Commission in the specified form disclosing the details of the proposed combination with in 30 days of the approval of such proposal by the board of directors or execution of any agreement or other document. The proposed combination cannot take effect for a period of 210 days from the date if it is notified to the Commission or if the Commission passes on record, whichever is earlier. If the Commission does not pass an order during the said period of 210 days, the combination shall be deemed to have been approved.

In case a notified merger is not notified by the parties to the Commission, the Commission can inquire into it within one year from the date on which such combination has taken effect and the parties are liable to pay penalty for not notifying the combination.

If the Commission is of the prima facie opinion that the combination has caused or is likely to cause appreciable adverse effect on competition, it shall direct publication of details, invite objections from the public and persons affected or likely to be affected by such combination. If satisfied appropriate, the Commission may invite any person. Ready to be affected by the combination, to make objections. After receipt of all informations, the Commission shall proceed to deal with the case in accordance with the provisions of the Act.

Orders by the Commission

After receipt of the investigation report from the DG, the Commission shall determine whether the behaviour under inquiry is anti-competitive, or whether the proposed combination causes or is likely to cause appreciable adverse effect on competition, as the case may be, after hearing the concerned parties and pass appropriate orders.

In cases of anti-competitive agreement or abuses of dominance

- During the course of inquiry, the Commission can pass interim order restraining a party from continuing with anti-competitive agreement or abuse of dominant position.
- The Commission can impose a penalty of not more than 10 per cent of the average turnover for the last 3 preceding financial years of the enterprise. In case of a cartel, the Commission can impose an order on each member of the cartel, a penalty of up to 10 per cent of the turnover for each year of continuance of such agreement or up to 10 per cent of its turnover for each year of continuance of such agreement, whichever is higher.
- After the inquiry, the Commission may direct the enterprise concerned to cease and desist and not to enter into the anti-competitive agreement or abuse its dominant position. The Commission may also direct modification of such agreements.

In cases of combinations

- The Commission shall approve the combination if no appreciable adverse effect on competition is found.
- The Commission shall disapprove the combination if in case of appreciable adverse effect on competition.
- The Commission may propose alternative modifications.
- The Commission is authorized to impose the penalty which may extend to 1 per cent of the total turnover and the person, whose combination, whichever is higher, for failure to notify, or in case the parties implement the combination without waiting for the statutory period of 210 days.

Appeals

Competition Appellate Tribunal (CART) is the appellate authority to hear and dispose of appeals against any direction issued or decision made or order passed by the Commission under the Act. Only those orders are appealable before the CART which are specifically mentioned in the Act.

An appeal shall be filed within 60 days of receipt of the order/decision of the Commission. The CART shall allow the power to award compensation to the parties upon receipt of application. The decisions of CART are subject to appeal before the Supreme Court of India.

Regulations under the Act

- The Competition Commission of India (General) Regulations, 2009
- The Competition Commission of India (Interim Powers) Regulations, 2006
- Competition Commission of India (Determination of Cost of Production) Regulations, 2003
- Competition Commission of India (Procedure in respect to the Transaction of Business relating to Competition) Regulations, 2011
- The Competition Commission of India (Merger of Recovery of Monetary Penalty) Regulations, 2011
- The Competition Commission of India (Procedure for Engagement of Experts and Professors) Regulations, 2009

Note: The Commission’s Regulations can be accessed at: http://www.cci.gov.in/regulations.
INTRODUCTION
Competition is universally considered as the chief means of ensuring economic efficiency and consumer welfare. Through effective competition in the market, the consumer has access to the broadest range of goods and services at a cheaper price. There are more incentives for business to innovate and prosper in the market. The producers of goods are required to innovate and update their products to remain in the market in a fast-changing world. Nothing further effective competition requires healthy market conditions and pro-competitive government policies which result in the evolution of a healthy competition culture.

Competition laws all over the world are primarily concerned with the abuse of market power by enterprises or group of enterprises.

THE LAW
In India, Competition Act, 2002 (the Act) was enacted on January 13, 2003. Enforcement of anticompetitive agreements and abuse of dominance related provisions commenced on May 20, 2006 and the Act is fully operational for the year 2011. The Act broadly follows the philosophy of modern competition laws and aims at fostering competition and prohibiting anti-competitive practices against business enterprises, by persons, and group of enterprises. The Act prohibits anti-competitive agreements, abuse of dominant position by enterprises/group, and regulates combinations comprised of mergers, amalgamations, acquisitions and joint venture contracts in which the ultimate cause or cause is likely to cause appreciable adverse effect on competition (AAEC) in markets in India. The Act prohibits three types of potential violations which can affect competition in the market, Section 3 prohibitions anti-competitive agreements, Section 4 prohibits abuse of dominance by enterprise/group of enterprises as the case may be, Section 5 prohibits joint ventures.

THE ORGANISATION
The Competition Commission of India (Commission) has been established to enforce the competition law. The Commission consists of a Chairman and 6 Members appointed by the Central Government.

