

Globalisation and Competition: The Role of a Professional

Globalisation has changed the economies across the world. The transitional economies are at a crossroad; the competition regime will open a new horizon for the development. Since the professionals are an integral part of the development, they have to re-engineer themselves to explore the opportunities emerging in the service market. Professionals have to act as leaders, promoters and valued stakeholders to enhance the competition culture in the society.

"People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public or in some contrivance to raise prices."

**- Adam Smith,
The Wealth of Nations (1776)**

Globalisation brings both challenges and opportunities. Responding to them is a matter for Government as well as for citizens. A globalised economy needs globally accepted courses of behaviour and practices. Never before have the lives of people around the world been so closely knitted and inter dependent. E-communications speed across time, zones, cultures and continents.

India enacted the Competition Act, 2002 as part of the second-generation economic reforms. The new act was based on the report of a High Level Committee on Competition Law and Policy set up by the Government of India to study the Monopolies and Restrictive Trade Practices Act, 1969 and the legislative changes required for the emerging new economic scenario. The Government appointed the Committee under the chairmanship of Shri S.V.S. Raghavan in October 1999 for shifting the approach from curbing monopolies to promoting competition in line with the international environment. The Committee recommended the enactment of Competition Act with the objective,

inter alia, to establish the Competition Commission of India, and to repeal the MRTP Act, 1969. The Committee recommended that the law should cover all consumers who purchased goods or services regardless for the purpose for which the purchase is made.

The economic reforms gave rise to an enormous churning as competitive forces entered the economy. In the beginning, many business houses that lacked competitiveness were forced to close down and as a consequence, many became jobless. Those were the initial years of pain of economic reforms. The ultimate raison d'être of competition is the interest of the consumer. The consumer's right to free and fair competition cannot be denied by any other consideration. There is also a need for supportive institutions to strengthen a competitive society notably, adequate spread of information throughout the market, free and easy communication and ready accessibility of goods as well as services. A free press, worthy advertisement and even modern technology such as Internet could support a modern competitive society. Without them, competition cannot thrive in a kind of vacuum. Competition policy, in this context, becomes an instrument to achieve efficient allocation of resources, technical progress, consumer welfare and regulation of concentration of economic power. While competition policy is a desirable objective and useful instrument for serving consumer interest and welfare, there is a need to promote a competitive environment. A domestic competition law will prevent international cartels from indulging in anti-competitive practices in our country. Competition law is an integral part of national competition policy, which must be evolved to serve the basic goals of

— Dr. Alok Ray

(The author is Secretary, Corporate and Allied Laws Committee of ICAI. He can be reached at alokray@icai.org)

Note: Views expressed herein are personal views of the author and does not in any way represent views of the Institute.

economic reforms by building a competitive market economy. The Committee further recommended that with the promulgation of a new competition policy and a competition law, it is necessary to consider the relevance of the existing institutions like the MRTP Commission and the BIFR in the revised context. In the absence of a proper competitive environment, we may find ourselves with a first-class competition law but no competition. We may also end up by protecting the competitors and not the competitive system.

Economic Reform and Competition: Emerging Horizon

Fair competition has been regarded as one of the pillars of an efficient market economy. Competition stimulates innovation and productivity, and share optimum allocation of resources and enables better satisfaction of consumer preferences.

John Meadowcroft in his book 'The Ethics of the Market' has very rightly pointed out that after the collapse of Communism in Eastern Europe and the former Soviet Union and the 'rolling back of the state' in liberal democracies across the world in the final two decades of the twentieth century, it is now widely held that the central intellectual debate in political economy has shifted from the question of whether capitalism or socialism is the most efficacious economic system to the question of how the state should manage and regulate a market economy. As India's regulated market has been opened up to internal and external competitions, the gains for the economy and the consumers have been obvious. These have been reflected in higher GDP growth rate and availability of goods as well as services in the market at competitive prices. Even the industries owned by the State and earlier enjoying monopolies are facing the heat of competition. Liberalisation of the Telecom and Air Service Sectors have not only brought in more competitors but forced the Public Sectors to transform their services. Customers are the king of the market. Thus, what could not be achieved through legal reform, competition made possible. The benefits of competition are visible in other sectors also such as automobiles, consumer electronics, banking, insurance, education and health.

