COMPETITION LAW

UNIT – I

Competition Policy & Economics
Function of Competition Law · Constitutional Frame

20 slides · Cases and constitutional provisions

ROADMAP

What this unit covers

01 · WHY

Why competition policy exists

Competition keeps prices in check, forces firms to improve, and gives consumers a real choice. When firms collude or a giant shuts rivals out, both consumers and the wider economy lose.

Productive efficiency

Firms must cut waste to survive rivalry.

Allocative efficiency

Resources move to what people actually want.

Dynamic efficiency

Rivalry drives innovation over time.

Fair process

The law also protects the freedom to compete, not only low prices.

Goals of competition policy

Consumer welfare

Lower price, better quality, more choice – the working Indian goal.

Total welfare

Some economists also count producer surplus; Indian practice is more consumer-facing.

Market access

Keep entry open so new firms can challenge incumbents.

Small-business concern

MRTP was more structural; CA 2002 is more conduct-based.

Development

Raghavan Committee: competition as an instrument of economic development.

Not anti-big

Size is not illegal. Abuse and collusion are.

Useful economic ideas

Competition law borrows economics. You need the vocabulary, not the equations.

Relevant market

Product market + geographic market – s.2(r), 2(s), 2(t) CA 2002.

Substitutability

Would a small price rise make buyers switch? SSNIP-style thinking.

Barriers to entry

Capital, regulation, network effects, exclusive contracts.

Market power

Ability to raise price or exclude rivals without losing so many sales that it does not pay.

From rivalry to monopoly

Perfect competition

Many sellers, homogeneous product, free entry – a model, not a photograph of reality.

Oligopoly

Few firms. Tacit coordination is the policy worry.

Monopolistic competition

Many firms, differentiated products.

Monopoly / dominance

One firm or a small set can act independently of rivals and customers.

Workable competition

The practical target: enough rivalry to discipline firms.

Two-sided markets

Platforms (search, marketplaces) – price on one side funds the other.

Function of competition law

The Act is a market-policing statute. It does not fix every unfair trade practice (that is consumer law) and it does not run industrial policy.

Prohibit

Anti-competitive agreements – s.3.

Control

Abuse of dominant position – s.4.

Regulate

Combinations (mergers) above thresholds – ss.5–6.

Advocate

Competition advocacy – s.49. Soft power, real impact on policy.

Practices the law watches

Price fixing

Horizontal cartel on price – presumed harmful (s.3(3)).

Output / market sharing

Same presumption.

Bid rigging

Covered in s.3(3) – a frequent public-procurement harm.

Exclusive dealing / tying

Vertical; rule of reason under s.3(4) + AAEC.

Predation / denial of market

Abuse if the firm is dominant – s.4.

Killer / mega mergers

s.6 if they cause or are likely to cause AAEC.

Appreciable Adverse Effect on Competition

AAEC is the statutory harm standard for agreements and combinations. s.19(3) lists factors: barriers, foreclosure, benefits to consumers, innovation, and more.

Cartel presumption

s.3(3) practices are presumed to cause AAEC. Rebuttal is hard.

Vertical

No presumption. CCI must show AAEC.

Combinations

Forward-looking: likely AAEC in the relevant market.

Rule of reason flavour

Indian law is not a carbon copy of US rule of reason, but the factors rhyme.

Constitutional provisions on trade

Competition law sits on the Constitution's trade chapter and on the freedom to practise a profession. It is also a reasonable restriction on that freedom.

Art. 19(1)(g)

Freedom to practise any profession or to carry on any occupation, trade or business.

Art. 19(6)

Reasonable restrictions in the interests of the general public; professional qualifications; State monopoly.

Arts. 301–304

Freedom of trade, commerce and intercourse throughout India; fiscal and non-fiscal limits.

Art. 39(b)(c)

DPSP – distribution of ownership and against concentration of wealth – the older MRTP spirit.

Trade freedom and competition regulation

Not absolute

No one has a fundamental right to cartelise.

Reasonable restriction

CA 2002 is a public-interest limit on how business may be done.

State monopoly

Art. 19(6) allows State trading; still subject to later competition scrutiny of public enterprises (Coal India line).