In the duty of the Commission to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade carried on by other parties. Markets in India as provided in the Provision as well as Section 11 of the Act.

The Commission is also mandated to give opinion on competition issues to the government or statutory authority and to undertake competition advocacy for creating awareness of competition.

To know about the present competition of the Commission please visit -
http://www.cci.gov.in/commission

ANTICOMPETITIVE AGREEMENTS (SECTION 3)
An agreement includes any arrangement, understanding or concerted action entered into between parties, which may or may not be in writing. Anticompetitive agreements are broadly classified into two categories, the Horizontal Agreement and Vertical Agreement.

Horizontal Agreements—Section 3(3)
Horizontal Agreements are those agreements wherein enterprises engage in identical or similar trade of goods or services of like nature with other to defeat competition in the markets. Any such agreement having an appreciable adverse effect on competition shall be void. The following four categories of such agreements amongst enterprises are prohibited under the Act:

- agreements to fix price
- agreements to limit production, market or technical or scientific development
- agreements to limit the number of persons engaged in the trade or industry
- agreements to divide or share the market

Vertical Agreements—Section 3(4)
Vertical Agreements are those agreements which are entered into by enterprises at different levels of production, distribution, supply, storage etc. Such vertical restrictions include:

- sale arrangement
- exclusive supply or distribution arrangement
- resale price maintenance

Imposition of unreasonable conditions as may be necessary for protection of Intellectual Property Rights which are based under Section 3(4), is generally not to be treated as violative of the Act.

They are however, subject to being considered by the Commission to decide whether such conditions are reasonable and necessary (are procompetitive).

Abuse of Dominant Position—Section 4
Abuse of dominant position is defined as the situation where an enterprise has a market share such that it could harm one or more competitors and forestall competition in the market.

Dominance refers to a position of strength which enables an enterprise to operate independently of competitive forces in the market or to affect its competitors or consumers in its favor. Dominant position of an enterprise itself is not prohibited, however, if the enterprise is by itself or in combination with other enterprises having dominant position in the market, abuse its dominant position (i.e., abuse of dominance) as defined in the Section 3 of the Act.

Pursuant to notification No. S.O. 688(E) dated March 28, 2017, the Government of India has exempted from notification all combinations where the value of assets being acquired, taken control of, merged or amalgamated is not more than rupees three hundred and fifty crores in India or turnover of not more than rupees one thousand crores in India.

Where a portion of an enterprise or division of business is being acquired, taken control of, merged or amalgamated with another enterprise, the value of assets of that sub-portion or division or business and attributable to it, shall be the relevant assets and turnover to be taken into account for the purpose of calculating the thresholds under section 5 of the Act.

The notification dated March 29, 2017 is available at:
https://www.gazetteindia.nic.in/extra/20170329/extra-20170329.pdf

INITIATION OF INQUIRY (SECTION 19)
The Commission may initiate an inquiry:

- On its own, or on the basis of information and knowledge in possession,
- On receipt of information,
- On receipt of a reference from the Central Government or a State Government or a statutory authority.

Any person, customer, consumer, association or trade association can file a complaint noting an anti-competitive agreement and abuse of dominant position as per The Competition Commission of India (General) Regulations, Central Government, or a State Government, or a statutory authority can also make a reference to the Commission for initiating an inquiry. “Person” includes an individual, HUF, firm, company, local authority, cooperative society or any artificial juridical person, an association of persons or a body of individuals whether incorporated or not, in India or outside India or any body corporate incorporated or by law of a country outside India. Informatio may be filed in the prescribed format accompanied with the requisite fee as per regulations. However, no fee is required to be paid for making a reference to the Commission by government departments or statutory bodies.

COMBINATIONS (SECTION 5 & 6)
Combination refers to mergers, amalgamations, acquisition of control, shares, voting rights or assets, amongst enterprises provided the threshold limits specified in the Act in terms of assets or turnover are satisfied and do not benefit from (i) exemption notifications; (ii) are not covered under any of the Schedule I of Combination Regulations, if the combination causes or is likely to cause an appreciable adverse effect on competition (AAEC) within the relevant market in India, it can be prohibited by the Commission after an investigation.

The revised thresholds for notification to the Commission are:

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<td>Individual Firm</td>
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<td>Group</td>
<td>₹400 cr.</td>
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INQUIRY PROCESS (SECTION 20)
In cases of anti-competitive agreements or abuse of dominant position

On its own, on receipt of information or reference, the Commission is of the opinion that there is a prima facie case, the Director General (“DG”) appointed under the Act, to investigate the matter and submit its findings to the Commission with a specified time frame. After receipt of the investigation report from the DG, the Commission will determine whether the behaviour under inquiry is anti-competitive after having the concerned parties and pass appropriate orders.

For details regarding the procedures followed by the Commission, please see Section 26 of the Act & Regulation 21 of The Competition Commission of India (General) Regulations.

In cases of combinations

An enterprise or persons proposing to enter into a combination, shall notify the