In a free competitive market, prices adjust to a level that allows fair returns to enterprises but neither buyers nor sellers exercise market power. However, a free market can witness market failures or malpractices by the players. Such practices include formation of cartels where enterprises collude prices or share markets and abuse dominance through predatory pricing or erection of entry barriers. Probably this *mens rea* has been termed by Adam Smith as "wretched spirit of monopoly".

Competition Policy: A Need of the Hour to Promote a Competitive Environment

The objective of Competition Policy is to promote efficiency and maximum welfare. There are two elements of a Competition Policy; one is a set of regulatory policies that enhance competition in local and national markets, give primacy to market forces, allow entry and exit, reduce administrative controls and minimise regulations. The other area of competition policy is a law to prohibit anti-competitive business as well as practices and regulate acquisitions, amalgamations or mergers that might adversely impact competition. Modern Competition Law can be viewed as a basic system of rules, which are designed as far as possible to allow markets to function properly. It is designed to prohibit abuses of market power, whether by an individual firm or by a group of firms acting collectively, but otherwise to allow markets to operate unhindered. An effective Competition Policy promotes the creation of a business environment, which improves static and dynamic efficiencies and leads to effective resource allocation, and in which the abuse of market power is prevented mainly through competition. Where this is not possible, it requires the creation of a suitable regulatory framework for achieving efficiency. The scope of competition policy is broad and essentially includes all Governmental measures that directly influence the conduct and behaviour of enterprises and the structure of industry with the objective of promoting efficiency and maximising welfare. To the extent the implementation of competition policy requires legal backing there is need for a competition law. Whereas the former covers a whole array of executive policies and approaches, the latter is a piece of legislative enactment having the character of enforceability in a court of law.

Competition Advocacy

The International Competition Network has defined the Competition advocacy as follows: -

“Competition advocacy refers to those activities conducted by Competition Authority related to the promotion of a competition environment for economic activities by means of non-enforcement mechanisms.”

The objective of effective competition advocacy is to foster the spirit of competition in different economic segments and to create a harmonious competition culture in the country.

To achieve that objective, an effective competition advocacy has to

- (a) eliminate unnecessary and costly existing regulations;
- (b) to inhibit the growth of unnecessary new regulations;
- (c) to ensure that regulation is properly designed to accomplish legitimate regulatory objective.

A developing country like India needs an effective competition advocacy to create awareness amongst the various stakeholders of the market. Initially, the competition authorities should give priority to advocacy over enforcement activities.

Competition advocacy is a complex and difficult process. The vested interests will prefer to maintain old anti-competitive activities and to resist new competition policies.

Section 49 of the Competition Act, 2002 prescribes that:

- (1) In formulating a policy on competition (including review of laws related to competition), the Central Government may make a reference to the Commission for the opinion on possible effect of such policy on competition and on receipt of such a reference, the Commission shall, within sixty days of making such reference, give its opinion to the Central Government, which may thereafter formulate the policy as it deems fit.
- (2) The opinion given by the Commission under subsection (1) shall not be binding upon the Central Government in formulating such policy.

- (3) The Commission shall take suitable measures, as may be prescribed, for the promotion of competition advocacy, creating awareness and imparting training about competition issues.

The intention of the Parliament was that the mandate of the Competition Commission of India (CCI) needs to extend beyond merely enforcing the competition law.

Competition Act, 2002: The Salient Features

Article 38 and 39 of the Directive Principles of the Constitution of India prescribes:

1. that the ownership and control of material resources of the community are so distributed as best to sub serve the common good; and
2. that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

In line with the international best practices and modern Competition Law, the Competition Act, 2002 has been enacted with the objective to:

- (1) Prohibit anti-competitive agreements (including cartels) which determine prices, limit or control or share markets or result in bid rigging, etc.,
- (2) prohibit abuse of dominant position through unfair or discriminatory prices or conditions (including predatory pricing) limiting or restricting production or development, denying of market access, etc., and
- (3) regulate combinations, (i.e., mergers, acquisitions, etc.) that cause or are likely to cause an appreciable adverse effect on competition.

