive levels, resulting in injury to consumers to the economy. For the consumers, cartelisation results in higher prices, poor quality and or no choice for goods or/and services.</p> <p style="text-align: center;">Conditions necessary for cartelization –</p> <ul style="list-style-type: none"> ✓ high concentration ✓ few competitors ✓ high entry and exit barriers ✓ homogeneity of the products (similar products) ✓ similar production costs → excess capacity ✓ high dependence of the consumers on the product ✓ history of collusion
<p>Consumer – Section 2(f)</p>	<p>Consumer includes only such purchasers or buyers who make purchases for their own consumption or to earn their livelihood. Consumer means any person who –</p> <ul style="list-style-type: none"> • 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 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. • 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 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. <p>Note – Under the Competition Act even if a person purchases goods or avails of services for commercial purpose, he will be a Consumer, whereas for purposes of Consumer Protection Act, a person purchasing goods/availing services for commercial purposes</p>

	<p>is not a “Consumer” and cannot seek relief under that Act.</p>
<p>Enterprise – Section 2(h)</p>	<p style="text-align: center;">Enterprise means –</p> <div style="text-align: center;">  </div> <p style="text-align: center;">Who is or has been engaged in any activity relating to</p> <div style="text-align: center;">  </div> <ul style="list-style-type: none"> - Production acquiring, - Storage with - Supply` securities - Distribution - Acquisition - Control - Article of goods <p style="text-align: center;">Provision of services in the business of holding, underwriting or dealing shares, debentures or other</p> <p>Note – Enterprise does not include Department of government dealing with</p> <ul style="list-style-type: none"> - Atomic energy - Currency - Defence - Space
<p>Goods – Section 2(i)</p>	<p>Goods means goods as defined in Sale of Goods Act, 1930 and –</p> <ol style="list-style-type: none"> a) products manufactured, processed or mined; b) debentures, shares and stocks after allotment; c) in relation to ‘goods supplied’, goods imported into India.
<p>Person – Section 2(p)</p>	<p>Person includes –</p> <ul style="list-style-type: none"> • an individual; • a Hindu undivided family; • a company; • a firm; • an association of persons; • a corporation established under Central, State Act or a Government Company • a body corporate incorporated by or under a law of a foreign country; • a co-operative society registered under any Law • local authority • every artificial juridical person.
<p>Price – Section 2(o)</p>	<p>Price includes every valuable consideration, whether direct or indirect, or deferred, and includes any consideration, which relates to sale of any goods or to performance of any</p>

	services.
Relevant Market – Section 2(r)	Relevant Market can be – a) relevant product market or b) relevant geographic market or c) both
Relevant Product Market – Section 2(t)	Relevant Product Market means a market comprising of all those products or services which are regarded as interchangeable or substitutable by the consumer, by reasons of characteristics of products or services, their prices and intended use.
Relevant Geographic Market – Section 2(s)	Relevant Geographic Market means a market comprising the area in which the conditions of competition for supply of goods or provision of services or demand of goods or services are distinctly homogenous and can be distinguished from conditions prevailing in neighbouring areas. For determining the “relevant geographic market”, the Commission shall have due regard to all or any of the following factors, namely;– (a) regulatory trade barriers; (b) local specification requirements; (c) national procurement policies; (d) adequate distribution facilities; (e) transport costs; (f) language; (g) consumer preferences; need for secure, regular supplies or rapid after-sales service.
Service	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.
Shares	Shares means shares in the share capital of a company carrying voting rights and includes, – a) any security which entitles the holder to receive shares with voting rights; b) stock except where a distinction between stock and share is expressed or implied
Trade	Trade means any ‘trade’, business, industry, profession or occupation relating to production, supplies, distribution, storage or control of goods and includes the provision of any services.

The Competition Act, 2002 is an improvement on the MRTP Act, 1969 –

It is true that the Competition Act, 2002 is an improvement on the MRTP (Monopolistic and Restrictive Trade Practice) Act, 1969.

Following differences in the MRTP Act, 1969 and the Competition Act, 2002 support this statement –

- **Difference in goals as stated in Preamble of the Acts**
 - a) The MRTP Act, 1969 aimed at prevention of concentration of economic power and prohibition of monopolistic, restrictive and unfair trade practices while objective of the Competition Act, 2002 is to promote and sustain competition, protect the interest of consumers and ensure freedom of trade carried on by other participants, in markets in India.

b) The broad objective of MRTP Act, 1969 was to control monopolies while the objective of the Competition Act 2002 is to promote competition.

- **Difference in provisions w.r.t. dominance –**

According to MRTP Act, 1969, dominance per se is bad while the provisions of Competition Act, 2002 states that it's not dominance which is prohibited but it is abuse of dominance which is per se bad.

- **Regulation of Merger & Acquisitions (Combination) –**

MRTP Act, 1969 did not provide for regulation of merger & acquisition while the Competition Act, 2002 provides for regulation of merger & acquisition which is absolutely important in the new regime of liberalization.

- **Provision for penalties –**

MRTP Act, 1969 did not provide for penalties specifically while the Competition Act, 2002 specifically provides for imposition of penalties for violations under the Act.

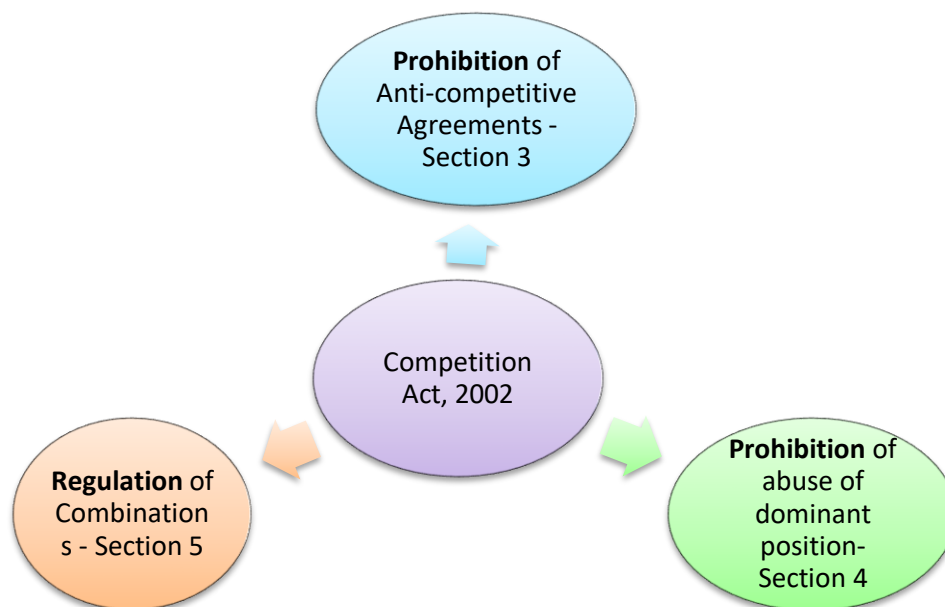
- **Advocacy provisions –**

There were no advocacy provisions for Monopolistic and Restrictive Trade Practices Commission while the Competition Act, 2002 mandates Competition Advocacy provisions for Competition Commission of India.

