



OVERVIEW OF COMPETITION LAW

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Session by:
SANSKRITI JAIN
Deputy Director – CCI



WHAT IS COMPETITION? WHY IS IT REQUIRED?

Competition is a situation in a market in which firms or sellers independently strive for the buyers' patronage in order to achieve a particular business objective for example, profits, sales or market share.

(World Bank, 1999)



TYPES OF MARKETS IN ECONOMICS

- Monopoly with One Producer
- Monopsony with One Buyer
- Oligopoly with a Handful of Producers
- Monopolistic Competition with Numerous Competitors but differentiated products
- Perfect Competition with Infinite Buyers and Sellers – Ideal market



MRTTP ACT, 1969



- Articles 38 and 39 of the Indian Constitution
- **OBJECTIVE** – To ensure that operation of economic system does not result in concentration of economic power in hands of few, to provide for control of monopolies, and to prohibit monopolistic and restrictive trade practices.
- Established MRTTP Commission
- **PROVISIONS**
 1. RTP – Blocking flow of capital in the market
 2. MTP – Abusing market power
 3. UTP – Misleading information to consumers
- **LACUNAE** – Despite numerous amendments (1984 and 1991), failed to keep up with changing times



EVOLUTION OF COMPETITION ACT

- New Economic Policy, 1991 – LPG
- High Level Committee on Competition Policy and Competition Law, chaired by Mr. S V S Raghavan – 1999
- Raghavan Committee Report 2000
- Competition Act, 2002 – Objective
 - ✓ prevent practices having adverse effect on competition,
 - ✓ promote and sustain competition in markets,
 - ✓ protect the interests of consumers,
 - ✓ ensure freedom of trade carried on by other participants in markets, in India



