



Empirical Analysis of Competition Law Enforcement in India: A Case Study of the District Varanasi (UP)

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Abstract

India ranked 40th in the 2023 Global Competitiveness Index (GCI). This is a drop from 37th in the previous year. Although India is recognised as a major global economy, it faces challenges in creating a strong competition framework. These issues raise concerns for antitrust policy and enforcement. Antitrust laws in India are still in a relatively early stage. Limited understanding of their scope and application leads to ambiguous business practices. As a result, enterprises often operate at the boundary intersection of legitimate competitive and anti-competitive behaviour. This makes regulatory intervention complex. India has seen many cartel cases in sectors such as cement, telecommunications, and aviation. The number of such cases continues to rise. In the era of Artificial Intelligence (AI), algorithm-driven business models make it harder to detect anti-competitive conduct. This study explores awareness and understanding of antitrust laws among consumers, students, and small business owners in Varanasi, Uttar Pradesh. Although the Competition Act, 2002 aims to promote fair competition and protect consumers. However, the lack of public awareness of its provisions and enforcement mechanisms limits its effectiveness. Using a structured questionnaire administered to 113 respondents, the study measures and assesses awareness of the Competition Act, knowledge of the Competition Commission of India (CCI), and the ability to identify anti-competitive practices. Statistical tools such as chi-square analysis were used to assess competition law awareness at the grassroots level. The study concludes by highlighting key findings and offering recommendations based on the empirical analysis.

Keywords: Antitrust law, Competition Commission of India (CCI), Consumer Awareness, Anti-Competitive Practices

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1. Introduction

Antitrust laws, commonly referred to as competition laws, are designed to regulate market conduct by preventing excessive concentration of economic power and safeguarding consumer interests. These laws aim to ensure that market structures operate fairly by discouraging monopolistic practices and promoting competitive behaviour. In India, competition law is often perceived as a relatively recent development. However, the historical evolution of antitrust regulation demonstrates a much longer global trajectory. Canada was the first country to enact antitrust legislation in 1889, followed by the United States in 1890,¹ setting a precedent later adopted by several jurisdictions worldwide. The European Union (EU) and the United States continue to serve as influential models for competition law enforcement.

India's contemporary competition framework was established through the enactment of the Competition Act, 2002, which came into force in 2009 following significant policy reforms. Before this, the Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act)² governed market regulation, primarily focusing on monopolistic practices. However, the MRTP framework proved inadequate in addressing modern market realities, particularly issues relating to abuse of dominance and anti-competitive agreements. Consequently, the Competition Act, 2002 marked a paradigm shift by aligning Indian competition policy with global standards and focusing on promoting market efficiency and consumer welfare.

The interrelationship between Antitrust laws and development always creates enthusiasm or excitement, as the sophisticated mapping of competition law with developmental factors is a contentious issue.³ Therefore, India joined the hundred developing countries that have adopted new competition laws with the enactment of the Indian Competition Act, 2002. The foremost means of ensuring competition in the market is to provide or facilitate access to a widespread range

¹ Sawyer, L P, 'US Antitrust Law and Policy in Historical Perspective' (2019) *Harvard Business School Working Paper* No 19-110.

² Ministry of Corporate Affairs, *53rd Report on Anti-Competitive Practices by Big Tech Companies* (Government of India 2022).

³ Mazhuvanchery, S., 'The Indian Competition Act: A Historical and Developmental Perspective' (2010) 3(2) *Law and Development Review* 241–270.

of goods and services to the Aam Aadmi or the so-called common man. Consequently, to maintain fair competition in the market, it would be essential that consumers have access to a wider range of choices of goods at an affordable cost or at reduced costs. Resultant of this, competition would be increased in the market along with producers or manufacturers having huge motivation to innovate their services, including specialisation in each industry. The primary objective of this setup is to foster and maintain fair competition in the market, ensuring a “level playing field” for manufacturers and producers. This creates an environment where businesses can compete fairly, while also prioritising the welfare of consumers. A competitive market drives innovation, improves product quality, and offers consumers better choices and prices, benefiting both producers and consumers.

However, as the market evolved, enterprises may engage in conduct that undermines competition, including cartels, abuse of dominance, and restrictive trade practices. India has witnessed several high-profile cartel cases across sectors such as cement, telecommunications, and aviation, reflecting persistent enforcement challenges. According to the Global Competitiveness Index (GCI)⁴ 2023⁵, India ranked 40th, slipping from its 37th position in the previous year. Despite being recognised as a major global economy, India continues to face structural challenges in competition enforcement, particularly due to limited public awareness and understanding of antitrust laws.