- **Extra-territorial jurisdiction of Commission –**

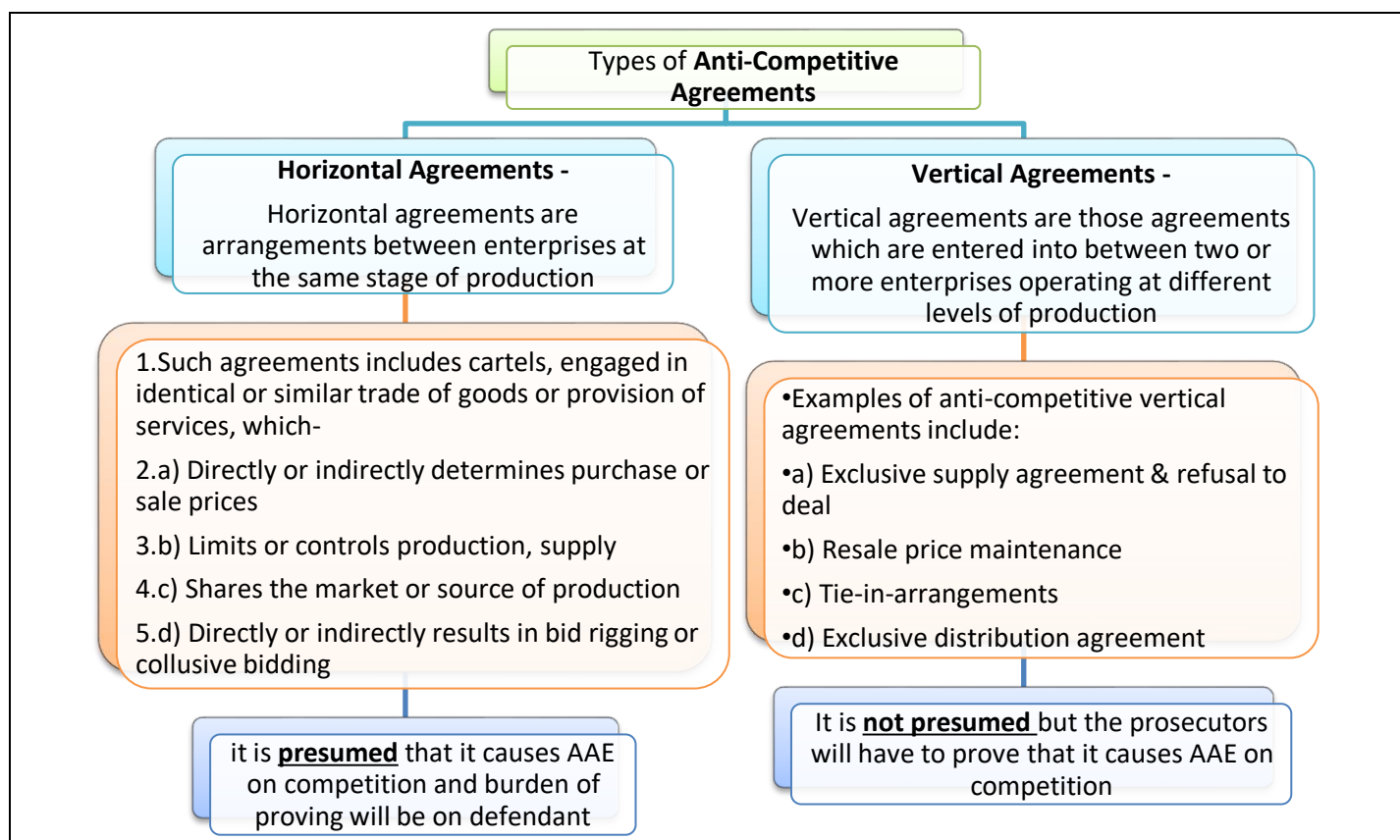
Monopolistic and Restrictive Trade Practices Commission did not have extraterritorial jurisdiction beyond India in appropriate cases while Competition Commission of India is vested with extra-territorial jurisdiction in appropriate cases having adverse effect on competition in India.

BASIS OF COMPARISON	MRTP ACT	COMPETITION ACT
Meaning	MRTP Act, is the first competition law made in India, which covers rules and regulations relating to unfair trade practices.	Competition Act, is implemented to promote and keep up competition in the economy and ensure freedom of business.
Nature	Reformatory	Punitive
Dominance	Determined by firm's size.	Determined by firm's structure.
Focuses on	Consumer interest at large	Public at large
Penalty	No penalty for offense	Offenses are penalized
Objective	To control monopolies	To promote competition
Agreement	Required to be registered.	It does not specify any provision relating to registration of agreement.
Appointment of Chairman	By the Central Government	By the Committee consisting of retired



Anti-Competitive Agreements – Section 3

- No person or no enterprise shall enter into any agreement in respect of supply, distribution, acquisition or control of goods or provision of services, which causes or is likely to cause an appreciable adverse effect on competition.
- If the agreement is anti-competitive it will be wholly void.
- Cartel is a form of entering into anti-competitive agreements.



What is Bid Rigging / Collusive Bidding?

- Collusive bidding or Bid rigging means any agreement between enterprises or persons which has the effect of eliminating or reducing competition for bids or adversely affecting or manipulating the process for bidding.
- Bidders make an agreement to work together and keep the bid amount at a price which they decide earlier.
- Bidders act together to manipulate the bid and therefore it results in anti- competitive agreement.
- The bidding method is used by the Government and private bodies to get the bid at a favourable price from the market but if the bidders work together then they will have to select the lowest bid and then compromise on the quality of the bid.
- The main of the bidder is to get selected for that particular tender which he fulfils by decreasing his price of the bid.

Examples of Collusive bidding or Bid rigging are –

- agreements to submit identical bids
- agreements as to who shall submit the lowest bid
- agreements for the submission of cover bids
- agreements not to bid against each other
- agreements on common norms to calculate prices or terms of bids
- agreements to squeeze out outside bidders
- agreements designating bid winners in advance on a rotational basis, or on a geographical or customer allocation basis

Terms under Vertical Agreements –

1) Tie-in arrangement –

It is a type of arrangement or an agreement which states that the person who is buying goods has to first purchase other goods as a condition of the agreement. Therefore, it means that the buyer who wants to buy product 'A' must also purchase product 'B'. For eg – A consumer who wants to buy connection of domestic cooking gas has to buy a gas stove as a condition of the agreement.

2) Exclusive supply agreement –

An agreement which restricts a person (purchaser/franchisee) from selling goods from any other supplier of the same kind. So, if a manufacturer tells a retailer or a wholesaler to sell only his product and not his competitor's products, it is an exclusive supply agreement. The manufacturer puts the condition that the seller cannot sell any other goods at all and if he does so, the manufacturer will not supply his goods anymore.