COMPETITION ACT, 2002

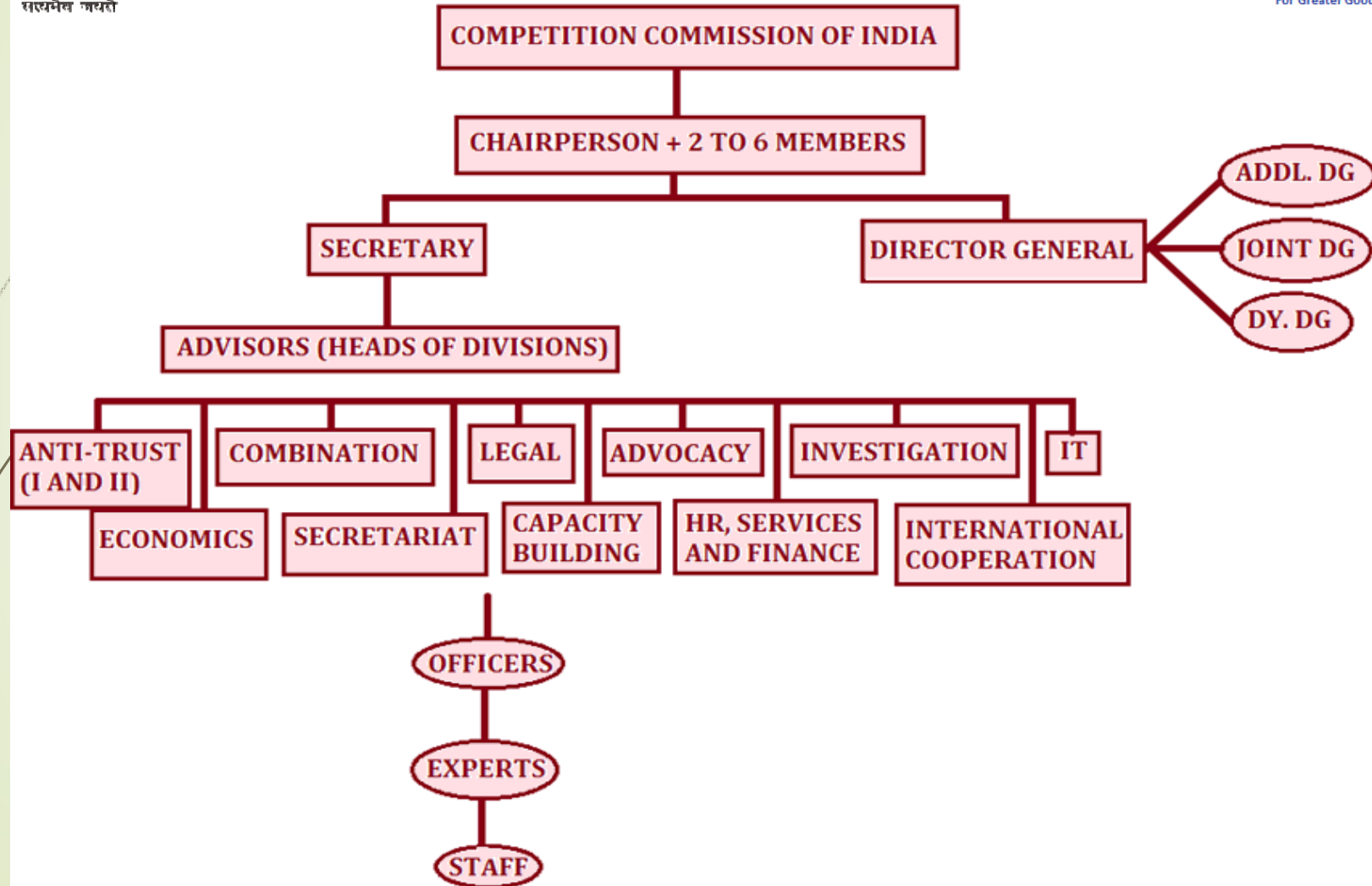


- **2003** – Competition Commission of India established
- Challenge in **Brahm Dutt v. Union of India** , AIR 2005 SC 730
- **Amendments in 2007**
 - ✓ CompAT established between CCI and Supreme Court
 - ✓ Mandatory notification of Combinations
 - ✓ Extra-territorial jurisdiction – Section 32
 - ✓ Division of Dominant Undertaking – Section 28
 - ✓ *Suo Motu* inquiry power
- **Enforcement**
 - ✓ 20.05.2009 – Anti-trust
 - ✓ 01.06.2011 – Merger control



सत्यमेव जयते

CCI – STRUCTURE





CCI – FUNCTIONS

- Adjudicatory – Anti-trust
- Regulatory – Merger Control
- Advocacy



ANTI-TRUST PROVISIONS



- Section 3 – Anti-competitive Agreements
 - ✓ Horizontal Agreements – Section 3 (3)
 - ✓ Vertical Agreements – Section 3 (4)
- Section 4 – Abuse of dominance
- Section 19 – Initiation of Inquiry
- Section 26 – Case Proceeding
- Section 27 – Final Order
- Competition Commission of India (General) Regulations, 2009



SEC. 3 (3) – HORIZONTAL AGREEMENTS

► Types:

- A. Determining purchase or sale prices;
- B. Limiting or controlling markets or technical development;
- C. Allocation of geographical area of market, or type of goods or services, or number of customers;
- D. Bid rigging or collusive bidding.

► Includes Cartels

► *Per se* approach

► Section 46 r/w Competition Commission of India (Lesser Penalty) Regulations, 2009



SEC. 3 (4) – VERTICAL AGREEMENTS

- Rule of Reason approach
- Appreciable Adverse Effect on Competition in India – Section 19 (3)
- Five types:
 1. Tie-in Agreements
 2. Exclusive Supply Agreement
 3. Exclusive Distribution Agreement
 4. Refusal to Deal
 5. Resale Price Maintenance



SECTION 4 – ABUSE OF DOMINANCE

- 'Enterprise' u/s 2 (h) – Economic Activity
- Relevant market
 - ✓ Relevant Product Market – Section 2 (t) and Section 19 (7)
 - ✓ Relevant Geographic Market – Section 2 (s) and Section 19 (6)
- Dominant position – Factors u/s 19 (4)
- Abuse
 - ✓ Exploitative
 - ✓ Exclusionary

