

30 APR 2024

NATIONAL LAW UNIVERSITY JODHPUR

End Term Examination May 2024

Semester – UG VIII Semester Business Law Honors

Subject: Competition Law

Mark: 100 marks

Time: 3 hours

*Instructions:*

- v. *All the questions carry equal marks.*
- vi. *Answer any five out of the six questions.*
- vii. *Please substantiate your statement(s)/argument(s) with relevant case laws, whenever necessary.*
- viii. *Question I compulsory.*

Q.1). *“A pricing algorithm is essentially a computer software that automatically changes prices depending on recent and historical data about demand, costs, or competitors’ prices. The price of airline tickets was one of the first businesses to adopt algorithms. The number of markets affected by the adoption of algorithms has changed drastically with the growth of online markets, and significant funds have been invested to enhance price algorithms in some different ways. Numerous theories exist on the effects of pricing algorithms. Most economists concur that algorithms with price adjustments based on costs and/or demand situations have the potential to boost efficiency. However, there is a rising worry that additional elements of pricing algorithms may result in a reduction in competition and an increase in prices”*

If the potential inputs into a pricing algorithm give us the following information:

- a) competing firm’s prices;
- b) firms’ past pricing/profit/revenue data;
- c) individual customer information, including their purchase or browsing history or other indicators; market information such as competitors’ stock levels (e.g. whether it is in stock or not, or more detailed information if this has been made publicly available by competitors);



- d) external information such as weather patterns; and firm costs, such as production and storage

Discuss whether there is a possibility of collusive outcomes through such pricing algorithms. If yes, discuss with the help of relevant case laws the consumer harm that you can predict under algorithmic collusion.

Q.2) *“Competition laws and policies aim to prevent practices that stifle competition and safeguard a healthy market environment for consumers. Mergers and acquisitions, while a common growth strategy for companies, can have a double-edged sword effect on competition. Recognizing this, competition authorities take a case-by-case approach using a “rule of reason” standard. This standard evaluates the potential impact of a proposed merger on competition. The terms “merger,” “combination,” and “concentration” are used interchangeably across different jurisdictions. The first step in analyzing a proposed merger is to determine if it qualifies as a “combination” based on the level of control being transferred. If the transaction meets the control thresholds outlined in competition regulations, then the potential anti-competitive effects on the market are assessed.”*

In light of the same discuss the various thresholds for assessing combinations under Section 5 and Section 6 Of the Competition Act 2002 and the attached latest amendment to the same. (Marks 20)

Q.3) What are the ‘Per Se’ offences punishable under the Competition Act, 2002? List the penalties under the Act. (Marks 20)

Q.4) MrBhagat Singh has furnished information to the Competition Commission of India (CCI) alleging that Uttar Pradesh State Power Corporation Limited (UPSPCL) has abused its dominant position bearing the sole supplier of electricity and indulged in price fixing by charging higher rates for electricity connection. Can the CCI treat his information as competition litigation under the Competition Act, of 2002? Discuss. (Marks 20)

Q.5) MrSonam Sharma has furnished information to the Competition Commission of India (CCI) alleging that APPLE International Corporation has entered into a Tie-in-agreement secretly with VODAFONE and AIRTEL for the sale of iPhone in India to get exclusive

rights. Phones were compulsorily locked so that they could work on their network to the exclusion of other networks. Mr Sonam Sharma has also alleged that such activity resulted in limiting and controlling the iPhone market by creating entry barriers for other competitors in India. Based on the investigation report of the Director General, the CCI has ordered for closure of the matter. Against the orders of CCI, an appeal was preferred before the Supreme Court of India for various violations under the Competition Act, 2002. Decide.

(Marks 20)

Q. 6 Discuss the duties of the Director General under the Competition Act, 2002. If a person fails to comply without reasonable cause with directions given by the Commission or the Director-General, what punishment can be given under the Competition Act, 2002?

(20 marks)