3) Exclusive distribution agreement –

An agreement which limits, restricts or withholds the supply of goods or an agreement which allocates a particular area for the supply of goods is called Exclusive distribution agreement. In this agreement, the distributor tells the seller to sell the product in a particular area and not beyond that.

4) Refusal to deal –

An agreement which restricts the dealer to whom the goods are sold or from whom the goods are bought. (restricting the person to whom the goods are sold). For eg, in this agreement, the franchisees decide that they will not deal in products or goods of similar nature for a period of

three years from the date of determination of agreement within a radius of five kms from the showroom.

5) Resale price maintenance –

It is an agreement between the seller and the buyer in which the seller decides the price at which the product should be sold. (selling goods with conditions on resale at stipulated price). The buyer cannot sell the product at a lower price if the seller does not agree.

Any condition stating that the dealer should not sell below the agreed price is a 'resale price maintenance' practice and is an anti-competitive practice.

Important Note –

However, it has to be kept in mind that a person's right to stop any infringement of his product is not restricted under this section. A person can protect his rights which have been given to him under –

- a) Copyright Act, 1957
- b) Patents Act, 1970
- c) Designs Act, 2000
- d) Geographical Indications of Goods (Registration and Protection) Act, 1999
- e) Semi-conductor Integrated Circuits Layout-Design Act, 2000
- f) Trade Marks Act, 1999, etc.

The export business in which the person exports any goods from India under an agreement to fulfill the export contracts is not restricted under the Act.

Summary –

WHAT IS AN ANTI-COMPETITIVE AGREEMENT?

An anti-competitive agreement is an agreement having appreciable adverse effect on competition.

Anti-competitive agreements include, but are not limited to:-

- agreement to limit production and/or supply;
- agreement to allocate markets;
- agreement to fix price;
- bid rigging or collusive bidding;
- conditional purchase/ sale (tie-in arrangement);
- exclusive supply / distribution arrangement;
- resale price maintenance; and
- refusal to deal



When an agreement is said to have Appreciable Adverse Effect on Competition (AAEC)?

For determining whether an agreement has appreciable adverse effect on competition, the Commission shall consider the following factors –

- creation of barriers to new entrants in the market;
- driving existing competitors out of the market;
- foreclosure of competition by hindering entry into the market;
- accrual of benefits to consumers;
- improvements in production or distribution of goods or provision of services;

- promotion of technical, scientific and economic development by means of production or distribution of goods or provision of services.

Prohibition of abuse of dominant position – Section 4

A) Meaning of Dominant Position –

- A dominant position means a position at the top and has strength in the market.
- Prohibition of abuse of dominant position means that a group is restricted (complete from abusing its dominant position that is a position of strength.
- A group is said to be in a dominant position when –
 - It can operate independently that means the competition cannot affect it's market.
 - It can affect the consumers or it's competitors or a relevant market in it's own favour.

WHAT CONSTITUTES ABUSE OF DOMINANCE?

Dominance refers to a position of strength which enables an enterprise to operate independently of competitive forces or to affect its competitors or consumers or the market in its favour. Abuse of dominant position impedes fair competition between firms, exploits consumers and makes it difficult for the other players to compete with the dominant undertaking on merit. Abuse of dominant position includes:

- imposing unfair conditions or price,
- predatory pricing,
- limiting production/market or technical development,
- creating barriers to entry,
- applying dissimilar conditions to similar transactions,
- denying market access, and
- using dominant position in one market to gain advantages in another market.

Note –

One important thing to be kept in mind is that the Competition Commission of India has been given the power to enquire and determine whether there is any dominant position of an enterprise or a group and whether they are abusing the same. If an enterprise or group enjoys dominant position in the market but is not abusing it then it cannot be said to have abused its dominant position.



When an enterprise will have Dominant position?

For determining whether an enterprise enjoys Dominant position or not under Section 4, the Commission shall consider the following factors –

- market share of the enterprise;
- size and resources of the enterprise;
- size and importance of the competitors;
- economic power of the enterprise including commercial advantages over competitors;
- vertical integration of the enterprises or sale or service network of such enterprises;
- dependence of consumers on the enterprise;
- monopoly or dominant position whether acquired as a result of any statute or by virtue of being a Government company or a public sector undertaking or otherwise;
- entry barriers including barriers such as regulatory barriers, financial risk, high capital cost of entry, marketing entry barriers, technical entry barriers, economies of scale, high

- cost of substitutable goods or service for consumers;
- i) countervailing buying power;
- j) market structure and size of market;
- k) social obligations and social costs;
- l) relative advantage, by way of the contribution to the economic development, by the enterprise enjoying a dominant position having or likely to have an appreciable adverse effect on competition;
- m) any other factor which the Commission may consider relevant for the inquiry.

Combinations – Section 5

Combination under the Act means

- acquisition of control, shares, voting rights or assets, acquisition of control by a person over an enterprise
- where such person has direct or indirect control over another enterprise engaged in competing businesses, and
- mergers and amalgamations between or amongst enterprises when the combining parties exceed the thresholds set in the Act.

The thresholds are specified in the Act in terms of assets or turnover in India and outside India. Entering into a combination which causes or is likely to cause an appreciable adverse effect on competition within the relevant market in India is prohibited and such **combination shall be void**.

The thresholds which are given in the act are as follows:

