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UNFAIR TRADE PRACTICES

Akshay was a small businessman manufacturing shampoo by the name of 'Mehak'. The people in the village started liking the shampoo as it was a good product for a *small price*. The big company branded shampoo 'Khushboo' lost its customers to 'Mehak'. The big company started selling their shampoo at a price lesser than 'Mehak'. They did not bother if they suffered temporary losses in profits as long as 'Mehak' was completely taken over by 'Khushboo'. Akshay, on the other hand could not reduce the price because if he reduced the price any further he would have suffered heavy losses. In sometime 'Khushboo' took over "Mehak" and Akshay had to close down his business. Eventually 'Khushboo' shampoo rates were increased. The villagers had no choice but to buy the costly shampoo.

Do you think this is FAIR? Of course, not, It is neither fair for Akshay nor the villagers. Unfair Trade Practices affect the small businessmen who can't sustain by reduction of prices below the manufacturing cost.

Competition is good but only as long as it is fair, healthy and within the prescribed standards. There are also laws to protect small businessmen like Akshay. The Competition Act, 2002 is one of them.

Methods employed by the various businessmen to increase profits by cheating customers or employing other means like price reduction and giving free gifts to customers by including the cost of the gift in the goods sold are very commonly seen and an alert consumer will always report such practices to the appropriate Forum, Let's see how any of us can be a victim of Unfair Trade Practices.





OBJECTIVES

After studying this lesson you will be able to:

- define the term ‘Unfair Trade Practice’;
- know the meaning of terms ‘Monopoly’ and ‘Competition’;
- understand the process of redressal against Unfair Trade Practice; and
- appreciate the role of the Competition Commission of India.



Notes

29.1 UNFAIR TRADE PRACTICE

UNFAIR TRADE PRACTICE means a trade practice or a business practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice.

Unfair Trade Practices may be categorized as under:

False Representation

The practice of making any oral or written statement or representation which:

- Falsely suggests that the goods are of a particular **standard quality, quantity, grade, composition, style or model;**
- Falsely suggests that the services are of a particular **standard, quantity or grade;**
- Falsely suggests any re-built, second-hand renovated, reconditioned or **old** goods as new goods;
- Represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which they do not have;
- Represents that the seller or the supplier has a sponsorship or approval or affiliation which it does not have;
- Makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;
- Gives any warranty or **guarantee** of the performance, efficacy or length of life of the goods, that is not **based on an adequate or proper test;**
- Makes to the public a representation in the form that purports to be a warranty or guarantee of the goods or services;

- A promise to replace, maintain or repair the goods until it has achieved a specified result,
If such promise is **materially misleading** or there is no reasonable prospect that such warranty, guarantee or promise will be fulfilled
- Materially **misleads about the prices** at which such goods or services are available in the market; or
- Gives false or misleading facts disparaging the goods, services or trade of another person.

**Notes**

False Offer of ‘Bargain Price’

Where an advertisement is published in a newspaper or otherwise, whereby goods or services are offered at a bargain price when in fact there is no intention that the same may be offered at that price, for a reasonable period or reasonable quantity, it shall amount to an Unfair Trade Practice. The ‘Bargain Price’, for this purpose means –

- the price stated in the advertisement in such manner as suggests that it is lesser than the ordinary price, or
- the price which any person coming across the advertisement would believe to be better than the price at which such goods are ordinarily sold.

Free ‘Gift Offer’ and ‘Prize Scheme’

The unfair trade practices under this category are:

- Offering any gifts, prizes or other items along with the goods when the real intention is different, or
- Creating impression that something is being offered free along with the goods, when in fact the price is wholly or partly covered by the price of the article sold, or
- Offering some prizes to the buyers by the conduct of any contest, lottery or game of chance or skill, with real intention to promote sales or business.

Non-compliance of Prescribed Standards

Any sale or supply of goods, for use by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by some competent authority, in relation to their performance, composition, contents, design, construction, finishing or packing, as are necessary to prevent or reduce the risk of injury to the person using such goods, shall amount to an ‘Unfair Trade Practice’.



Notes

Hoarding, Destruction

Any practice that permits the hoarding or destruction of goods, or refusal to sell the goods or provide any services, with an intention to raise the cost of those or other similar goods or services, shall be an ‘Unfair Trade Practice’.



INTEXT QUESTIONS 29.1

State true or false:

1. Any practice that permits the hoarding or destruction of goods, or refusal to sell the goods or provide any services, with an intention to raise the cost of those or other similar goods or services, shall be an ‘Unfair Trade Practice’.
2. Offering any gifts, prizes or other items along with the goods when the real intention is different and is not an ‘Unfair Trade Practice’.
3. The practice of making any oral or written statement or representation which falsely suggests that the goods are of a particular **standard quality**, quantity, grade, composition, style or model is called unfair trade practice.
4. Selling any re-built, second-hand renovated, reconditioned or **old goods as new goods** is acceptable to the consumer and is not an ‘Unfair Trade Practice’.

29.2 MONOPOLY AND COMPETITION

When a specific person or enterprise is the only supplier of a particular commodity a monopoly exists. ‘Monopolies’ are thus characterized by a lack of economic competition to produce goods or services and a lack of similar goods. The verb “monopolize” refers to the process by which a company gains the ability to raise prices or exclude competitors. In economics, a monopoly is a single seller. In law, a monopoly is a business entity that has significant market power, that is, the power, to charge high prices. Although ‘Monopolies’ may be big businesses, size is not a characteristic of a monopoly. A small business may still have the power to raise prices in a small industry.