The effectiveness of competition law enforcement depends not only on statutory provisions and regulatory institutions but also on the awareness and participation of consumers and market actors. When individuals are unable to identify anti-competitive practices or lack knowledge of reporting mechanisms, enforcement remains

⁴ The Global Competitiveness Index (GCI) is a highly comprehensive index that captures the microeconomic and macroeconomic foundations of national competitiveness. Competitiveness is the set of institutions, policies, and factors that determine a country's level of productivity. World Bank, ‘Global Competitiveness Index (GCI): Metadata Glossary,’ World Bank *available at*: <https://data.worldbank.org>. (last visited on March 2, 2025).

⁵ International Institute for Management Development, *IMD World Competitiveness Booklet 2023* (IMD 2023).

constrained. This challenge is further intensified in the era of Artificial Intelligence (AI), where algorithm-driven business models complicate the detection of collusion and exclusionary conduct.

Against this backdrop, the present study examines the level of awareness and understanding of antitrust laws among consumers, students, and small business owners in Varanasi, Uttar Pradesh. By analysing public awareness of the Competition Act, 2002 and the role of the Competition Commission of India (CCI), the study seeks to assess how grassroots-level understanding influences the effectiveness of competition law enforcement in India.

2. Research Questions

The following research questions guide the present study:

- a) What is the level of awareness regarding the Competition Act, 2002 and the Competition Commission of India (CCI) among the residents of Varanasi, UP?
- b) Do demographic and educational characteristics influence the level of awareness and understanding of antitrust laws?
- c) Does limited awareness of competition law affect its enforcement at the local and grassroots levels?

3. Hypotheses

Based on the objectives of the study, the following hypotheses were formulated:

- a) Respondents with legal or commerce backgrounds exhibit higher awareness of the Competition Act, 2002;
- b) Awareness of the CCI is positively associated with the ability to recognise anti-competitive practices;
- c) Low levels of awareness reduce the likelihood of reporting anti-competitive conduct to the appropriate authorities.

4. Research Methodology

The methodology encompasses both doctrinal and empirical methods. In the doctrinal method, the researcher used both primary and secondary sources. Primary sources include statutes, case law, and international instruments, while secondary sources primarily consist of textbooks, articles by prominent authors, and online resources. A key feature of this work is analysis of notable and significant case laws. The empirical method uses a structured

questionnaire to assess awareness. Throughout the paper, the researcher maintains objectivity, ensuring a balance between narration and analysis.

A convenience sampling method is used, primarily due to time and resource constraints. While this method does not yield a statistically representative sample of the entire population of Varanasi, it is widely accepted in exploratory studies aimed at identifying preliminary trends, patterns, and awareness gaps. Convenience sampling enabled easy access to participants and ensured practical feasibility. The final sample consisted of 113 respondents, distributed across two key groups:

- **Academic respondents (Law and Commerce faculties, Banaras Hindu University):** These respondents were included to assess whether formal education, especially legal and commercial education, contributes to higher awareness of antitrust principles. Here, Banaras Hindu University (BHU) was selected because it is one of India's leading academic institutions. It was important to measure whether even educated people possess adequate competition law knowledge.
- **Market respondents (Karaundi Market, Varanasi):** This group included shopkeepers, small business owners, service providers, and vendors. Their inclusion was essential since they are directly affected by anti-competitive practices such as price-fixing, predatory pricing, and exclusive dealing. Karaundi Market is a bustling commercial area representing small-scale and informal market structures. These markets often experience anti-competitive behaviour first-hand, making them valuable sources of practical insight.

5. Limitations of the study

The study is subject to certain limitations. Due to constraints of time and resources, data collection was confined to selected departments of Banaras Hindu University and market participants in Varanasi. The relatively small sample size limits the generalisability of the findings. Additionally, the use of convenience sampling introduces the possibility of urban bias. Respondent accuracy may also vary depending on individual interest levels and familiarity with legal concepts related to competition law.

6. Interpretation of India's Antitrust Laws

Competition plays a vital role in enhancing industrial productivity, generating employment, and reducing prices for consumers. Effective competition presupposes a market economy that functions efficiently and in accordance with established legal and regulatory norms. Antitrust policies are therefore essential to ensure that markets remain competitive, transparent, and responsive to consumer interests.⁶

In a modern, technology-driven economy, competition does not emerge organically. Rather, it is shaped by the interaction of multiple stakeholders, including consumers, producers, manufacturers, and regulatory authorities. These authorities formulate and enforce competition policies to safeguard market integrity and consumer welfare. The collective adherence to such regulatory norms contributes to the development of what is often described as a “competition culture,” which reflects the acceptance of fair market practices as a foundational economic value.⁷

(a) Objective of the Act

The Indian Competition Act, 2002⁸, observes the tenet of modern competition laws.⁹ The ultimate goal encompassing the enactment of the Competition Act is to prohibit anti-competitive agreements as mentioned under Section 3¹⁰, abuse of dominant positions by

⁶ Chauhan, B S, ‘Indian Competition Law: Global Context’ (2012) 54(3) *Journal of the Indian Law Institute* 315.

