COMPETITION LAW

UNIT – III

MRTP · Consumer Protection
Competition Act 2002 – ss.3, 4, 5–6

20 slides · Definitions, AA, AoD, combinations

ROADMAP

What this unit covers

1. MRTP overview	2. MRTP weaknesses	3. CPA 1986 hooks	4. CA 2002 scheme
5. Key definitions	6. Relevant market	7. s.3 structure	8. s.3(3) cartels
9. s.3(4) vertical	10. s.4 dominance	11. s.4 abuses	12. ss.5–6 combinations
13. Thresholds & 2023	14. Regulation process	15. Exemptions s.54	16. Cases AA
17. Cases AoD / mergers	18. Takeaways	19. Exam grid	20. Close

Monopolies and Restrictive Trade Practices Act, 1969

Born from Art. 39(b)(c) and the Hazari/Monopolies Inquiry reports. It watched concentration of economic power, monopolistic practices, RTPs and later UTPs.

MRTPC

Commission with inquire-and-recommend culture; limited bite.

Size test

Asset thresholds and expansion need for ‘large’ houses – licence-raj logic.

RTP / UTP / MTP

Three baskets; UTP later overlapped consumer law.

Why replaced

Liberalisation needed a conduct-and-efficiency statute, not a size statute.

Why MRTP could not do CA 2002's job

No true merger regulation

Pre-entry size control is not SLC/AAEC analysis.

Public sector out

A large part of the old economy was exempt in practice.

Weak remedies

Cease-and-desist more than structural or heavy civil penalty.

UTP overload

Commission spent energy on consumer-type disputes.

Economics thin

Little relevant-market discipline.

Raghavan view

Repeal and replace, do not patch forever.

Consumer Protection Act 1986 – relevant hooks

CPA is not competition law. It is individual-consumer redress. Some UTP language overlaps, which is why the syllabus pairs them.

UTP / deficiency

Misrepresentation, unfair contracts, deficient service – B2C.

Forums

District / State / National – cheap access.

2019 Act

Product liability and unfair contracts expanded.

Divide

CCI = market-wide harm. Consumer forum = this buyer’s harm.

Architecture of the Competition Act

Chapter II

ss.3–6 – the three pillars.

Chapter III–IV

CCI and DG.

Chapter V

Duties, inquiries, interim orders.

Chapter VI

Penalties.

Chapter VIIA

NCLAT appeals (after 2007 reform).

2023 Amendment

Settlements/commitments, deal-value threshold, hub-and-spoke clarity, limitation.

Definitions you must write accurately

s.2(b) agreement

Includes informal and tacit arrangements – wide on purpose.

s.2(c) cartel

Association to control production, sale or price.

s.2(h) enterprise

Includes government departments when engaged in activity relating to economic activity (not sovereign functions).

s.2(r) relevant market

Product + geographic, or either as context requires.

s.2(s)/(t)

Relevant geographic / product market.

AAEC

Not defined as a formula; s.19(3) and s.20(4) list factors.

Relevant market – the first move

Wrong market = wrong dominance and wrong merger story. CCI looks at demand substitutability first, then supply side and geography.

Product

Can the buyer switch on a small lasting price rise?

Geographic

Area where conditions of competition are distinctly homogeneous.

Aftermarkets

Service of a durable good can be a separate market (printers, cars).

Platforms

Zero-price side still a market – Google / app store disputes.

Section 3 – anti-competitive agreements

s.3(1) is the general prohibition. s.3(3) lists horizontal practices with a presumption of AAEC. s.3(4) lists vertical practices tested for AAEC. s.3(5) saves IP and export combinations within limits.

Who

Enterprises and associations of enterprises.

Form

Written, oral, tacit, concerted practice.

Void

Agreements in breach of s.3(1) are void.

IP save

s.3(5) is not a blank cheque to extend a patent by cartel.

08 · S.3(3)

Horizontal – the presumption list

Price

Directly or indirectly determine purchase or sale prices.

Output

Limit or control production, supply, markets, technical development.

Sharing

Share markets or sources of production.

Bid rigging / collusive bidding

Expressly included.

Presumption

AAEC is presumed. Parties must rebut.