Holding a dominant position or a monopoly of a market is not illegal in itself. However certain categories of behavior can, when a business is dominant, be considered abusive and therefore incur legal sanctions. A government granted monopoly or *legal monopoly*, by contrast, is sanctioned by the State, often to provide an incentive to invest in a risky venture or enrich a domestic interest group. Patents, copyright and trademarks, are sometimes used as examples of government granted monopolies, but they rarely provide market power. The government may also reserve the venture for itself, thus forming a government monopoly.

**Do you know**

Monopoly in itself is not illegal.

Do and Learn

Find about from your grandparents which BRAND of biscuit they ate as kids. Do you think they had many choices?

**INTEXT QUESTIONS 29.2**

1. What is 'Monopoly'? Give any one example.
2. Sanjana started a business of selling cakes. Varun started the same business and started selling cakes at a much lower price than the total cost of production of cakes. Eventually Sanjana had to close down her business and all her customers went to Varun. Do you call this an 'Unfair Trade Practice' by Varun?
3. Name one Act which checks 'Trade Monopoly'.

29.3 REDRESSAL AGAINST UNFAIR TRADE PRACTICES**29.3.1 The Consumer Protection Act, 1986**

The Consumer Protection Act, 1986 is an Act to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith.

While consumers are protected under this Act the small businessmen are protected under the Competition Act mentioned below.

29.3.2 The Competition Act, 2002

The Competition Act 2002 has been enacted to promote competition in India. The ultimate aim of competition law is to protect consumer welfare as competition in a market ensures that market players are looking to find the most efficient means of production (resulting in good quality services and goods at lower prices). However, unlike the previous Indian competition law, the Monopolies and Restrictive Trade Practices Act (commonly called the MRTP Act), the Competition Act 2002 does not apply to all "unfair trade practices". So, while many consumer disputes would have come under the MRTP Act, the new Competition Act will not always apply to such cases.

**Notes**



Notes

The Competition Act basically does three things. It prohibits:

1. **Anti Competitive Agreements** - Anti-competitive practices are practices that prevent or reduce competition in the market.

Agreements in respect of Production, supply, distribution, storage, acquisition or control of goods or provision of services that cause or are likely to cause appreciable adverse effects on competition within India are anti-competitive agreements.
2. **The Abuse of Dominant Position** - Abuse of a dominant position occurs when a dominant firm in a market, or a dominant group of firms, engages in conduct that is intended to eliminate or discipline a competitor or to deter future entry by new competitors, with the result that competition is prevented or lessened substantially.
3. **Competition Commission of India** is a body of the Government of India responsible for enforcing The Competition Act, 2002 throughout India and to prevent activities that have an adverse effect on competition in India. It was established on 14 October 2003. It became fully functional in May, 2009.



INTEXT QUESTIONS 29.3

1. Name any two Acts which provide redressal in Unfair Trade Practices.
2. What are anti-competitive agreements?

29.4 COMPETITION COMMISSION OF INDIA

Competition Commission of India is a body of the Government of India responsible for enforcing The Competition Act, 2002 throughout India and to prevent activities that have an adverse effect on competition in India. It was established on 14 October 2003. It became fully functional in May, 2009

The Competition Commission of India performs the following functions:

- Make the markets work for the benefit and welfare of consumers.
- Ensure fair and healthy competition in economic activities in the country for faster and inclusive growth and development of economy.
- Implement competition policies with an aim to effectuate the most efficient utilization of economic resources.
- Develop and nurture effective relations and interactions with sectoral regulators to ensure smooth alignment of sectoral regulatory laws in tandem with the competition law.

- Effectively carry out competition advocacy and spread the information on benefits of competition among all stakeholders to establish and nurture competition culture in Indian economy.



INTEXT QUESTIONS 29.4

1. Who is responsible for enforcing the Competition Act, 2002?
2. Mention any two functions of the Competition Commission of India.



Do you know

The Competition Act, 2002 has repealed the MRTP Act!!!



WHAT YOU HAVE LEARNT

- Unfair practices may be categorized as under:
 - False representation;
 - False offer of bargain price;
 - Non-compliance of prescribed standards;
 - Free gifts offer and prize schemes; and
 - Hoarding, destruction, etc.
- **Anti Competitive Agreements** - Anti-competitive practices are practices that prevent or reduce competition in the market. *Agreements in respect of Production, supply, distribution, storage, acquisition or control of goods or provision of services that cause or are likely to cause appreciable adverse effects on competition within India are anti-competitive agreements.*
- **The Abuse of Dominant Position** - Abuse of a dominant position occurs when a dominant firm in a market, or a dominant group of firms, engages in conduct that is intended to eliminate or discipline a competitor or to deter future entry by new competitors, with the result that competition is prevented or lessened substantially.



TERMINAL QUESTIONS

1. What is the full form of MRTP Act?
2. Is it true that the Competition Commission of India is a body of the Government?



Notes



3. Define Unfair Trade Practice?
4. When did the Competition Act become fully functional?
5. Describe the main functions of the Competition Commission of India.

**ANSWERS TO INTEXT QUESTIONS****29.1**

1. True
2. False
3. True
4. False

29.2

1. When a specific person or enterprise is the only supplier of a particular commodity a 'Monopoly' exists
2. Yes. This is an unfair trade practice.
3. The Competition Act, 2002

29.3

1. The Consumer Protection Act, 1986 and the Competition Act, 2002.
2. Agreements in respect of Production, supply, distribution, storage, acquisition or control of goods or provision of services that cause or are likely to cause appreciable adverse effects on competition within India are anti-competitive agreements.

29.4

1. The Competition Commission of India (CCI)
2. Two functions of the Competition Commission of India
 - a) Make the markets work for the benefit and welfare of consumers, and
 - b) Ensure fair and healthy competition in economic activities in the country for faster and inclusive growth and development of economy.