⁷ Motta, M., *Competition Policy: Theory and Practice* (Cambridge University Press, 2004). Also see, Singh, V K, ‘Competition Law and Policy in India: The Journey in a Decade’ (2011) 4 *NUJS Law Review* 523.

⁸ *The Competition Act, 2002* (Act 12 of 2003).

⁹ Bhattacharjea, A, ‘India’s Competition Policy: An Assessment’ (2003) 38(34) *Economic and Political Weekly* 3561.

¹⁰ Anti-competitive agreements are of such nature which adversely affects the market as these are of two types i.e. vertical agreement and horizontal agreement. As the name itself suggests the nature of these agreements is in the case of horizontal, entities at the same stage coming into an agreement which impacts the market adversely such as cartelization whereas vertical agreement entities are at different stages such as supplier or manufacturer and the nature of this agreement are like the tie in arrangements.

enterprises as mentioned under Section 4¹¹ and to regulate combinations (*i.e.*, mergers, amalgamations, or acquisitions) mentioned under Section 5¹² by the establishment of the Competition Commission of India¹³ under the Competition Act 2002.¹⁴

The Competition Commission of India (CCI) is comprised of a chairperson and other Members appointed by the Central Government. The Commission's primary responsibility is to eliminate practices that negatively impact competition, promote and sustain fair competition, protect consumer interests, and ensure the freedom of trade in India's markets.¹⁵ Additionally, the CCI provides opinions on various antitrust matters referred by statutory authorities established under any law,¹⁶ engages in competition advocacy,¹⁷ raises public awareness, and offers training on competition-related issues.¹⁸

7. Enforcement of the Act: Case Interpretation

There is a plethora of cases where CCI interpreted various policies of the competition law by upholding the objective of the enactment. In matters of dominance, holding a dominant position is not inherently wrong; however, abusing that dominant position is considered illegal under Section 4 of the enactment. This notion of dominance is explained by the CCI in the case of *Lifestyle Equities V. Amazon Seller*

¹¹ Abuse of dominant position where enterprises use their dominant position to impose unfair or discriminatory prices which affect the market as well as the consumers.

¹² Regulate combinations such as mergers, amalgamations, or joint ventures where the Commission will look into the objective of combination *i.e.* whether the objective is to expand business or to be dominating in the market which adversely impacts the competition.

¹³ CCI was established by the central government under sec 7 of the enactment and it regulates the market through various rules and regulations and also hears the cases related to the same.

¹⁴ Choudhary, S., 'Abuse of Dominant Position Conundrum: A Critical Analysis of Judicial Pronouncements since 2010' (LLM dissertation, National University of Study & Research in Law, Ranchi 2021).

¹⁵ Preamble, The Competition Act, 2002 (Act 12 of 2003).

¹⁶ The Competition Act, 2002 (Act 12 of 2003), s.21.

¹⁷ The Competition Act, 2002 (Act 12 of 2003), s.49.

¹⁸ The Competition Act, 2002 (Act 12 of 2003), s.8.

*Services Pvt Ltd.*¹⁹ The issue brought before the CCI concerns the dominant position held by Amazon, which allegedly affects the online market of the informant, Lifestyle Equities, LLC. The informant argued that Amazon, by leveraging its dominant position, offered unlicensed goods at significantly lower prices. This practice reportedly harmed other competitors in the online marketplace, leading to the closure of the informant's online platform.

The CCI observes:

*“Presently, Flipkart and Amazon are close competitors with comparable market positions and resources. In addition, there are other players like Paytm Mall, Snapdeal, Shop Clues, etc., providing intermediation services in the relevant market. Thus, looking at the present market construct, it does not appear that any one platform is occupying a dominant position in the relevant market, as envisaged under Section 4 of the Act”.*²⁰

In determining Amazon's dominant position, its market share, along with other relevant factors was considered. Similarly, cartelisation²¹ has been a recurring challenge in Indian competition enforcement. In *Builders Association of India vs. Cement Manufacturers Association*,²² the Builders Association filed a complaint against the Cement Manufacturers Association for allegedly violating the provisions of the Competition Act. The cement industry was involved in anti-competition agreements. These cement industries engaged in cartelization by restricting and limiting the production and supply of cement, and were engaged in collusive practices.²³ The CCI held the cement association liable under Section 3 of the enactment, as it operated in a cartel that harmed competition. The CCI highlighted the

¹⁹ Competition Commission of India, *Case No. 09 of 2020*.