Profession vs trade

Both covered; entry barriers created by private associations can be s.3 issues.

Licensing

A licence system is not itself anti-competitive; using it to exclude rivals may be.

Case bridge

CCI v. Coordination Committee of Artists – collective boycott as an agreement.

Articles 301–304 and national market

The framers wanted one Indian market. Fiscal barriers and discriminatory State taxes were the original enemy. Competition law now polices private barriers inside that market.

Art. 301

Trade shall be free throughout India – subject to the rest of Part XIII.

Art. 302

Parliament may impose restrictions in the public interest.

Art. 304

State taxes and reasonable restrictions; Presidential sanction for certain Bills.

Atiabari / Automobile Transport

Compensatory tax doctrine – classic Part XIII cases.

From MRTP to Competition Act

MRTP 1969

Size, concentration, RTPs and UTPs – a structural, licence-raj era statute.

1991 reforms

Liberalisation made a conduct-based law more urgent than a size-based one.

Raghavan Committee 2000

Blueprint of CA 2002: agreements, dominance, combinations, CCI.

CA 2002 passed

Phased commencement; combinations notified later (2011).

Amendments 2007 / 2009 / 2023

Institutional tweaks; 2023 Act adds settlements, hubs, deal-value threshold.

Consumer Protection

UTP largely moved towards CPA; CA 2002 keeps market-wide harm.

Three policy models students should contrast

US antitrust, EU competition, and Indian CA 2002 share tools but not identical goals.

US

Sherman / Clayton / FTC – consumer welfare + later Chicago vs post-Chicago debates.

EU

TFEU Arts. 101–102 – also market integration of Member States.

India

CA 2002 – development + consumer welfare; public enterprises included (s.2(h)).

Exam use

Do not treat Standard Oil as if it were an Indian s.4 judgment.

Policy and constitution – useful cases

Atiabari Tea (1961)	Art. 301 – freedom of trade; tax that directly impedes movement.
Automobile Transport (1962)	Compensatory taxes may survive Part XIII.
Excel Crop Care (2017 SC)	Penalty method; also a window into cartel harm.
CCI v. SAIL (2010 SC)	CCI process; prima facie order under s.26(1) is administrative.
Coordination Committee of Artists (2017 SC)	Trade associations and collective boycotts.
Coal India (2023 SC)	PSUs are not outside s.4 merely because they are State-owned.

Market definition and harm

DLF (COMPAT / CCI line)	Dominance in a relevant real-estate market; unfair conditions.
Builders Association – cement cartel	Classic Indian s.3(3) price/parallelism story.
Google Android (CCI 2018/22 line)	Platform dominance and tying-style restrictions.
Amazon–Flipkart investigations	Marketplace conduct and deep discounting debates.
Fast Track / radio taxi cases	Relevant market for app-based services.
Board of Control for Cricket in India	Sport as an economic market; dominance of a regulator-player.

Sections to keep on the desk

s.1–2

Commencement and definitions, especially relevant market and AAEC.

s.3

Anti-competitive agreements.

s.4

Abuse of dominant position.

ss.5–6

Combinations.

s.18–19

CCI duties and inquiry factors.

s.49

Advocacy – the policy arm.

How to structure a Unit-I answer

Define

Competition as rivalry disciplined by law.

Economics

Relevant market + market power in three lines.

Functions

s.3 / s.4 / ss.5–6 / s.49.

Constitution

19(1)(g)+19(6) and 301–304.

Shift

MRTP size → CA 2002 conduct.

Case

One SC case (SAIL or Excel or Coal India).

REVISION

Key takeaways

01 Competition policy protects the process of rivalry, mainly for consumer welfare and efficiency.

02 CA 2002 has four functions: agreements, dominance, combinations, advocacy.

03 Relevant market is the first technical step in almost every case.

04 Arts. 19(1)(g), 19(6) and 301–304 are the constitutional bed.

05 MRTP watched size; CA 2002 watches conduct and AAEC.

06 Cite Raghavan, SAIL, Excel Crop Care, Coal India, Coordination Committee.

End of UNIT – I

Next: UNIT-II · US and UK antitrust statutes

20 slides · Light academic edition