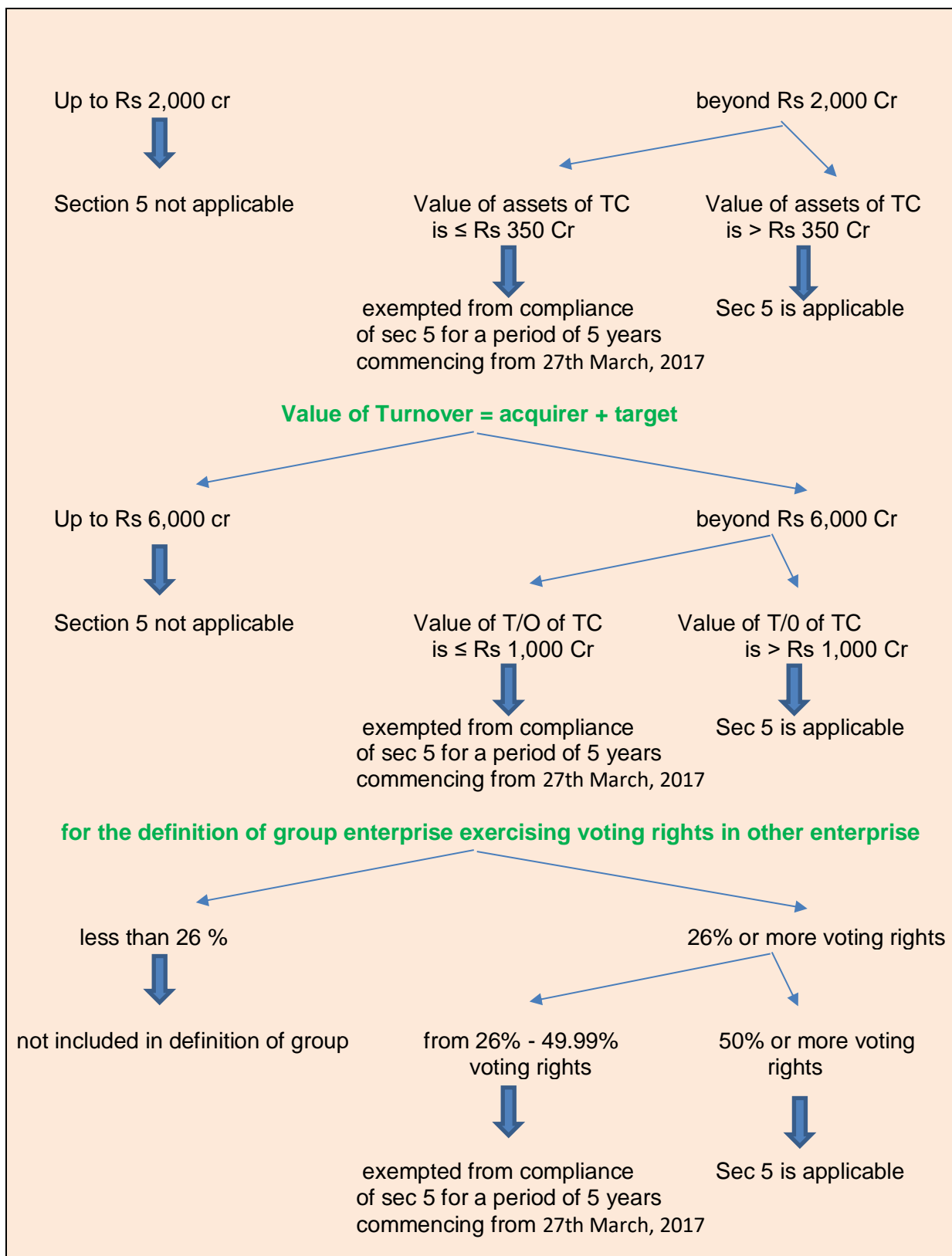
THRESHOLDS FOR FILING NOTICE				
Particulars		Assets	(OR)	Turnover
India	No Group (Enterprise level)	>2000 Crore		>6000 Crore
	Group	> 8000 crores		> 24000 crores
In India and outside India	No Group (Enterprise level)	>USD 1 bn with at least > 1000 INR crore in India		>USD 3 bn with at least > 3000 INR crore in India
	Group	>USD 4 bn with at least >1000 INR crore in India		>USD 12 bn with at least > 3000 INR crore in India

Exemption (Notification in 27th March, 2017)

- ❖ A target enterprise that is an enterprise whose control, shares, voting rights or assets are being acquired have **assets of not more than Rs. 350 crore in India** or **turnover of not more than Rs. 1000 crore in India**, are exempt from Section 5 of the Act for a period of 5 years.
- ❖ Exemption to the ‘Group’ exercising less than 50% of voting rights in other enterprise are exempt from Section 5 of the Act for a period of 5 years.

Analysis of above limits –
Value of assets = acquirer + target





Regulation of Combinations – Section 6

A) Introduction –

- A combination which causes or is likely to cause an AAEC within the relevant market in India, it shall be void.
- **Combinations are only regulated whereas anti-competitive agreements and abuse of dominance are prohibited.**
- CCI will only examine as to whether or not combination is or is likely to have an AAEC.

B) Timeline for filing notice –

- If any person or enterprise proposes to enter into any combination, shall give a notice to the Commission disclosing details of the proposed combination.
- **Such intimation should be submitted within 30 days of –**
 - 1) **Approval by the board of directors for the proposal relating to merger or amalgamation**
 - 2) **Acquiring of control or execution of any agreement or other document for acquisition**

C) Evaluation by CCI –

- a) The CCI must pass an order or issue directions with respect to a Combination for approval **within a period of 210 days** from the date of filing notice.
- b) Till CCI passes an order, the Combination cannot take effect.
- c) **If CCI does not pass any order within the 210 days, the Combination shall be deemed to have been approved.**
- d) CCI can investigate and determine whether the disclosure made to it is correct and whether the combination has, or is likely to have, an appreciable adverse effect on the competition.

D) Orders by CCI

- a) CCI can approve the combination.
- b) If CCI finds that a combination shall have or is likely to have appreciable adverse effect on the competition in the relevant market, CCI may order that the combination should come into effect.
- c) CCI can suggest suitable modifications to amend the transaction structure and based on the response of the parties, pass further orders.

EXEMPTION –

Public financial institution, foreign institutional investor, bank or venture capital fund, have been given exemption so as to facilitate raising of funds by an enterprise in the course of its normal business. However, they have to **file the prescribed form within 7 days from the date of acquisition or entering into an agreement** providing the details of the control, the circumstances for exercise of such control and the consequences of default arising out of acquisitions or loan/ investment agreement.

Competition Commission of India –

Particulars	Explanation
Establishment – Section 7	<ul style="list-style-type: none"> • Central Government has been empowered to establish a Commission to be called “Competition Commission of India” by issuing a Notification. • The Commission is a body corporate having perpetual succession and a common seal. • The Commission has power to acquire, hold movable or immovable property and to enter into contract in its name and by the said name, sue or be sued.

	<ul style="list-style-type: none"> The Head Office of the Commission shall be at such place as the Central Government may decide from time to time and has Head Office at New Delhi. The Commission has also been authorized to establish its office at other places in India. Thus, the law provides for setting up of CCI's offices at places other than that of its Headquarter.
Composition – Section 8	<p>The Commission shall consist of –</p> <ul style="list-style-type: none"> Chairperson and 2 ≤ Other Members ≤ 6 (Not less than 2 and not more than 6) to be appointed by the Central Government.
Qualification	<p>The Chairperson and every other Member shall be a person of ability, integrity and standing and who has special knowledge of, and such professional experience of ≥ 15 years, in, international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs or competition matters, including competition law and policy, which in the opinion of the Central Government, may be useful to the Commission.</p>
Selection of Chairperson and members – Section 9	<p>The Chairperson and other Members of the Commission shall be appointed by the Central Government from a panel of names recommended by a Selection Committee consisting of—</p> <p>a. the Chief Justice of India or his nominee -----Chairperson;</p> <p>b. the Secretary in the Ministry of Corporate Affairs-----Member;</p> <p>c. the Secretary in the Ministry of Law and Justice-----Member;</p> <p>d. two experts of repute who have special knowledge of, and professional experience in international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs or competition matters including competition law and policy-----Members.</p>
Term of office of Chairperson and other Members	<p>The Chairperson and every other Member shall hold office as such for a term of 5 years up to the age of 65 years and shall be eligible for reappointment.</p>
Vacancy by resignation or removal	<p>A vacancy caused by the resignation or removal of the Chairperson or any other Member shall be filled by fresh appointment in accordance with the provisions of sections 8 and 9. (provisions stated above)</p>
Vacancy in the office of Chairperson	<ul style="list-style-type: none"> In the event of the occurrence of a vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the senior-most Member shall act as the Chairperson, until the date on which a new Chairperson enters upon his office. When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member shall discharge the functions of the Chairperson until the date on which the Chairperson resumes the charge of his functions.
Resignation – Section 11(1)	<p>The Chairperson or any other Member may, by notice in writing under his hand addressed to the Central Government, resign his office:</p> <p>Provided that the Chairperson or a Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office -</p> <ol style="list-style-type: none"> until the expiry of 3 months from the date of receipt of such notice or until a person duly appointed his successor enters upon his office or until the expiry of his term of office, <p>whichever is the earliest.</p>
Removal – Section 11(2)	<p>Central Government may remove the Chairperson or any other Member from his office if such Chairperson or Member —</p> <ol style="list-style-type: none"> is, or at any time has been, adjudged as an insolvent; or