This is an Act to provide, keeping in view the economic development of the country, for the establishment of a commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of the consumer and to ensure freedom of trade carried on by other participants in markets, in India and for matters connected therewith or incidental thereto. The Competition Act explicitly defines cartel, the most serious of anti-trust

violations, and makes the participating enterprises liable for heavy penalty.

Anti competitive practices committed overseas but having effect in India has been covered under section 32 of the Act. In order to enable the Commission to implement this section, enabling provision (section 18) has been provided whereby the Commission, with the prior approval of the Central Government, may enter into arrangements and memorandum of understanding with foreign agencies and enforce the law by way of 'effect theory' which is accepted worldwide.

Anti-competitive agreements (Section 3)

- Any agreement in respect of production, supply distribution, storage, acquisition or control of goods or provision of services which causes or is likely to cause appreciable adverse effect on competition within India is void.

Abuse of Dominant Position (Section 4)

- No enterprise shall abuse its dominant position.

The following factors constitute abuse of dominant position:

- Imposing unfair or discriminatory conditions including predatory pricing
- Limiting/Restricting production, denial of market access
- Contracts contingent on unrelated and supplementary obligation
- Use of dominance in one relevant market to enter into or protect other relevant market (both product and geographical)
- Technical or scientific development relating to goods or services to the prejudice of consumers.

Combinations

- Section 5 defines the combination, which includes acquisition, merger or amalgamation of enterprises as detailed in the Section.
- Section 6 prescribed the procedure to regulate the combinations, which causes or is likely to cause an appreciable adverse effect on competition within the relevant market in India and such combination is void.

Appreciable Adverse Effect: Section 20(4) prescribes that for the purpose of determining whether a combination would have the effect or is likely to have an appreciable adverse effect on competition in the relevant market, the following factors have to be considered:

- Actual/potential levels of competition through imports
- Barrier to entry
- Level of combination in the market
- Degree of countervailing power in the market
- Likelihood of significant increase in price, profit to parties due to combination
- Extent of effective competition likely to sustain in a market
- Availability of substitutes
- Market share individually and as combination
- Likelihood that the combination would result in the removal of a rigorous and effective competitor or competitors in the market.
- Nature and extent of vertical integration in the market
- Possibility of failing business
- Nature and extent of innovation
- Whether benefits of combination outweigh the adverse impact of combination
- Relative advantage to the economic development by any such combination

Market: Under Section 2(r), relevant market means the market which may be determined with reference to the relevant product market or the relevant geographic market or with reference to both the markets.

Section 2(s) defines the relevant geographic market as a market comprising the area in which the conditions of competition for supply of goods or provision of services or demand of goods or services are distinctly homogenous and can be distinguished from the conditions prevailing in the neighbouring areas.

Section 2(t) defines the relevant product market as a market comprising all those products

or services which are regarded as interchangeable or substitutable by the consumer, by reason of characteristics of the products or services, their prices and intended use.

Enterprise Includes the Government:

Section 2(h) defines the enterprise as a person or a department of the Government, who or which is, or has been, engaged in any activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or the provision of services, of any kind, or in investment, or in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, either directly or through one or more of its units or divisions or subsidiaries, whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place or at different places, but 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 the atomic energy, currency defence and space.

Competition Commission of India: A Pro-active Leader, Regulator and Promoter of Competition Regime

The Competition Commission of India has been established under Section 7 of the Act by a Government Notification dated 14th October 2003.

Under Section 9, the Commission shall consist of a Chairperson and not less than two and not more than ten other members to be appointed by the Central Government.

The Commission is mandated under the Act to prevent practice having adverse effect on competition, to promote and sustain competition in the markets, to protect the interests of the consumers and to ensure freedom of trade carried on by other participants in the market.