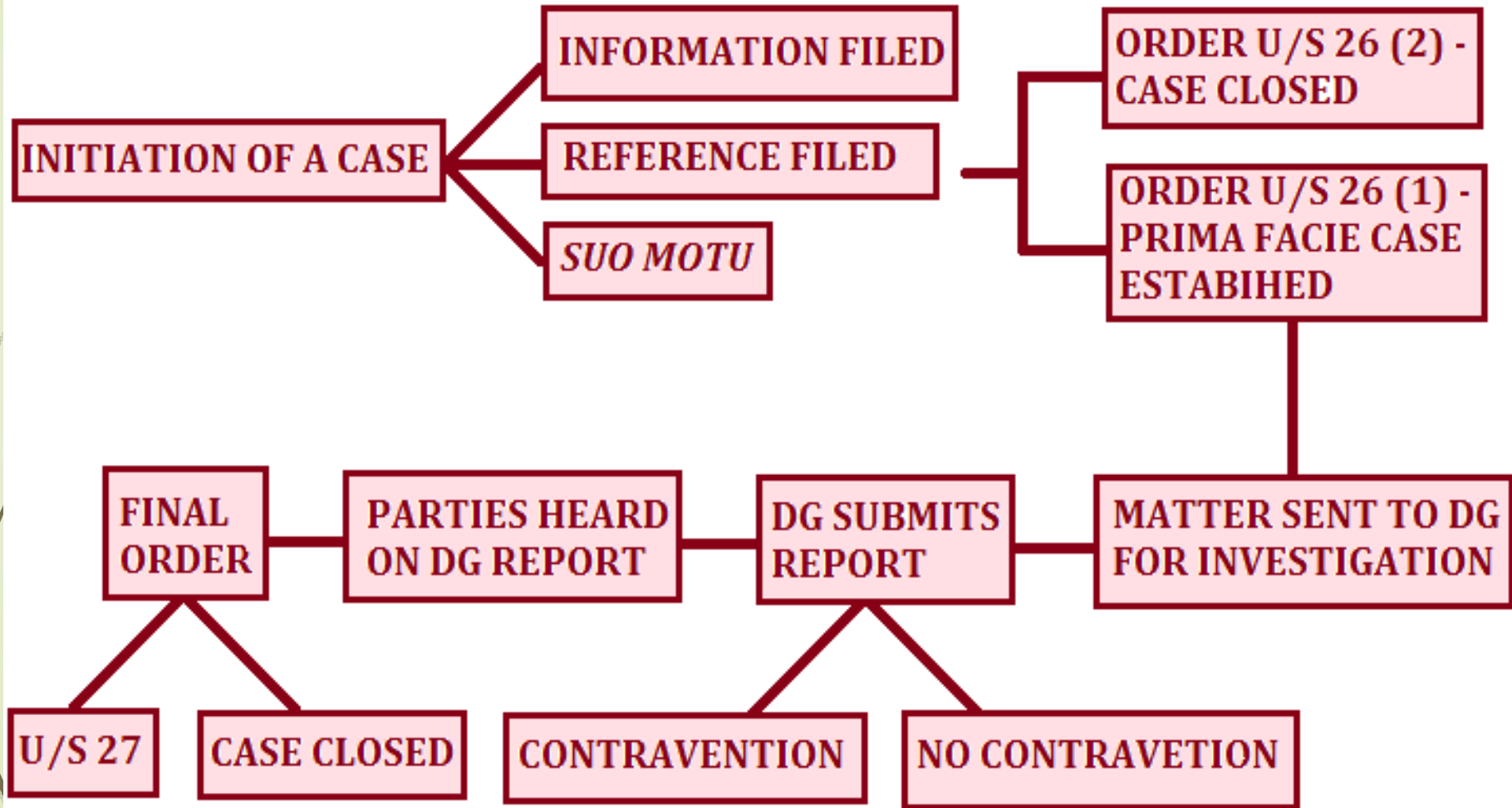


SECTION 4 – ABUSE OF DOMINANCE

- a) Imposing unfair or discriminatory (i) condition in purchase or sale of goods or services; or (ii) price in purchase or sale (including predatory price) of goods or services;
- b) Limiting or restricting (i) production of goods or provision of services or market therefor; or (ii) technical or scientific development relating to goods or services;
- c) Denial of market access in any manner;
- d) Making conclusion of contracts subject to acceptance of supplementary obligations;
- e) Using dominant position in one relevant market to enter into, or protect, other relevant market.



PROCEDURE BEFORE CCI





PROCEDURE BEFORE CCI



- Initiation of proceedings:
 1. By filing information – Section 19 (1) (a)
 2. Reference from statutory authority – Section 19 (1) (b)
 3. *Suo Motu* on its own
- Competition Commission of India v. SAIL, (2010) 10 SCC 744 – Writ petitions against 26 (1)
- Confidentiality – Section 57
- Appeal to NCLAT and to Supreme Court