	<ol style="list-style-type: none"> 2. has engaged at any time, during his term of office, in any paid employment; or 3. has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or 4. has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or 5. has so abused his position as to render his continuance in office prejudicial to the public interest; or 6. has become physically or mentally incapable of acting as a Member. <p>For clause (4) or (5) the Supreme Court, on a reference being made to it in this behalf by the Central Government, has, on an inquiry, held by it in accordance with such procedure as may be prescribed in this behalf by the Supreme Court, reported that the Member, ought on such ground or grounds to be removed.</p>
Restriction on Employment	<p>The Chairperson and other Members shall not accept any employment in any enterprise which has been a party to a proceeding before the Commission under this Act, for a period of 2 years from the date on which they cease to hold office.</p> <p>Provided that the above shall not apply to any employment under</p> <ol style="list-style-type: none"> a) the Central Government or a State Government or local authority or in b) any statutory authority or any corporation established by or under any Central, State or Provincial Act or c) a Government company
Meetings of the Commission – Section 22	<ol style="list-style-type: none"> 1) The Commission shall meet at such times and places, and shall observe such rules and procedure in regard to the transaction of business at its meetings as may be provided by regulations. 2) The Chairperson, if for any reason, is unable to attend a meeting of the Commission, the senior-most Member present at the meeting, shall preside at the meeting.
Quorum	Three Members
Decisions	All questions which come up before any meeting of the Commission shall be decided by a majority of the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the Member presiding, shall have a second or/casting vote.
Persons entitled to appear before the Commission	<ol style="list-style-type: none"> a) a complainant; or b) a defendant; or c) the Director General <p>They may either appear in person or authorise any of the following-</p> <ul style="list-style-type: none"> • a chartered accountant as defined in Chartered Accountants Act, 1949 and who has obtained a certificate of practice • a company secretary as defined in the Company Secretaries Act, 1980 and who has obtained a certificate of practice • a cost accountant as defined in Cost and Works Accountants Act, 1959 and who has obtained a certificate of practice • a legal practitioner that is an advocate, vakil or an attorney of any High Court including a pleader in practice.
Power of Commission to regulate its	<ol style="list-style-type: none"> 1) The Commission has been empowered to lay down its own procedure and regulations and is not bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall have to observe the principles of natural justice and

<p>own procedure</p>	<p>subject to the provisions of the Act. It shall also be subject to the rules made by the Central Government.</p> <p>2) While trying the suit, the Commission shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 for the following matters-</p> <ul style="list-style-type: none"> • Receiving evidence on affidavits • issuing commissions for the examination of witnesses ad documents • requiring the discovery and production of document • summoning and enforcing the attendance of any person and examining him on oath • subject to the provisions of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office <p>3) The Commission may direct any person – To produce before the Director General or the Secretary or an officer authorized by it, such books, or other documents in the custody or under the control of such person or any trade or such other information as may be in his possession in relation to the trade carried on by such person.</p>
<p>Ratification of orders</p>	<p>The Commission may amend any order passed by it under the provisions of this Act with a view to rectifying any mistake as follows-</p> <ul style="list-style-type: none"> • an amendment of an order of its own motion; • an amendment for rectifying any mistake apparent from record, which has been brought to its notice by any party to the order.
<p>Failure to pay Monetary penalty</p>	<ul style="list-style-type: none"> • If a person fails to pay any monetary penalty imposed on him under the Act, the Commission shall proceed to recover such penalty, in such manner as may be specified by the regulations • In a case where the Commission is of the opinion that it would be expedient to recover the penalty imposed under the Act in accordance with the provisions of the Income-tax Act, 1961, it may make a reference to this effect to the concerned income-tax authority under that Act for recovery of the penalty as tax due under the said Act. • Where a reference has been made, the person upon whom the penalty has been imposed shall be deemed to be the assessee in default under the Income Tax Act, 1961.

Director General (DG) –

• **Who is DG –**

DG assists the Commission in conducting inquiry into contravention of any of the provisions of the Act and for performing such other functions as may be provided in the Act.

• **Who appoints DG? – Section 16**

- a) Central Government is empowered to appoint a Director General and such number of additional, joint, deputy or assistant Director Generals or other advisers, consultants or officers for the purposes of assisting the Commission.
- b) However, the above officers, as and when appointed, exercise powers and discharge functions subject to the general control, supervision and directions of the Director General.

• **What should be the salary and allowances of DG –**

The salary, allowances and other terms and conditions shall prescribed by the Central Government.

• **Note –**

- a) The Commission may engage, in accordance with the procedure specified by regulations, such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, economics, law, business or such other disciplines related to competition, as it deems necessary to assist the Commission in the discharge of its functions under the Act.
- b) For the purpose of discharging the duties and functions under this Act with any agency of any foreign country, the Commission has to take prior approval of Central Government.

Powers and Functions of Commission – Section 18

- a) to eliminate practices having adverse effect on competition
- b) to promote and sustain competition
- c) to protect interests of consumers
- d) to ensure freedom of trade carried on by other participants in markets in India.

Note –

The Director General is not vested with a right to move an application for institution of an enquiry relating to anti-competitive agreements or abuse of dominance.

Duties of Director General –

- 1) The Director General **assists the Commission in investigation** into any contravention of the provisions of this Act.
- 2) The Director General, in order to effectively discharge his functions, has been given the **same powers as** are conferred upon the Commission and the Commission is having same powers as **are vested in Civil Court under the Code of Civil Procedure (1908) while trying a suit**, in respect of the following matters-
 - Receiving evidence on affidavits
 - issuing commissions for the examination of witnesses and documents
 - requiring the discovery and production of documents
 - summoning and enforcing the attendance of any person and examining him on oath
 - subject to the provisions of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office

Inquiry into certain agreements and dominant position of enterprise – Section 19

When commission will make inquiry?

The Commission may inquire into any alleged contravention of the section 3 and 4 –

- a) on its own motion; or
- b) on receipt of any information from any person, consumer or their associations or trade association; or
- c) on reference made to it by the Central Government or a State Government or a statutory authority.