For achieving the aforesaid mandate, the Commission has jurisdiction to:

- i) Enquire into Anti-competitive Agreements (eg. cartel, bid-rigging, etc.);
- ii) Enquire into abuse of dominant position (eg.

predatory pricing, etc.);

- iii) Regulate combinations (mergers/amalgamation, acquisition of shares or controls etc.); and
- iv) Undertake Competition Advocacy (including advice to the Central Government on competition policy issues), Create Public Awareness and Impart Training on competition issues.

The jurisdiction of the Commission includes seeking compliance of its mandate by taking both enforcement and non-enforcement measures whereas the enforcement measures extend to enquiries and regulations, the non-enforcement measures includes undertaking competition advocacy, creating public awareness and imparting training on competition issues.

Chapter IV prescribes the duties, powers and functions of the Commission. The Commission shall not be bound by the procedure of Civil Procedure Code, 1908 but shall be guided by principles of natural justice. The Commission shall have the power to regulate its own procedure including the places at which they shall have their sittings. The Commission has the review power. The order passed by the Commission shall be enforced in the same manner as if it were a decree or order of a High Court or the Principal Civil Court. Any person aggrieved by any decision or order of the Commission may file an appeal to the Supreme Court.

The Commission has extensive power to enquire into certain agreements as well as dominant position of enterprise under Section 19 of the Act. Under Section 20 of the Act, the Commission has the power to inquire into acquisition, merger or amalgamation to ascertain whether such a combination has caused or is likely to cause an appreciable adverse effect on competition in India.

Section 27 of the Act provides for the orders, which the Commission may pass in the case of anti-competitive agreements or abuse of dominant position by enterprises. The Commission may pass all or any of the following orders:

- i) cease and desist order,
- ii) impose penalty,
- iii) award compensation to an aggrieved person in

accordance with Section 34,

- iv) direct modification of agreement,
- v) direction to abide by such other order including payment of costs,
- vi) recommend to the Central Government for the division of an enterprise enjoying dominant position,
- vii) pass such other order as it may deem fit.

Under Section 31 of the Act, the Commission is empowered to approve or disapprove or approve with modification any combination after considering whether the combination has any appreciative adverse effect on competition or not.

Under the Act, the Commission is required to pro-actively interact with the Government departments/Ministries, media and all other stakeholders such as the business community and organisations, academia, consumer organisations and professional bodies. As an advocate of competition, the Commission has to promote a competitive policy with the objective to foster a competition culture where voluntary compliance of competition law becomes a reality and competition is internalised as a key driver for economic growth and development.

Whistle Blower: Section 46 of the Act has prescribed that “The Commission may, if it is satisfied that any producer, seller, distributor, trader or service provider included in any cartel, which is alleged to have violated Section 3, has made a full and true disclosure in respect of the alleged violations and such disclosure is vital, impose upon such producer, seller, distributor, trader or service provider a lesser penalty as it may deem fit, than leviable under this Act or the rules or the regulations.”

Exclusion of Civil Court Jurisdiction: Jurisdiction of civil courts to adjudicate issues relating to competition matters have been expressly excluded under section 61 of the Act. Besides, passing ‘cease and desist’ orders, the Commission is empowered to impose fine and interim orders. It can further impose penalties for non compliance of its order. The MRTP Commission had the power to punish for “Contempt” for non-compliance of its orders under section 13 B of the Act. This power has

not been included in the Competition Act.

The Legal Monopolies viz., IPR protections have been exempted from being considered by the Competition Commission. Trade and Commerce arising out of export of goods and services have also been excluded from the ambit of the new Act with an intention to encourage export.

Director General: Under Section 16 of the Act, the Central Government may appoint a Director General and as many additional, Joint, Deputy or Assistant Directors General or such other advisors, consultants or officers for the purposes of assisting the Commission in conducting inquiry into contravention of any of the provisions of this Act and to conduct the cases before the Commission and for performing such other functions as are, or may be, provided by or under the Act.

