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## UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, May 2018

Program: B. Tech (ET) LL.B. (Hons.) IPR

Subject (Course): Competition Law

Course Code: LLBL 502

No. of page/s : 3

Semester: X

Max. Marks : 100

Duration : 3 Hrs

### Section A-Objective type/True & False/Short Answer type questions

Attempt All

(2 marks each= 10 marks)

1. Committee which led to the formation of Competition Act, 2002 in India  
.....
2. Who is not part of the selection committee for Chairperson and Members of CCI?
  - a) The Chief Justice of India or his nominee
  - b) The Secretary, Ministry of Corporate Affairs
  - c) The Secretary, Ministry of Commerce
  - d) The Secretary, Ministry of Law and Justice
3. .... includes any agreement restricting in any manner the purchaser in the course of his trade from acquiring or otherwise dealing in any goods other than those of the seller or any other person.
4. Definition of 'enterprise' in section 2(h) of the Competition Act does not include any activity of the Government relating to the sovereign functions of the Government including all activities carried on by the departments of the Central Government dealing with ....., ....., ....., and .....
5. The CCI shall take suitable measures for promotion of competition advocacy, creating awareness and imparting training about competition issues under:
  - a) Section 49 (1)
  - b) Section 49 (3)
  - c) Section 18
  - a) None of the above

**Section B-Short answer type question**

**(20 marks)**

6. Write short notes on any two: **(5marks \* 2= 10 marks)**
- a) Prisoner's Dilemma
  - b) Leniency Program
  - c) Network Effect
  - d) Gun Jumping.
7. Elaborate the concept of 'Essential Facilities Doctrine'. **(5 marks)**
8. What do you understand by the concept of Competition Law Audit, what is its relevance. **(5 marks)**

**Section C- Conceptual type questions**

**Attempt any two**

**(10marks \* 2 = 20 marks)**

9. Discuss the potential concerns in the application of the Competition Act, 2002 with respect to Big Data. **(10 marks)**
10. A Gas Distributor insists his customers to buy a gas stove as a condition to the gas connection. Is it a tie-up sale? Give reasons and refer to the relevant case-law(s). **(10 marks)**
11. Explain the metamorphosis from MRTP Act, 1969 to Competition Act, 2002. **(10 marks)**

**Section D-Application Based Case Study**

**(50 marks)**

12. PICObello is a renowned brand of Mobile Cover having a design registration of its cover with the Competent Authority in Delhi. It has a market share of approximately 65% in the relevant geographic market of Dehradun. The rest of the market is catered by some local brands except the major competitor being a multinational new entrant MicroMITO. Entry of MicroMITO has caused reduction in market share of PICObello to an extend of 5%. PICObello has launched a scheme of loyalty discounts wherein it is offering 40% discount on its products to the distributors who agree to purchase all its supplies from PICObello. MicroMITO is seeking an advice to proceed under the Competition Act 2002. Advise MicroMITO as to the applicable law and possible options under the competition law of India.

**(15 Marks)**

13. Micromax Informatics Ltd. (Micromax) alleged that Ericsson had abused its dominant position in the market for GSM technology by:

- Demanding excessive royalty based on the sale value of the entire phone instead of the value of the patented technology used in the phone
- Filing of injunction and threatening to report Micromax's failure to pay royalty to Securities Exchange Board of India, prior to its listing

The foremost objection raised by Ericsson was the lack of jurisdiction of CCI because the issue of abuse of patent rights must be resolved under the Patents Act.

Comment upon the aforesaid issue drawing the interface of IP with Competition Law.

**(15 Marks)**

14. *The Competition Commission of India (CCI) is currently examining the Indian leg of the mega merger between Bayer and Monsanto. The proposed acquisition of Monsanto's entire shareholding by Bayer globally, which brings together two global giants in the seeds and agro-chemical markets, is currently also being examined in US and EU. There is opposition amongst the antitrust experts and economists for justifiable reasons, which need to be discussed publically in India. CCI has invited public comments on the merger on January 7, 2018.*

What is your opinion on this merger? What would be the parameters for examining this merger by CCI and how this would be different in US and EU? Discuss in detail.

