

**FOURTH EDITION (4TH)
OF
TRANSDISCIPLINARY INTERNATIONAL CONFERENCE**

Organised by:

Amity Law School, Noida, Amity University, Uttar Pradesh

September 09-10, 2021

Theme:

Neoteric Vision of Culture, Ethics and Heritage Towards Human Dynamics

Address by:

Guest of Honour

Shri Ashok Kumar Gupta, Chairperson CCI

(Valedictory Session: September 10, 2021, Time 03:00 PM - 05:30 PM)

Hon'ble Justice K G Balakrishnan

Hon'ble Justice Dr. Mukundakam Sharma

Dr. Ashok K. Chauhan, Founder President, Amity University

Dr. Atul Chauhan, Chancellor, Amity University

Prof.(Dr.) Balvinder Shukla, Vice Chancellor, Amity University

Prof. Bandyopadhyay, Chairman, Amity Law School

Distinguished Guests and Participants

Eminent Speakers

Dear Students

Ladies and Gentleman

It is a pleasure to be part of this august gathering virtually assembled today for the valedictory session of this international conference. Let me at the outset compliment Amity for organizing this event on a theme of great contemporary relevance. The event could not have been convened on a more opportune time as the recent initiatives of the Government of India in the education sector such as the New Education Policy are all directed towards building a “holistic education system” that entails constant upgradation in learning and teaching methods as well as the use of the latest tools and technologies to meet global standards.

Transdisciplinary studies are a reflection of the changing patterns of knowledge production. It is imperative to have a holistic approach while acquainting with other disciplines not only to understand and formulate better laws but also in their application to actual situations. It is high time we expand our horizons beyond law and integrate it with other disciplines to allow for symbiotic and syncretic application.

Law as an instrument of social and economic change has to maintain harmony, unification and order within a social welfare state. Legal processes reflect deep social, cultural and ethical streams and set the trends for human dynamics and it is futile to discuss law as an abstract. The equilibrium between law and social dynamics is essential for a flourishing society like ours, which is proud of its colossally rich culture and heritage.

With this overarching objective of the Conference to bring law in harmony with other disciplines through a transdisciplinary approach, let me refer to our own law, the Competition Act, 2002, which we at CCI are mandated to enforce. This complex legislation requires the application of expertise drawn from multiple and diverse disciplines, ranging from economics, business, commerce and finance to industry, accountancy, management, technology and public policy. The Competition Law, being an economic law, rests on a foundation of sound principles of economics which are ingrained and in-built in the legislation.

The present law is based on best global experiences keeping in view the domestic state of the economy. Further, in the inter-connected economies of the globalized world, the law has to evolve constantly keeping in mind global developments and approaches so as to continuously assimilate the best global practices within the overarching statutory framework. History also offers keen insights into the evolution of law over the years, providing sound grounding for robust enforcement of law in current times. Thus, historical perspectives need to be constantly kept in mind in the enactment of the present law.

The enactment and enforcement of laws in today's globalized era, particularly of a legislation that regulates businesses, is a truly challenging and informative experience, and regulators not only need to apply transdisciplinary approach but also keep themselves abreast of historical perspectives and global trends. Let me start with the historical perspective first for a better appreciation of our current law.

Let me point out that the Competition Act, 2002, is not the first statute that proscribes anti-competitive behavior; rather, in a fact unknown to many, India is amongst the oldest jurisdictions to have recognized a cartel as a public offence. The *Arthashastra*, one of the first treatises on economic governance, also known as the 'science of wealth creation', was written in India in 400 BC by Kautilya, classified cartels as a serious crime, along with violent robbery, forcible enslavement, murder, etc., and accordingly, prescribed the highest possible fine imposable at that time for each member of the cartel, irrespective of the extent of price manipulation and size of cartel.

After India's independence in 1947, the Constitution of India, with the intention to create a just and fair society, mandated, through Articles 38 and 39 that are part of the Directive Principles of State Policy, that the ownership and control of material resources of the community should be so distributed as to sub-serve the common good, and that the operation of the economic system does not result in the

concentration of wealth and means of production to the common detriment. Under the constitutional mandate, the MRTP Act, 1969, was introduced, which marked the second major development in India's efforts in combating anti-competitive activities. However, the Act was unsuccessful in combating cartels, primarily because of the limited powers of the MRTP Commission. The economic reforms in India that gained momentum with liberalization in 1991 envisaged competition as a key instrument of growth.