²⁰ Competition Commission of India, *Case No. 09 of 2020*, para 25.

²¹ “To control or regulate (an industry, the price or supply of a commodity, etc.) by forming a cartel”. Webster's New World College Dictionary (4th edn, Houghton Mifflin Harcourt) ‘cartelise’.

²² *Builders Association of India v Cement Manufacturers Association & Ors*, Case No 29 of 2010, Competition Commission of India.

²³ It means Price parallelism i.e. following up on the price strategy set by one player by another player in the market.

concept of agreement defined under section 2(b).²⁴ In cartelisation, enterprises are involved in agreements where they avoid direct or explicit shreds of evidence and include activities restricting the market supply and prices. Such cartels can be inferred through circumstantial evidence such as parallel pricing, production restrictions, meeting records, and communication trails.

The issue of tie-in arrangements,²⁵ an anti-competitive strategy,²⁶ was addressed in *Mr Ramakant Kini V. Dr L.H. Hiranandani Hospital, Powai, Mumbai*.²⁷ In this case, the informant filed a case against the opposite party for the violation of sections 3²⁸ and 4²⁹ of the enactment. This case involved an arrangement between the hospital and the stem cell storage company for the purpose of collecting and preserving stem cells. As per the emerging technology, parents nowadays hire specialised agencies to collect stem cells. These stem cells are preserved for 21 years and collected through the umbilical cord of the new-born child within 10 minutes of birth, as stem cells have the potential to cure various diseases.³⁰ Therefore, the informant approached a hospital for the collection of stem cells from their new-born, as they were seeking maternity services from the opposite

²⁴ “agreement” includes any arrangement or understanding or action in concert, -(i) whether or not, such arrangement, understanding or action is formal or in writing; or (ii) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings.

²⁵ Seller conditions the sale of a desirable product (tying) upon the sale of a not-so-desirable one (tied), thereby abusing the need of a consumer for the desirable product to facilitate sales of the not-so-desirable one.

²⁶ Brinson, J D, ‘Proof of Economic Power in a Sherman Act Tying Arrangement Case: Should Economic Power Be Presumed When the Tying Product Is Patented or Copyrighted?’ (1987) 48 *Louisiana Law Review* 29. Also see *Northern Pacific Railway Co v United States* 356 US 1 (1958).

²⁷ Competition Commission of India, Case No. 39 of 2012.

²⁸ Deals with anti-competitive agreement which means No enterprise or association of enterprises or person or association of persons shall enter into 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 an appreciable adverse effect on competition within India.

²⁹ Abuse of dominant position.

³⁰ *Mr Ramakant Kini v Dr L H Hiranandani Hospital, Powai, Mumbai*, Case No 39 of 2012, para 2, Competition Commission of India.

party.³¹ However, the hospital had entered into an exclusive agreement with Cryobanks International India (“Cryobank”) for stem cell preservation services. As a result of this agreement, the hospital received Rs. 20,000 for each patient registering for Cryobank’s services. The informant requested permission for *Life Cell* to enter the hospital premises for stem cell collection within 10 minutes of birth. The hospital rejected the request, insisting that if the informant wished to use their maternity services, they must also avail themselves of Cryobank’s stem cell preservation services. The hospital argued that, due to the exclusive contract, it could not allow *Life Cell* to enter its premises. The informant, unable to use *Life Cell*’s services at the hospital during a critical period,³² ultimately chose to seek stem cell preservation services from another hospital. This led the informant to file a complaint against the hospital, accusing it of abusing its dominant position in the relevant market and engaging in an anti-competitive agreement. Specifically, a tie-in arrangement, which restricted consumer choice and harmed competition under section 3 of the act. The hospital also abuses its dominant position, as it is the only hospital within a certain range, which makes it a dominant entity and liable under section 4 of the act. The CCI took a different approach, as it did not consider it a tie-in arrangement. There is a plethora of cases where such arrangements have been observed, and customers, being in a sensitive position, have to bear all the conditions of the enterprises.

The irony is that, there are most sections of society who are not aware that such acts are illegal as per the enactment. This hampers consumers and impacts the local vendors, Indian markets, and market competitiveness. Competitiveness is a positive objective of the Indian Competition Act. This Act aims to develop and create competition in the market, which will pave the way for higher access and quality products to a larger part of society.

³¹ Competition Commission of India, *Case No. 39 of 2012*, para 17.