Procedure for inquiry under section 19 – Section 26

- 1) If the Commission, on receipt of information has an opinion that investigation is needed, **it shall direct the Director General to cause an investigation to be made into the matter.**
- 2) The Director General shall investigate into the matter and **submit a report of its findings within the**

period as may be specified by the Commission.

3) It is not binding on the Commission to accept the report of the Director General.

- 4) Upon receipt of a report from the Director General, the Commission shall forward a copy thereof to
 - a) the parties concerned or
 - b) Central Government or
 - c) State Government or
 - d) statutory authority as the case may be and shall invite their comments on the same.
- 5) If the Director General recommends that there is no contravention, an opportunity of being heard shall be given to the informant by the Commission.
- 6) If the **Commission agrees** with the recommendation of the Director General, it shall **dismiss the information** and if **does not agree**, it shall **direct the enquiry to proceed further**.
- 7) If any information or reference comes to the knowledge of the Commission regarding alleged violation of the provisions of the Act, must be referred to the Director General for an investigation in the matter.
- 8) A copy of the report of the Director General is required to be sent to the information provider or to the Central Government or State Government or a statutory authority, as the case may be, for their comments and an opportunity of hearing is required to be given to the parties.
- 9) The Commission, after an inquiry into the matter shall pass a reasoned order.
- 10) **It is not compulsory for the Commission to follow the recommendations of the Director General.**

Orders by Commission after inquiry into agreements or abuse of dominant position – Section 27

The Commission after any inquiry into agreement or an inquiry into abuse of dominant position may pass all or any of the following orders: -

- Direct to –
 - a) discontinue and not to re-enter such agreement or
 - b) discontinue such abuse of dominant position, as the case may be (This order is called as “Cease & Desist order”)
- **Impose such penalty (for Non – Cartel) – not exceeding 10% of the average turnover for the last three preceding financial years, upon each of such person or enterprises which are parties to such agreements or abuse.**
- **Impose such penalty (for Cartel) – Higher of –**
 - a. **penalty of up to 3 times of its profit for each year of the continuance of such agreement or**
 - b. **10% of its turnover for each year of the continuance of such agreement**
- Direct that the agreements shall stand modified to the extent and in the manner as may be specified by the Commission.
- may direct the enterprises concerned to comply with such other orders and directions, including payment of cost, if any, as it deems fit.

Division of enterprise enjoying dominant position –

The Commission, may, notwithstanding anything contained in any other law for the time being in force, by order in writing, direct division of an enterprise enjoying dominant position to ensure that such enterprise does not abuse its dominant position.

The order may provide for all or any of the following matters, namely—

- The transfer or vesting of property, rights, liabilities or obligations;
- The adjustment of contracts either by discharge or reduction of any liability or obligation or otherwise;

- The creation, allotment, surrender or cancellation of any shares, stocks or securities;
- The formation or winding up of an enterprise or the amendment of the memorandum of association or articles of association or any other instruments regulating the business of any enterprise;
- The extent to which, and the circumstances in which, provisions of the order affecting an enterprise may be altered by the enterprise and the registration thereof;
- Any other matter which may be necessary to give effect to the division of the enterprise.

Inquiry into Combination by Commission – Section 20

A) When commission will inquire into AAE caused on competition?

The Commission may inquire into the AAE caused or likely to be caused on competition in India as a result of combination –

- a) On suo motu; or
- b) upon receipt of notice under relating to acquisition or acquiring of control or
- c) merger or amalgamation referred in of the Act.

B) Period within which enquiry shall be made –

An enquiry shall be initiated by the Commission **within one year** from the date on which such combination has taken effect.

C) Factors to be considered –

While determining whether the combination would have the effect of or is likely to have an appreciable adverse effect on competition in the relevant market, namely –

- a) actual and potential level of competition through imports in the market;
- b) extent of barriers to entry into the market;
- c) level of combination in the market;
- d) degree of power in the market;
- e) likelihood that the combination would result in the parties to the combination being able to significantly and sustainably increase prices or profit margins;
- f) extent of effective competition likely to sustain in a market;
- g) extent to which substitutes are available or are likely to be available in the market;
- h) market share, in the relevant market, of the persons or enterprise in a combination, individually and as a combination;
- i) likelihood that the combination would result in the removal of a vigorous and effective competitor or competitors in the market;
- j) nature and extent of vertical integration in the market;
- k) possibility of a failing business;
- l) nature and extent of innovation;
- m) relative advantage, by way of the contribution to the economic development, by any combination having or likely to have appreciable adverse effect on competition;
- n) whether the benefits of the combination outweigh the adverse impact of the combination, if any.

Procedure for investigation of combination – Section 29

- 1) If the Commission is of the opinion that the combination will cause or has caused an appreciable adverse effect on competition within the relevant market in India.
- 2) Further, when the Commission has come to such a conclusion then it shall proceed to issue a

- notice to the parties to the combination, calling upon them to show cause why an investigation in respect of such combination should not be conducted;
- 3) After receipt of the response of the parties to the combination Commission may call for the report of the Director General.
 - 4) After the response, the Commission may call for the report of the Director General.
 - 5) The Commission shall, if decides that, the Combination is likely to cause an appreciable adverse effect on competition in relevant market, it shall, within **7 days** direct the parties to the combination to publish within **10 working days**, the details of the combination, in such manner as it directs so as to bring to the information of public and persons likely to be affected by such combination.
 - 6) The person affected can file his written objections within **15 working days** of the publishing of the public notice, with the Commission.
 - 7) The Commission may, within **15 working days** of the filing of written objections, call for such additional or other information as it deem fit from the parties.
 - 8) The information shall be furnished by the parties above referred within **15 days** from the expiry of the period notified by the Commission.
 - 9) After receipt of all the information and within **45 days** from expiry of period for filing further information, the Commission shall proceed to deal with the case

Orders of Commission on Certain Combinations – Section 31

The Commission may pass any of the following written orders:-

- ✚ **Approve the combination** -
if-combination does not, or is not likely to, have an appreciable adverse effect on the Competition in relevant market in India.
- ✚ **Disapprove the combination** -
if-combination does, or is likely to, have an appreciable adverse effect on the Competition in relevant market in India.
- ✚ **If the Commission thinks that the adverse effect can be removed by modification** -
 - a) it-shall direct the parties to carry out that modification and the parties shall carry out that modification within the time limit prescribed.
 - b) The parties accepted the modification but did not carry out, such combination shall be deemed to have an appreciable adverse effect on competition and shall be dealt with by the Commission.
 - c) The parties did not accept the modification, the parties can submit their view within 30 days of the modification proposed by the Commission.
 - d) If the Commission agrees with the view submitted by the parties it shall, by an order approve the combination.
- ✚ **If the Commission does not accept the amendment then** -
parties shall be allowed a further period of thirty days for accepting the amendment proposed by the Commission.
- ✚ **Where the parties to the combination fail to accept the modification within thirty days** -
Then it shall be deemed that the combination has an appreciable adverse effect on Competition.