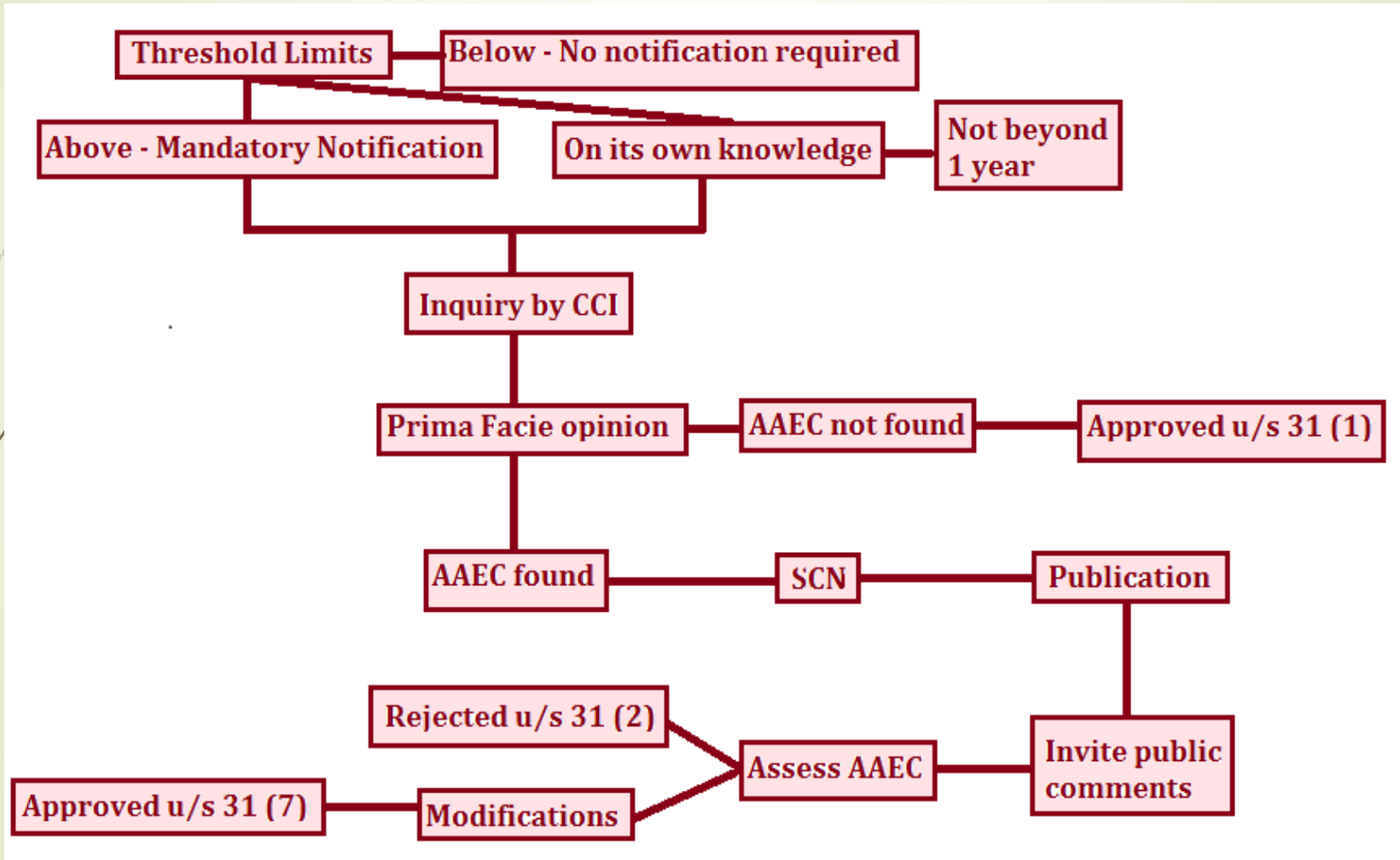
COMBINATIONS – MERGER CONTROL

Assets /Turnover Thresholds as per Act:

Enterprise(s)	Individual		Group	
	India (INR crores)	Worldwide (USD Billion)	India (INR crores)	Worldwide (USD Billion)
Assets	>INR 2000.00 crores	>\$ 1.0 Billion; with at least INR 1000 crores in India	>INR 8000.00 crores	>\$ 4.0 Billion; with at least INR 1000 crores in India
Turnover	>INR 6000.00 crores	>\$ 3.0 Billion; with at least INR 3000 crores in India	>INR 24000.00 crores	>\$ 12.0 Billion; with at least INR 3000 crores in India
Assets/turnover in India/Worldwide (INR crores/USD)	>INR 2000/6000 crores	>\$ 1.0 / 3.0 Billion; with at least INR 1000/3000 crores in India	>INR 8000/24000 crores	>\$ 4.0/12.0 Billion; with at least INR 1000/3000 crores in India



PROCEDURE BEFORE CCI





ADVOCACY – SECTION 49

- Conducting awareness seminars with various stake holders
- Internship programme
- Advocacy booklets
- Annual day lecture series
- Annual Report
- Quarterly journal Fair Play
- Competition Compliance Manual for Enterprises



THANK YOU