Present Activities of CCI: Government has notified certain provisions relating to establishment of CCI, appointments, Competition Advocacy, framing of rules and regulations. However, provisions relating to enquiry into anti-competitive agreements, abuse of dominance, regulations of combinations are not yet notified. At present no regulatory functions are being discharged by the Commission; only foundational and preparatory work are being undertaken by the Commission. Presently, the activities of the Commission includes:

- i) Competition Advocacy; Public Awareness and Training;
- ii) Foundation and Preparatory Work; and
- iii) Corporate Services.

1) **Competition Advocacy, Public Awareness and Training:**

- An Advisory Committee has been constituted on Competition Advocacy to advise the Commission in Competition Advocacy Programmes.
- The Commission provides internship facilities on Competition Law and Policy to students and also supports moot Court competitions held by the Law Institutes.

The students of economic, statistics, law, chartered accountancy, cost accountancy;

company secretaries may join the internship to study competition issues.

- Developed reference materials relating to anti-competitive agreements.
- Approach Paper on Competition Advocacy, which State Governments finalised and put on Website.
- Developed sample competition law and policy curriculum to be used by Universities and other Institutes.

2) Foundation and Preparatory Work:

Expert Advisory Committee consisting of experts, professionals etc. set up for rendering advice in respect of following specialised areas:

- Competition Advocacy
- Regulations
- Predatory Pricing and Determination of Costs
- Market Studies/Research Projects
- Academic Curriculum
- Economic Information
- National Competition Policy
- The Committee has undertaken Market Studies/Research Projects in various sectors of the economy through reputed institutions, experts based on recommendation of Advisory Committee on Market Studies/Research Projects.

3) Corporate Services:

- Technical Assistance Programme for Capacity Building undertaken with bodies such as World Bank and USAID.
- A well equipped library on Competition literature.

To appreciate the recent initiative of CCI, the website of the Commission may be explored. Further details are available in the website of the CCI www.competitioncommission.gov.in.

The Competition Amendment Bill, 2006 -

An Amendment Bill is under consideration of the government to make the Act a better instrument

to enhance competition in the market. In *Brahmdutt vs. Union of India*, a writ petition, namely, civil no. 490 of 2003 (date of judgement 20th February, 2005), the Supreme Court observed that if an expert body is to be created as submitted on behalf of the Union of India consistent with what is said to be appropriate for the respondents to consider the creation of two separate bodies, one with expertise that is advisory and regulatory and the other adjudicatory. This followed up by an appellate body as contemplated by the proposed amendment, can go a long way, in meeting the challenge sought to be raised in this Writ Petition based on the doctrine of separation of powers recognised by the Constitution. It may be mentioned that the Amendment Bill has addressed this issue by creating Competition Tribunal as adjudicating authority and omitting the power of CCI as adjudicator.

A new Chapter VIII A has been inserted by this Bill to make provisions, inter alia, for Competition Appellate Tribunal. This Appellate Tribunal shall consist of a Chairperson and not more than two other members to be appointed by the Central Government. This Appellate Tribunal will act as adjudicator in respect of the direction or decision of the CCI. This Appellate Tribunal shall not be bound by the Procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and the Tribunal shall have the power to regulate its own procedure including the places at which they shall have their sittings.

The professionals including Chartered Accountants may appear before the Appellate Tribunal on behalf of a person or authority. Any person aggrieved by the decision or order of the Appellate Tribunal may file an appeal to the Supreme Court.

Unlike CCI, the Appellate Tribunal has the power to punish for contempt. It has the same jurisdiction, powers and authorities as a High Court in respect of contempt.