³² Competition Commission of India, *Case No. 39 of 2012*, para 25.

8. Enforcement of Antitrust Laws: International Perspective

The United Nations Conference on Trade and Development (UNCTAD)³³ has published a Model Competition Law³⁴ to guide the development of competition legislation worldwide. This model aims to assist countries in creating or refining their competition laws, drawing on international trends and best practices in the field, as these laws are considered the anchor for regulating market economies.

Competition laws in several countries, as discussed above, have a huge history of more than a hundred years of regulating the competitive index of the market. The United States of America (USA) and European Union (EU) legislation are considered the precedent legislation in the matter of antitrust laws. The EU marked history as the first region to enforce the Digital Competition Market Act³⁵ to deal with the issue of AI, Big data, digital market, and even automation software business practices.

(a) European Union (EU) Antitrust Laws & Regulations

The cardinal objective of EU competition rules and regulations is to ensure the smooth functioning of the EU's internal market. The Treaty on the Functioning of the European Union (TFEU) aims to prevent practices that distort market competition. These include anti-competitive agreements, the abuse of dominant market positions, and problematic mergers and acquisitions.³⁶ A brief overview of the provisions is mentioned below:

³³ The United Nations Conference on Trade and Development (UNCTAD) is the United Nations' focal point for trade and development, and for interrelated issues in the areas of finance, technology, investment, and sustainable development. Its objective is to assist developing countries, especially the least developed countries, and countries with economies in transition, to integrate beneficially into the global economy. It also seeks to help the international community promote a global partnership for development, increase coherence in global economic policy making, and assure development gains for all from trade.

³⁴ UNCTAD, *Model Law on Competition* (UNCTAD 2020).

³⁵ European Union, Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), OJ L 265, 1–66 (2022).

³⁶ European Union, Treaty establishing the European Community (consolidated text), OJ C 325, 33–184 (2002).

(1) Article 101³⁷ of TEFU deals with anti-competitive agreements under which agreements between undertakings in the nature of collusive practices, forming cartels and harming business practices are considered to disturb the level playing field. However, exemptions are granted under the clause of improving the production or access to goods or stimulating economic or technical progress. This leads to a fair share of benefits for consumers. Under this, the EU Commission adopted and revised various specific regulations to maintain the

³⁷ 1. The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction, or distortion of competition within the internal market, and in particular those which:

- (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
 - (b) limit or control production, markets, technical development, or investment;
 - (c) share markets or sources of supply;
 - (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
 - (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.
2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.
3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:
- any agreement or category of agreements between undertakings,
 - any decision or category of decisions by associations of undertakings,
 - any concerted practice or category of concerted practices,
- which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:
- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
 - (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

sanctity of the market, such as the Vertical Block Exemption Regulation³⁸ and Horizontal Block Exemption Regulations.³⁹

(2) Article 102⁴⁰ of the treaty states “abuse of dominance”. It highlights all acts considered abusive that impact a substantial part of the internal market if backed by one or more undertakings. It also influences the trade relationship among the European Community states by:

- a) Imposing discriminatory prices or trading conditions, either directly or indirectly.
- b) Limiting market growth, which comprises consumers’ interest, as firms are involved in practices of limiting supply or technical improvements.
- c) Unequal treatment in the case of similar transactions jeopardises the competitive market.
- d) Imposing a secondary obligation for the enforcement of the contract, which has no real connection with the main contract.

To analyse the jurisdiction of abuse of dominance within the European Community, it is essential to consider the following key terms:

ii) Undertaking

³⁸ European Commission, Commission Regulation (EU) 2022/720 of 10 May 2022 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices, OJ L 134, 4–28 (2022).

³⁹ European Commission, Public Consultation—Review of the Two Horizontal Block Exemption Regulations (2019-HBERs) (2019), available at: https://competition-policy.ec.europa.eu/public-consultations/2019-hbers_en. (last visited on February 2, 2025).

⁴⁰ “Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it shall be prohibited as incompatible with the internal market in so far as it may affect trade between Member States. Such abuse may, in particular, consist in: (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions; (b) limiting production, markets or technical development to the prejudice of consumers; (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts”. Art. 102, Treaty on the Functioning of the European Union (TFEU), OJ C 326, 47 (2012).