Internationally, modern competition law began with the United States' legislation of the Sherman Act of 1890 and the Clayton Act of 1914. While others, particularly European countries, also had some form of regulation on monopolies and cartels, the U.S. codification of the common law position on the restraint of trade had a widespread effect on subsequent competition law development in the world. Over the years, competition law has gone through phases of renewed attention and legislative updates around the world. Presently, over 120 countries have some or the other form of legislation to regulate competition in the markets. Competition Authorities across the globe network and coordinate for mutual learnings through various fora such as OECD, UNCTAD and ICN besides regional groupings such as BRICS and bilateral arrangements.

In this backdrop, in 2002, keeping in view the economic development of India and global trends, the Competition Act was enacted as a modern legislation to provide a regulatory framework to deal with competition issues. The Act aims at preventing practices having adverse effect on competition, promoting and sustaining competition in markets, protecting consumer interests and ensuring freedom of trade carried on by other participants in markets in India. Provisions dealing with anti-competitive agreements and abuse of dominant position became operational in 2009, and provisions related to mergers and acquisitions were notified in June 2011, along with merger regulations. It is thus obvious that the law in its present form is an outcome of learnings from historical, global and transdisciplinary perspectives and is, therefore, holistic and futuristic.

It is on the fulcrum of competitive markets that the growth and efficiency of an economy stand. Competition spurs productive efficiency which, in turn, propels economic growth and incentivizes innovation that brings about dynamic efficiency and greater competitiveness. A review of cross-country literature suggests that there is a positive association between GDP growth and level or degree of competition. Many empirical studies of select industries in several OECD countries suggest that competition enhances productivity at the industry level, generates more employment and lowers consumer prices.

The Competition Act follows the philosophy of modern competition laws and prohibits conducts that cause or are likely to cause an appreciable adverse effect on competition in markets. Unlike the previous MRTP regime, the new competition law does not frown upon the size or dominance of undertakings *per se*, yet, CCI is obligated to preserve the competitive process and ensure freedom of trade by prohibiting the exclusionary and exploitative practices of dominant undertakings. Moreover, the new law is competition neutral in its application and covers within its ambit both public and private enterprises without any discrimination.

Enforcement and Competition Advocacy are two pillars for achieving the objectives of the Competition Act. I am happy to inform that the Commission has been applying a judicious mix of these tools for the prevention of anti-competitive behaviour and interventions in cases of transgression.

Let me now also talk of competition regulation in the digital economy, which has become a global buzzword. The rapidly evolving digital landscape is posing new challenges for competition law enforcers, questioning traditional parameters of competition regulation and making competition agencies develop innovative perspectives on how to apply existing instruments suitably and devise new tools where necessary. In its interventions in digital markets, the regulator needs to strike

a delicate balance while addressing market distortions without compromising the efficiency and innovations.

The regulatory response to such fast paced developments in market, needs to be nimble and dynamic. It is here that an inter-sectional approach to finding solutions to such challenges, including through technology-based solutions, becomes the need of the hour and would go a long way in robust and sustainable enforcement of the law. A nuanced assessment based on the facts of the case and the market and technology in question is critical for balanced enforcement. The Indian anti-trust law allows for the much-needed flexibility within a broad framework, as the statutory framework is holistic as well as futuristic, and regulators need to avail of such flexibilities through harmonization with other disciplines. Further, it has been the constant endeavour of the Commission to build capacities and update its knowledge and skillsets. For this, the Commission regularly engages with domain experts in addition to commissioning market studies for robust understanding of the construct of the markets in question. The market studies provide an opportunity to the Commission to gain insights from stakeholders across the value chain in the sector. I am happy to share that the market study of the e-commerce sector was completed at the beginning of 2020, and a self-regulation charter was issued for the e-commerce marketplaces. Market studies on the telecom sector, the pharma sector, film distribution, surge pricing by cab aggregators and an issue-based study on common ownership have also been initiated by the Commission.

The world is undergoing rapid transformation on all fronts and change is the only constant. This event would encourage budding professionals to expand their horizons, broaden perspectives and keep them abreast of latest developments, enabling them to be prepared to deal with future challenges in a sustainable way. This would also guide lawmakers and enforcers in enacting and applying the law in a harmonious, interdisciplinary manner.

With these words, I once again congratulate the organizers for holding this conference on a subject that would go a long way in calibrating pedagogy to include cross-disciplinary learning. I am certain that the deliberations of the last two days will contribute to shaping teaching, public policy making and enforcement of laws in an intersectional manner.

Thank you.