Another important aspect is that notwithstanding the repealing of the MRTP Act, the Monopolies and Restrictive Trade Practices Commission established under sub section (1) of Section 5 of the repealed Act may continue to exercise jurisdiction

and powers under the repealed Act for a period of two years from the date of commencement of this Act in respect of all cases or proceedings (including complaints received by it or references or applications made to it) filed before the commencement of this Act as if the Monopolies and Restrictive Trade Practices Act, 1969 had not been repealed and all the provisions of the said Act so repealed shall *mutatis mutandis* apply to such cases or proceedings or complaints or references or applications and to all other matters. All cases pertaining to monopolistic trade practices or restrictive trade practices pending (including such cases, in which any unfair trade practice has also been alleged), before the Monopolies and Restrictive Trade Practices Commission and on or after the expiry of two years shall, stand transferred to the Appellate Tribunal and shall be adjudicated by the Appellate Tribunal in accordance with the provisions of the repealed Act as if that Act had not been repealed. All cases pertaining to unfair trade practices referred to in clause (x) of Sub-section (1) of Section 36A of the Monopolies and Restrictive Trade Practices Act, 1969 and pending before the Monopolies and Restrictive Trade Practices Commission on or after the expiry of two years, shall, stand transferred to the Competition Commission of India, and the Competition Commission of India shall dispose of such cases as if they were cases filed under that Act.

The Bill has omitted the Review Power of the CCI. It has also omitted the provision of appeal to the Supreme Court in respect of the order of CCI. Now the first Appellate Court is the Appellate Tribunal.

The Bill has empowered the Commission to engage expert and professionals who have special knowledge or any experience in economics, law and business or such other disciplines related to competition to assist the Commission in the discharge of its functions under the Act.

Competition Regime: Role of Professional Bodies

The professional bodies have to take initiatives towards increasing awareness about competition law and policy amongst its members. These initiatives will contribute substantially to the spread of competition culture and improving the level of

compliance of the competition law.

Since it is an emerging area of the practice, the professional bodies have to create knowledge database for the benefit of its members. They have to take pro-active measures towards:

- Development/compilation/collection of appropriate materials/case study;
- Studies/Research;
- Inclusion of Competition Law and Policy in the curriculum;
- Organise seminar/conference/workshop on competition policy and law independently and in association with CCI and the concerned Ministries of Central as well as State Governments.
- Network amongst the various professionals and academia;
- Educating market players on benefits of competition and Risks involved in indulging in anti-competitive practices;
- Competition audit and compliance.

Initiatives of the ICAI: Appreciating the need of a modern Competition Law and Policy Regime and to empower its members, the Institute of Chartered Accountants of India is associated with various activities of the Competition Commission of India. The Institute has regular interaction with the Commission. To sharpen the edge of the profession, the Institute is organising a Post Qualification Course on International Trade Laws and WTO.

The curriculum of the course includes a Paper on Competition Laws and Policies. It contains the following perspectives: -

- Emerging Competition Laws in India
- Competition Law and policies in the European Union
- Competition Law and policies in the United States and NAFTA countries
- Competition Law and policies in the transition economics
- WTO Rules and Competition Policy

The students of this course may join internship in the Competition Commission of India to study

various aspects of the Competition Law and Policy.

The Post Qualification Course has the objective of Capacity Building for the accountancy profession to participate in the global service market of WTO regime. The Chartered Accountants have to re-engineer their skills and expertise to cope with the new challenges in new world order.

Further details are available on the website www.icaai.org.

Role of Professionals in Competition Regime:

Professionals have to act as leaders, promoters and valued stakeholders to enhance competition culture in the society. Section 35 of the Act has prescribed that the professionals, i.e., Chartered Accountants, Cost Accountants, Company Secretaries and legal practitioner may appear before the Commission to present the case of a party. This is a provision which was not available in the MRTP Act.

Section 36(4) of the Act provides that the Commission may call upon experts from the field of economics, commerce, accountancy, international trade or from any other discipline as it deems necessary to assist it in the conduct of any enquiry or proceeding before it.

To enquire into the complaints regarding anti-competitive agreements and cartel formation, the Chartered Accountants because of their training and experience can play a major role in the enquiry and investigation into such malpractices. The Chartered Accountants can also play a major role in the market study to identify the abuse of dominant position and other restrictive practices leading to anti-competition. The professionals have to work together in promoting competition culture and compliance and in enhancing the effectiveness of the Competition Commission.