**(20 Marks)**

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<b>Program</b>	:	B. Tech (ET) LL.B. (Hons.) IPR					
<b>Semester</b>	:	X					
<b>Name of the Subject (Course)</b>	:	Competition Law					
<b>Course Code</b>	:	LLB L 502					
<b>Name of Question Paper Setter</b>	:	Dr. Vijay Kumar Singh					
<b>Employee Code</b>	:						
<b>Mobile &amp; Extension</b>	:	9891500707					
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**Note: - Pl. start your question paper from next page**

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### Section A-Objective type/True & False/Short Answer type questions

Attempt All

(2 marks each= 10 marks)

1. Who gave the dissenting opinion in the SVS Raghavan Committee Report  
.....
2. The Chairperson or other members of CCI shall not hold office as such after attaining the age of...
  - a) 65 years
  - b) 60 years
  - c) 62 years
  - d) 67 years
3. .... includes any agreement to limit, restrict or withhold the output or supply of any goods or allocate any area or market for the disposal or sale of the goods.
4. Definition of 'enterprise' in section 2(h) of the Competition Act does not include any activity of the Government relating to the sovereign functions of the Government including all activities carried on by the departments of the Central Government dealing with ....., ....., and .....
5. The CCI shall take suitable measures for promotion of competition advocacy, creating awareness and imparting training about competition issues under:
  - a) Section 49 (1)
  - b) Section 49 (3)
  - c) Section 18
  - d) None of the above

**Section B-Short answer type question**

**(20 marks)**

6. Write short notes on any two: **(5marks \* 2= 10 marks)**
- a) Export Cartel
  - b) Tying arrangements
  - c) Joint venture as an exception to anti-competitive agreements
  - d) Gun Jumping.
7. Elaborate the concept of merger thresholds. **(5 marks)**
8. What do you understand by 'Essential Facilities Doctrine'. Elaborate. **(5 marks)**

**Section C- Conceptual type questions**

**Attempt any two**

**(10marks \* 2 = 20 marks)**

9. Discuss the potential concerns in the application of the Competition Act, 2002 with respect to Big Data. **(10 marks)**
10. A Gas Distributor insists his customers to buy a gas stove as a condition to the gas connection. Is it a tie-up sale? Give reasons and refer to the relevant case-law(s). **(10 marks)**
11. Discuss the concept of predatory pricing. What is the relevance of cost regulations in deciding a predatory pricing case. **(10 marks)**

**Section D-Application Based Case Study**

**(50 marks)**

12. *PICObello is a renowned brand of Mobile Cover having a design registration of its cover with the Competent Authority in Delhi. It has a market share of approximately 65% in the relevant geographic market of Dehradun. The rest of the market is catered by some local brands except the major competitor being a multinational new entrant MicroMITO. Entry of MicroMITO has caused reduction in market share of PICObello to an extend of 5%. PICObello has launched a scheme of loyalty discounts wherein it is offering 40% discount on its products to the distributors who agree to purchase all its supplies from PICObello. MicroMITO is seeking an advice to proceed under the Competition Act 2002. Advise MicroMITO as to the applicable law and possible options under the competition law of India.*

**(15 Marks)**

13. “When IP is unduly extended so as to grant exclusivity over non-differentiating features (such as patents for technical features that do not qualify as inventions and trademarks for common, non-distinctive words) it is anti-competitive” – Elucidate drawing an interface between IP and Competition Law.

**(15 Marks)**

14. *The Competition Commission of India (Commission) is investigating into the combination between Holcim Limited (Holcim), having its principal business address at Zürcherstrasse 156, 8645 Jona, Switzerland, and Lafarge S.A. (Lafarge), having its principal business address at 61, rue des Belles Feuilles, Paris France – 75116. This is in relation to the notification of the proposed merger of equals through an exchange offer resulting, upon completion, in the acquisition by Holcim of all outstanding shares of Lafarge (the Proposed Transaction). Holcim and Lafarge are collectively referred to as the Parties. In India, Holcim is active through its two subsidiaries (i.e., ACC Limited (ACC)) and Ambuja Cements Limited (Ambuja and/or ACL) and Lafarge is active through its subsidiaries (i.e., Lafarge India Private Limited (Lafarge India) and Lafarge Aggregates & Concrete India Pvt. Ltd. (Lafarge A&C)).*

What is your opinion on this merger? What would be the parameters for examining this merger by CCI and how this would be different in US and EU? Discuss in detail.

**(20 Marks)**