

COMPETITION LAW

Nations seek to protect and regulate market activities within its territory. The aim is to prevent monopolistic activities and anti-competitive behavior of undertakings within the nation's economic market. Competition laws aid the promotion of healthy competition by declaring anti-competitive activities such predatory pricing, price fixing, exclusive agreements, cartels and oligopoly, monopoly and abuse of a market power or dominance. Competition laws further regulate mergers to prevent unhealthy dominance by undertakings over a given market.

In many jurisdictions, anti-competitive behavior is a criminal offence and subject to stipulated penalties such as fines and imprisonment among others. The rationale behind anti-competition preventive measures is that these behaviors reduce competition resulting in lack of availability of substitution of products in a market and so on. There are various theories which justify the importance of competition Laws. Very prominent are the social welfare and consumer welfare theories. Whatever the approach, lack of adequate competition in any market hinders economic progression which is stirred up by innovation.

Intellectual Property is innovation and innovation constitutes an essential and dynamic component of an open and competitive market economy. This establishes the foundation of the existing interplay between competition law and intellectual property rights. It has been argued that the rights conferred on right holders by intellectual property laws may be abused by right holders resulting in a monopoly or dominance. However, while consumers may seek to rely on competition law to protect themselves from these behaviors, right holders rely on competition law to protect themselves from unfair competition in the market. The concerns of this interplay arise in patents, trademarks, designs and copyright. Competition law acts as a check to ensure that right holders, particularly those in dominant market positions are cautious of the implications of their activities in a market.

International Competition Law is concerned with competition and anti-competitive behaviors of undertakings which have an international character or dimension. By the theory of state sovereignty national competition laws may not be applied beyond a state's jurisdiction. It is for this purpose that international laws and agreements such as the General Agreement on Tariffs and Trade (GATT) 1947 and international customary practices are adopted.