- iii) A substantial part of the Internal Market
- iii) Abuse of Dominance by which the market is affected

(3) The EU releases merger control rules⁴¹ for effective competition under which companies have to follow certain threshold limits to maintain the internal market. The same rules apply to foreign companies if their resultant merger affects the internal market. The commission reviewed the merger control regulation, as earlier it was a very lengthy and tedious process, resulting in a simplified procedure, which was made applicable in September 2023.⁴²

In addition to all these regulations, the EU enacted the Digital Market Act of 2022,⁴³ the first country to implement AI regulations. Under this enactment, certain specific obligations are imposed on the gatekeeper's online platforms, under which these entities are bound by certain rules and regulations. A hefty fine would be imposed for indulging in activities of the nature of tying software products, self-favouring or preinstalling the applications. These regulations are supplementary to the general regulations.

(b) US Antitrust Rules and their Enforcement

The United States of America's competition policy is based on three major enactments:

- The Sherman Act, 1890,
- The Clayton Act of 1914 and
- The Federal Trade Commission Act, 1914

The regulations of these enactments and antitrust policies are governed by the following bodies:

- The Federal Trade Commission (FTC) and
- The US Department of Justice (DOJ)

⁴¹ European Union, Council Regulation (EC) No. 139/2004 of 20 January 2004 on the control of concentrations between undertakings (EC Merger Regulation), OJ L 24, 1–22 (2004).

⁴² European Commission, Commission Implementing Regulation (EU) No. 1269/2013 of 5 December 2013, OJ L 339, 1–5 (2013).

⁴³ European Union, Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act), OJ L 265, 1–66 (2022).

US competition policy focuses on promoting consumer interests and ensuring the free flow of goods within a competitive economy.⁴⁴ Cartelisation, Price fixing and related acts are considered to be anti-competitive practices. Under American competition policy, these acts are considered to be illegal *per-se*. This means that the market entity would be liable if involved in these acts without sufficient justification, such as the rule of market power or some business justification. These acts are considered to be of exceptional severity.⁴⁵ In the United States, the term “abuse of dominance” is not used; instead, the focus is on the concept of monopoly and the attempt to monopolise the market. This is addressed in section 2⁴⁶ of the Sherman Antitrust Act of 1890,⁴⁷ which makes it illegal for any individual or entity to monopolise or attempt to monopolise a market. The term “monopoly” is not explicitly defined in the Sherman Act, but it has been interpreted through various court cases. One key case, *United States v. E.I. du Pont de Nemours and Company*,⁴⁸ established that monopoly power refers to “the power to control market prices or exclude competition”.⁴⁹ Section 2 of the Sherman Act has not defined the term monopoly but reflects three terms, i.e. “monopoly, attempt to monopoly and the monopolisation of the market, which highlight the intention of the framers of the statute under the enactment”.⁵⁰

⁴⁴ Eleanor M. Fox, *U.S. and EU Competition Law: A Comparison* (Institute of International Economics, 1999), available at: https://www.piie.com/publications/chapters_preview/56/10ie1664.pdf (last visited on May 29, 2025).

⁴⁵ *Broadcast Music Inc. v. Columbia Broadcasting System Inc.*, 441 U.S. 1 (1979).

⁴⁶ “Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any *other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by a fine not exceeding \$100,000,000 if a corporation, or, if any other person, \$1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court*”. 15 U.S.C. § 2 (Sherman Antitrust Act, 1890), United States Code, 2017 ed.

⁴⁷ United States, Sherman Antitrust Act, 15 U.S.C. §§ 1–7 (1890).

⁴⁸ *United States v. E. I. du Pont de Nemours & Co.*, 351 U.S. 377, 391 (1956).

⁴⁹ *Ibid.*

⁵⁰ American Bar Association, *Antitrust Law Developments* (6th edn., 2007) 225, 317.

Section 2 of the Sherman Antitrust Act provides that, in U.S. law, a firm's ability to control the market or exercise monopoly power is sufficient to be considered illegal, without the need to prove that the monopoly is being misused. The law targets both monopolisation and the attempt to monopolise a market. It recognises that even an attempt to gain monopoly power can harm competition and consumers. This approach was reinforced in various court cases, including *Fineman v. Armstrong World Indus.*⁵¹

*“Whether monopoly power requires proof of both power to control prices and power to exclude competition or whether proof of either element is sufficient for a finding of monopoly power”*⁵²

This issue was settled with the court's interpretation in *United States v. Griffith*.⁵³ It was established that a firm's ability to exercise monopoly power, for instance, the ability to increase prices and limit competition, is sufficient to prove a violation of antitrust laws. The court emphasised that it is not necessary to show that the firm has actually misused its market power, but rather that it has the power to distort competition.