The professionals have to be well equipped to present the cases of the parties before the Commission. He has to equip himself through:

- knowledge of the law and economics;
- knowledge of anti-competitive business behaviour;

- capacity to make case analysis; combination analysis;
- conversant with craft of presenting cases;
- capacity to assist parties or their advocates in appeals
- To be conversant in international developments under competition law and practice.
- To learn from the cases decided by other competition authorities of the world.

In common with prevailing international practice, the issues that are likely to come up before the Commission may involve complex economic issues. As a concrete illustration, in order to prove "abuse of dominant position" under Section 4, dominance of the respondent enterprise will have to be established for which economic/commercial criteria are set out in the Act: Dominance depends on the determination of the relevant market, which is basic to effective enforcement of competition laws, and is usually the necessary first step in the analysis of the conduct. This requires determination of the relevant product market and the relevant geographical market, in essence a determination of how substitutable or interchangeable goods are perceived to be by buyers. The determination of these economic terms essentially requires derivation of the residual demand curve facing the firm, the elasticity of demand (the proportionate change in quantity upon change in price) and an analysis of the time series data on prices of the relevant product. Econometric modelling and statistical tools (regression analysis, correlation analysis, hypothesis testing, etc.) have been traditionally used by well-established competition authorities world over for their calculations and judgements.

Analysis of Market and Anti-competitive Practices: A Multi-disciplinary Study and Research

To identify and analyse the various factors of the market as well as the practices leading to anti-competition, various professionals have to work together in the following areas: -

• Defining relevant markets	• Economic reform: Emerging horizon.
• Identifying and measuring market power	• Consumer preferences
• Identifying and assessing barriers to entry	• Classification of products and services
• Studying pricing patterns	• Ingredients of geographical and product market for a particular good or service
• Quantifying economic harm or damages	• Vertical and horizontal agreements
• Assessing efficiencies	• Consumer psychology
• Identifying Cartels	• International Law and Practices relating to Competition
• Analysing merger, demerger and acquisition	• Characteristics of markets prone to cartelization
• Research on implications of FDI in the Competition.	• Evidence to prove anti-competitive practices

Messages, Challenges and Perspectives:

- The professionals have a crucial role to play in enhancing competition advocacy and policy in the country.
 - Competition is a cross sectoral discipline, and it can be impacted, adversely or favourably, by the policies of several Ministries, authorities including regulators, and State Governments. A close co-ordination is required to lead the country to a competition regime. At the same time, autonomy of the competition authority is a crucial issue.
 - Competition authorities need to establish a reputation for professionalism, credibility and independence. Their proceedings are to be underpinned by expert analysis of economic data and deep understanding of the economic and legal issues involved. They need expert staff e.g., for investigation, economic analysis, application of legal principles, and communication. An extensive foundation and preparing the world is a pre-condition for a competitive regime. Knowledge management and a well-equipped database is the need of the hour.
 - The competition authority should not act as a super regulator. Overlapping of jurisdictions between one regulator and authority under the Competition Act may create multiplicity of proceedings. As for example, Section 174 and 175 of Electricity Act, 2004 and Section 60 and 62 of Competition Act have similar non-obstinate clauses.
 - The approach of the competition commission under the Act is a multidisciplinary approach and to develop the same, networking of various professionals is to be encouraged. To ensure that, we need a legal regime where Partnership and Networking amongst various professionals are possible. The existing legal framework has to be transformed to make the multidisciplinary partnership a reality.
 - The professionals have to be trained and tuned to play the new role, i.e., to enquire and investigate anti-competitive practice in the domestic as well as world market, to study the market and to appear before the Competition Commission and Appellate Tribunal. They have to prepare themselves to take up various issues in the international forums and authority.
- Service is the most rapidly expanding sector in most economies, accounting for well over 60% of world GDP. Indian professionals, because of their expertise in English and familiarity with the democratic norms, are positioned advantageously in comparison to China and other transitional economies. The role of accountancy profession in this new world order is multi-pronged. The accountancy sector has to cater to the needs of other service providers and, at the same time, as a service sector, has to open itself to the global market. A bit of reform in the mind-set of our professionals, a re-orientation of their skill and expertise and of course, the much awaited legal reform hold the key to opening the door to a greener horizon. □