Reference by statutory authority –

- ✚ If in the course of a proceeding before any statutory authority, an issue is raised by any party that any decision which such authority has taken or proposes to take, is or would be, contrary to the provisions of the Competition Act 2002, it may make a reference in respect of such issue to the Commission and seek its opinion.

- ✚ The Commission shall, on receipt of the reference, after hearing the parties to the proceedings, **give its opinion within 60 days of receipt of such reference** to such authority on the issues referred to it.
- ✚ The statutory authority shall thereafter pass such order on the issues referred to the Commission as it deems fit.
- ✚ The statutory authority may, suo motu make such reference in respect of such issue to the Commission.
- ✚ Likewise, the Commission either in the course of proceedings before it or suo motu may make a reference for opinion to a statutory authority and the latter has to **render its opinion within 60 days of making a reference.**

Acts taking place outside India but having an effect on Competition in India – Section 32

The Commission shall have jurisdiction in the following cases as well;

- a) an agreement referred to in Section 3 has been entered into outside India; or
- b) any party to such agreement is outside India; or
- c) any enterprise abusing the dominant position is outside India; or
- d) a combination has taken place outside India; or
- e) any party to combination is outside India; or
- f) any other matter or practice or action arising out of such agreement or dominant position or combination is outside India.

Note –

Acts taking place outside India but having an effect on competition in India will be subject to the jurisdiction of Commission. The Competition Commission of India will have jurisdiction even if both the parties to an agreement are outside India but only if the agreement, dominant position or combination entered into by them has an appreciable adverse effect on competition in the relevant market of India.

Penalties –

Penalties prescribed by the Competition Act, 2002 for contravention of orders of the CCI –

- 1) The Competition Commission of India may cause an inquiry to be made into compliance of its orders or directions made in exercise of its powers under the Act.
- 2) **If any person, without reasonable cause, fails to comply with the orders or directions of the Commission issued of the Competition Act, he shall be punishable with fine which may extend to rupees one lakh for each day during which such non-compliance occurs, subject to a maximum of rupees ten crore, as the Commission may determine.**
- 3) **If any person does not comply with the orders or directions issued, or fails to pay the fine imposed above, he shall, without prejudice to any proceeding, be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to rupees twenty-five crore, or with both, as the Chief Metropolitan Magistrate, Delhi may deem fit.**

Penalty for failure to comply with directions of Commission and Director General – Section 43

if any person fails to comply, without reasonable cause, with a direction given by the Commission or the Director General, such person shall be **punishable with fine which may extend to rupees one lakh for each day during which such failure continues subject to a maximum of rupees one crore, as may be determined by the Commission**

Power to impose penalty for non-furnishing of information on combination –

if any person or enterprise who fails to give notice to the Commission under sub section (2) of section 6, the Commission shall **impose on such person or enterprise a penalty which may extend to one per cent of the total turnover or the assets, whichever is higher, of such a combination.**

Penalty for making false statement – Section 44

If any person, being a party to a combination, makes a statement which is false in any material particular, or knowing it to be false; or omits to state any material particular knowing it to be material, **such person shall be liable to a penalty which shall not be less than rupees fifty lakhs but which may extend to rupees one crore, as may be determined by the Commission.**

Power to impose lesser penalty –

✚ When commission will impose lesser penalty?

If any producer, seller, distributor, trader or service provider included in any cartel, which is alleged to have violated Section 3, has made a full and true disclosure in respect of alleged violations and such a disclosure is vital, the Commission may impose upon him a lesser penalty than as prescribed under the Act or rules or regulations.

✚ **Conditions –**

- a) The lesser penalty shall not be imposed where before making such disclosure, the report of Director General has been received in the Commission.
- b) the lesser penalty shall be imposed only in respect of the producer, seller, distributor, trader or service provider included in the cartel, who has made a full, true and vital disclosures under this Section
- c) . Any producer, seller, trader or service provider included in the cartel shall also be liable to imposition of penalty, if in the course of proceedings, had, –
 - 1) not complied with the condition on which the lesser penalty was imposed by the Commission; or
 - 2) given false evidence; or
 - 3) the disclosure made is not vital.
- d) The lesser penalty is for a member of a ring who breaks the rank.
- e) There is no provision to provide any protection or incentive to a whistle blower, which is conferred upon Authorities in contemporary legislations abroad.

Competition Advocacy –

Topic	Explanation
Opinion from Commission	The Central Government or a State Government may, in formulating a policy on competition shall make a reference to the Commission for its opinion on possible effect of such policy on competition and on the receipt of such a reference, and the Commission shall, within 60 days, give its opinion.
Time limit	On receipt of such a reference, the Commission shall, give its opinion on it to the Central Government/State Government, within 60 days of making such a reference and the latter may formulate the policy as it deems fit.

Opinion not to be binding on CG/SG	The opinion shall not be binding upon the Central Government or the State Government, in formulating such policy.
Promotion of Competition Advocacy	The Commission shall take suitable measures for the promotion of competition advocacy, creating awareness and imparting training about competition issues.

FINANCE, ACCOUNTS AND AUDIT –

Grants by Central Government –

The Central Government may make to the Commission grants of such sums of money as it may think fit for being utilised for the purposes of the Act. Such grant is to be made after due appropriation made by the Parliament.

Constitution of Fund –

Constitution of fund	The Act provides for the constitution of a fund called the “Competition Fund”
Purpose of the fund	for meeting the establishment and other expenses of the Competition Commission in connection with the discharge of its functions and for the purposes of this Act.
Amounts to be credited in the fund	<ul style="list-style-type: none"> • all government grants received by the commission; • the fees received under the Act; • the interest on the amounts accrued on the monies referred under clauses (a) to (c). <p>Note – Fee realized alongwith notice disclosing combination shall form part of ‘Competition Fund’.</p>
Administration of fund	The Fund shall be administered by a Committee of such Members of the Commission, as may be determined by the Chairperson and the Committee so appointed, shall spend monies out of the Fund only for the objects for which the Fund has been constituted.

Accounts and Audit –

- 1) Proper accounts and other relevant records shall be maintained by the Commission and an annual statement of accounts shall be prepared by it in prescribed form in consultation with the Comptroller and Auditor General of India (CAG)
- 2) Audit shall be done by CAG.

Note –
the orders passed by the Commission, being matters appealable to the Supreme Court, shall not be subject to audit by the CAG.
- 3) The expenses, if any, incurred in connection with such audit shall be payable by the Commission to the CAG.
- 4) The CAG or any person appointed by him in connection with the audit of the accounts of the

Commission shall have same rights, privileges and authority in connection with such audit as CAG has in connection with the audit of Government accounts and, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

- 5) Only accounts as certified by the CAG and any other person authorised by him in this behalf together with the audit report shall be forwarded to the Central Government and the Government shall cause it to be laid before each House of Parliament.

Furnishing of Returns, etc., to Central Government –

A) Returns and Statement to be submitted by Commission –

The Commission shall furnish to the Central Government such returns and statements and such particulars in regard to any proposed or existing measures for the promotion of competition advocacy, creating awareness and imparting training about competition issues, as the Central Government may, from time to time, require.