Hub-and-spoke

2023 amendment clarifies retailer–platform–retailer patterns.

09 · S.3(4)

Vertical agreements – AAEC required

Tie-in

Take product A only with product B.

Exclusive supply

Dealer will not deal in rivals' goods.

Exclusive distribution

Territory or customer allocation down the chain.

Refusal to deal

Cut-off of a channel.

Resale price maintenance

Minimum RPM is the classic risk.

Rule

No presumption. Prove AAEC with s.19(3).

Section 4 – abuse of dominant position

Two steps: is the enterprise dominant in the relevant market? If yes, has it abused? Dominance without abuse is lawful.

Dominance s.4 Expl.

Position of strength enabling independent action and market effect.

s.19(4) factors

Share, size, resources, entry barriers, countervailing buyer power, vertical integration.

Collective dominance

Not expressly in Indian s.4 the way EU sometimes uses it.

Group

Abuse by a group in the same market is covered.

s.4(2) illustrative abuses

Unfair / discriminatory price or condition

Including predatory price below cost to evict rivals.

Limit production / market / tech

Harm to consumers or to science.

Denial of market access

Foreclosure.

Supplementary obligations

Tying that has no connection with the contract.

Use dominance in one market to enter another

Leveraging.

Predation test

Price + intent/recoupment debate; CCI looks at average cost markers.

Combinations – ss.5 and 6

s.5 defines combination by asset/turnover (and now deal-value) thresholds. s.6 says no combination that causes or is likely to cause AAEC shall be notified as valid; notification and standstill apply.

Mandatory file

Above thresholds, file with CCI before closing (with exemptions).

Standstill

Do not complete until approved or deemed approved.

s.20(4) factors

Concentration, entry, imports, failing firm, efficiencies.

Remedies

Approve, approve with modification, or block.

13 · 2023

2023 Amendment – combination highlights

Deal-value threshold

Catches asset-light / big-data / killer acquisitions.

Faster clocks

Shorter review ambition.

Settlements & commitments

For certain non-cartel cases.

Limitation

Three-year-style limit on information to CCI.

Hub-and-spoke

Drafting clarity in s.3.

Penalties

Turnover definition refined after Excel Crop Care.

Agreements

Cement cartel / Builders Association	s.3(3) parallelism plus exchange of information.
Excel Crop Care (SC 2017)	Aluminium-phosphide cartel; relevant turnover for penalty.
Coordination Committee of Artists (SC 2017)	Boycott as anti-competitive agreement.
Beer cartel / car-bearings CCI line	Classic hard-core cartels.
Automobile spare-parts (CCI)	Vertical + dominance mix on genuine parts.
Film / multiplex cases	Association rules as s.3 issues.

Dominance and combinations

DLF (CCI / COMPAT)	Unfair apartment terms by a dominant developer.
BCCI (CCI)	Regulator-player conflict; denial of market access.
Google Android (CCI)	Pre-installation and tying on a dominant OS.
Coal India (SC 2023)	PSU dominance not exempt as sovereign.
Holcim–Lafarge / other Phase I mergers	Remedies and relevant-market fights.
Amazon / Flipkart investigations	Platform conduct; combination history also litigated.

Issue-spotting grid

Two rivals talk price

s.3(3) presumption.

Manufacturer sets a min RPM

s.3(4) + AAEC.

A giant platform pre-installs itself

s.4 tying / denial.

A big merger of two cement firms

ss.5–6 notification + AAEC.

A buyer cheated on one bill

CPA forum, not CCI.

Old MRTP size question

Say why CA 2002 abandoned it.

REVISION

Key takeaways

01	MRTP = size + RTP/UTP. CA 2002 = conduct + AAEC.
02	CPA redresses the individual consumer; CCI polices the market.
03	s.3(3) presumption; s.3(4) needs AAEC proof.
04	s.4 is dominance plus abuse – two steps, relevant market first.
05	ss.5–6: thresholds, notification, standstill, AAEC, remedies.
06	Cite Excel Crop Care, Artists Committee, DLF, BCCI, Google, Coal India.

End of UNIT – III

Next: UNIT-IV · CCI – composition, duties, powers

20 slides · Light academic edition