To monopolise power or monopolisation in the market, parties must establish two key factors:

*“(1) The entity possesses monopoly power in the relevant market and
(2) The willful acquisition or maintenance of that power as distinguished from growth or development as a consequence of a superior product, business acumen, or historic accident”*.⁵⁴

Merger guidelines: Under the American guidelines, the merger would create an undue influence on the market power as the big entities merge and control the whole economic power of the market. Therefore, there are strict guidelines that consider three types of mergers as illegal. Firstly, Direct Horizontal Mergers between competitors, under which the market shares of the parties would be 20 % in particular which create serious scrutiny. Secondly, mergers

⁵¹ *Fineman v. Armstrong World Indus., Inc.*, 980 F.2d 171 (3d Cir. 1992).

⁵² *Id.*

⁵³ *United States v. Griffith*, 334 U.S. 100 (1948).

⁵⁴ *United States v. Grinnell Corp.*, 384 U.S. 563 (1966).

between customers and suppliers, where each of the parties' accounts for 20 or more % of the market, create issues of scrutiny. Last but not least, in Conglomerate mergers, scrutiny begins when it leads to coordinated anticompetitive acts.⁵⁵

With the growth of the online market, both the regulating agencies of antitrust laws come up with practical guidelines for protecting the interests of consumers and maintaining the trust value of the market. Generative AI disrupts the check and transparency process so far that these agencies are also hiring different experts in the field to come up with certain guidelines for the same.

9. Empirical Investigation of the Application of Antitrust Laws: Varanasi, Uttar Pradesh

9.1 Current status

To determine whether, and to what extent, the general people, including consumers or local enterprises, are aware of the competition law, its regulating agencies and what type of acts are considered illegal or against the legal norms of the antitrust laws, the author created a questionnaire in the format of Google Forms or a survey. The survey was conducted in the law faculty and the commerce faculty of Banaras Hindu University. It was also conducted in the Karaundi market of Varanasi, as that market is considered to be the hub of small businesses. The author received 113 responses from Varanasi.

The questionnaire included 19 questions, which were further divided into three parts. The first set implies the general understanding of the laws related to the competition market, such as whether people are aware of any law that deals with or regulates competition in the market or whether some agencies regulate or govern such markets. The second set of questions implies the understanding of the Competition Commission of India (CCI) and what acts could be considered as the objective of the competition law in India. The last set focused on what types of acts are considered to be anti-competitive. It also focused on whether those could complain to the CCI and whether anyone complained to the CCI about such illegal market strategies happening in the market. These activities deviate from the whole object of enacting the competition law in India. The

⁵⁵ Competition Commission of India, Case No. 39 of 2012, para 25 (CCI).

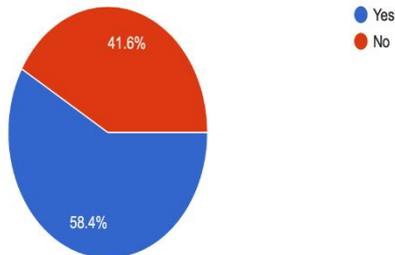
conceptual understanding behind this study is to illustrate the relationship between awareness and enforcement. The correlation established here is that public awareness leads to recognition of anti-competitive behaviour that leads to a high probability of willingness to report anti-competitive practices in the market, which ultimately achieves the goal of effective enforcement of the act.

9.2 Quantitative Analysis

(a) The first set of questions is general in nature as to whether consumers or local enterprises, or small business holders are aware of the competition law and its agencies.

Have you heard about Competition law?

113 responses

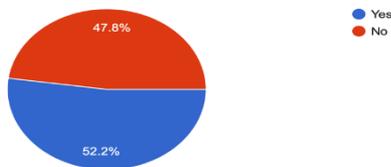


As can be seen, almost half of the population is not aware of the Competition Law, and this population includes law graduates, commerce graduates and market holders.

The further set of questions includes whether they are aware of any such law that deals with Indian markets, their objectives and their consumers' welfare? As per the data, the responses are that 52 % sample are aware of the Indian Competition law, and the rest are still unaware, as the data below:

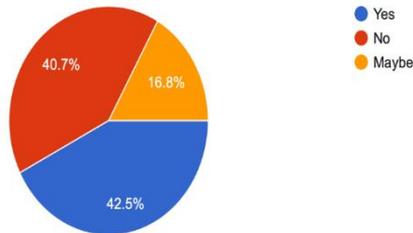
Do you know about the Indian Competition Law 2002?

113 responses



The last questions of the first set focused on the agencies that govern or regulate the markets in India. The data are shown below.