B) Annual Report –

The Commission shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

Appellate Tribunal –

A) Appeal to Appellate Tribunal

- 1) The National Company Law Appellate Tribunal constituted under section 410 of the Companies Act, 2013 shall, be the Appellate Tribunal -
 - to hear and dispose of appeals against any direction issued or decision made or order passed by the Commission
 - to adjudicate on claim for compensation that may arise from the findings of the Commission or the orders of the Appellate Tribunal.
- 2) Every **appeal shall be filed within a period of sixty days** from the date on which a copy of the direction or decision or order made by the Commission is received by the aggrieved person along with the fees prescribed.
- 3) The Appellate Tribunal may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that there was sufficient cause for not filing it within that period.
- 4) On receipt of an appeal, the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the direction, decision or order appealed against.
- 5) The Appellate Tribunal shall send a copy of every order made by it to the Commission and the parties to the appeal.
- 6) The appeal filed before the Appellate Tribunal shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal within six months from the date of receipt of the appeal.

B) Appeal to Supreme Court –

- a) The Central Government or any State Government or the Commission or any statutory authority or any local authority or any enterprise or any person aggrieved by any decision or order of the Appellate Tribunal may file an **appeal to the Supreme Court within 60 days** from the date of communication of the decision or order of the Appellate Tribunal to them.
- b) The Supreme court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed after the expiry of the said period of sixty days.

Powers of CG –

Exemption

The Central Government may exempt:

- a) any class of enterprises if such exemption is necessary in the interest of security of the state or public interest;
- b) any practice or agreement arising out of and in accordance with any obligation assumed by India under any treaty, agreement or convention with any other country or countries;
- c) any enterprise which performs a sovereign function on behalf of the CG or a SG.

Power of Central Government to issue directions –

- 1) The Central Government may give in writing to the Commission such directions on questions of policy and the Commission shall be bound by such directions.

Note –

CG will not give directions for the matters those relating to technical and administrative matters.

- 2) The Commission shall be given an opportunity to express its views to the Central Government before any direction is given by the Government to the Commission.
- 3) The decision of the Central Government as to whether the question is of one of policy or not, shall be final.

Power of Central Government to Supersede Commission –

• Circumstances in which CG will supersede Commission

If at any time the Central Government is of the opinion:

- a) That the Commission is unable to discharge the functions or perform the duties imposed on it under the provisions of this Act; or
- b) That the Commission has persistently made default in complying with any direction given by the Central Government under this Act & as a result of such default the financial position of the Commission or the administration of the Commission has suffered; or
- c) That circumstances exist which render it necessary in the public interest to do so.

• Notification by CG

The Central Government may, by notification and for reasons to be specified therein, supersede the Commission for such period, ≤ 6 months, as may be specified in the notification.

• Effect of Publication of Notification

- Upon the publication of a notification superseding the Commission,
- a. the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;
 - b. all the powers, functions and duties shall be exercised and discharged by the Central Government;
 - c. all properties owned or controlled by the Commission shall vest in the Central Government.

Note –

On or before the expiration of the period of supersession, the Central Government shall reconstitute the Commission by a fresh appointment of its Chairperson and other Members and in such case any person who had vacated his office shall not be deemed to be disqualified for re- appointment.

Power of CG to Make Rules –

The Central Government may make rules to provide for all or any of the following matters –

- the term of the Selection Committee and the manner of selection of panel of names under sub-section (2) of Section 9;
- the form and manner in which and the authority before whom the oath of office and of secrecy shall be made and subscribed to under Sub-section (3) of Section 10;
- the salary and the other terms and conditions of service including travelling expenses, house rent allowance and conveyance facilities, sumptuary allowance and medical facilities to be provided to the Chairperson and other Members under Sub-section (1) of Section 14;
- the number of Additional, Joint, Deputy or Assistant Director General or such officers or other employees in the office of DG and the manner in which such Additional, Joint, Deputy or Assistant Director Generals or such officers or other employees may be appointed under sub-section (1A) of Section 16.
- the salary, allowances and other terms and conditions of service of the Director General, Additional, Joint, Deputy or Assistant Directors General or such officers or other employees under Sub-section (3) of Section 16;
- the qualifications for appointment of the Director General, Additional, Joint, Deputy or Assistant Directors General or such officers or other employees under Sub-section (4) of Section 16;
- the salaries and allowances and other terms and conditions of service of the Secretary and officers and other employees payable, and the number of such officers and employees under Sub-section (2) of Section 17;
- the form in which the annual statement of accounts shall be prepared under Sub-section (1) of Section 52;
- the time within which and the form and manner in which the Commission may furnish returns, statements & such particulars as the Central Government may require under Sub-section (1) of Section 53;
- the form in which and the time within which the annual report shall be prepared under Sub-section (2) of Section 53;
- the form in which an appeal may be filed before the Appellate Tribunal under sub-section (2) of section 53B and the fees payable in respect of such appeal;
- the term of the Selection Committee and the manner of selection of panel of names under sub-section(2) of section 53E;
- the salaries and allowances and other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal under sub-section (1) of section 53G;

- the salaries and allowances and other conditions of service of the officers and other employees of the Appellate Tribunal under sub-section (3) of section 53M;
- the fee which shall be accompanied with every application made under sub-section (2) of section 53N;
- the other matters under clause (i) of sub-section(2) of section 53O in respect of which the Appellate Tribunal shall have powers under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit;
- the manner in which the monies transferred to the Central Government shall be dealt with by that Government under the fourth proviso to Sub-section (2) of Section 66;
- any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Note –

- Every notification for making such rules shall be laid before each House of Parliament, while it is in session, **for a total period of thirty days** which may be comprised in one session, or in two or more successive sessions.
- If both Houses agree that notification is not to be issued or rule should not be made, then rule shall not be made or if the House decides that notification or rules should have effect in such modified form then the rule or notification shall be enforced in modified form.

Power of commission to Make Regulations –

The Commission may, by notification, make regulations, which are consistent with the Act. n, such regulations may provide for all or any of the following matters, namely -

- the cost of production to be determined under clause (b) of the Explanation to Section 4;
- the form of notice as may be specified and the fee which may be determined under Sub-section (2) of Section 6;
- the form in which details of acquisition shall be filed under Sub-section (5) of Section 6;
- the procedure to be followed for engaging the experts and the professionals under sub-section (3) of Section 17;
- the fee which may be determined under clause (a) of Sub-section (1) of Section 19;
- the rules of procedure in regard to transaction of business at the meetings of the Commission under sub-section (1) of Section 22;
- the manner in which penalty shall be recovered under sub-section (1) of Section 39;
- any other matter in respect of which provision is to be, or may be made by regulations.

Note –

- Every notification for making such rules shall be laid before each House of Parliament, while it is in session, **for a total period of thirty days** which may be comprised in one session, or in two or more successive sessions.
- If both Houses agree that notification is not to be issued or rule should not be made, then rule shall not be made or if the House decides that notification or rules should have effect in such modified form then the rule or notification shall be enforced in modified form.