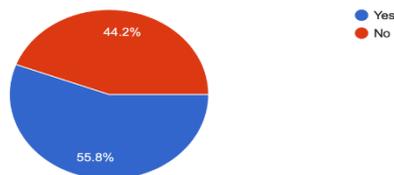
Do you have any idea about competition in the market being regulated by some agency?
113 responses



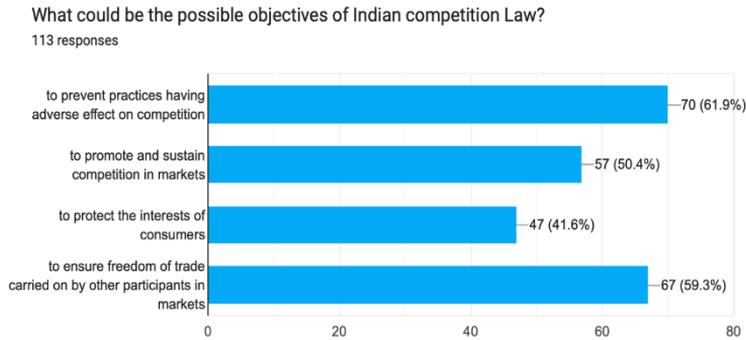
The first set of responses gives the broader understanding that half of the samples are not aware of such enactments that regulate the markets. In addition to it, even they are not aware of the regulating agency that deals with the Competition markets in India.

(b) The second set of questions focused on the regulating agency that deals with Indian markets, i.e. Competition Commission of India. Possible objective of enacting the competition law in India. The data shows astonishing results as

Do you have any idea about the Competition Commission of India (CCI)?
113 responses



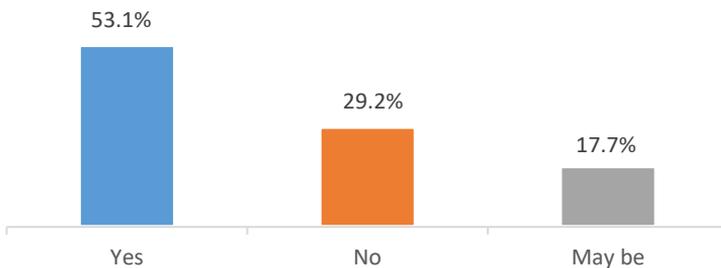
Here, the data shows ambiguity, as in the first set of questions, where only 42% of people have an idea about some regulating agency that deals with the Indian markets. Now, in the present set, 55 % of people are aware of the CCI as they have heard about the CCI. This fact might be indicative that most people are not aware of the agency or its working nature and its power. Thus, consumers or the market dealers have no specific knowledge about the CCI. The authors turned to the fact that the objective of Competition laws in India. The data represents a limited understanding of the same, as responses are as below.



As the author predicted, the objective of the competition law is not known to the people, even though they are part of the market as the enterprise or the consumers. A notable number of people are not aware of the fact that competition laws or provisions also protect the interests of consumers, as here they are confused because of the Consumer Protection Act and the Competition Law.

(c) The next set of questions focused on illegal market strategies, wherein included anti-competitive agreements such as tie-in arrangements and abuse of dominance. The authors highlight the understanding of people about the same. Further, whether they could complain to CCI about the same and its execution process, as no one has ever complained about illegal market acts to CCI. The data are shown below:

Do you know that the dominant entity regulates the price of the product in the market? For example, one owner or the business group possess different businesses such as sweet shops, restaurants, and cafes, and thereby fixes the prices of the related products as per their whims & fancies.

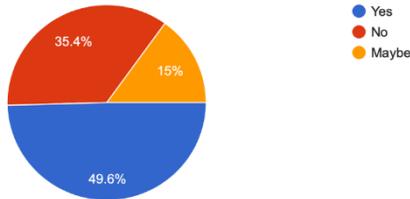


The responses show that 53 % of people are aware that such acts are considered to be illegal. The rest are confused about whether it is illegal or not, as 17 % of people are in the mind-set of “maybe”, which reflects a limited understanding of the rules and regulations or even illegal market acts.

The same situation is observed in the case of anti-competitive agreements.

Have you noticed in the market that to purchase one product, you have to purchase another product as it is compulsory (enterprise rule) as both products are tied together?

113 responses

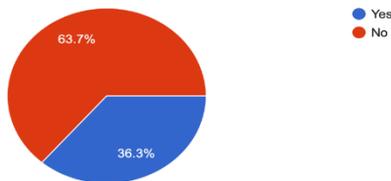


This type of act is seen in every other shop or market in India where the enterprise puts conditions to buy both products to increase the sale of the least purchased product. This is against the very objective of the enactment, and 50% of people are still confused that this strategy is illegal as per the law.

Further, the authors focused on its execution or practicality. Raises questions whether such illegal market acts could be complained to the CCI. Whether anyone has ever complained to CCI about such illegal market strategies that boost the profit of the enterprise and hamper the interest of the consumers. The responses are as below.

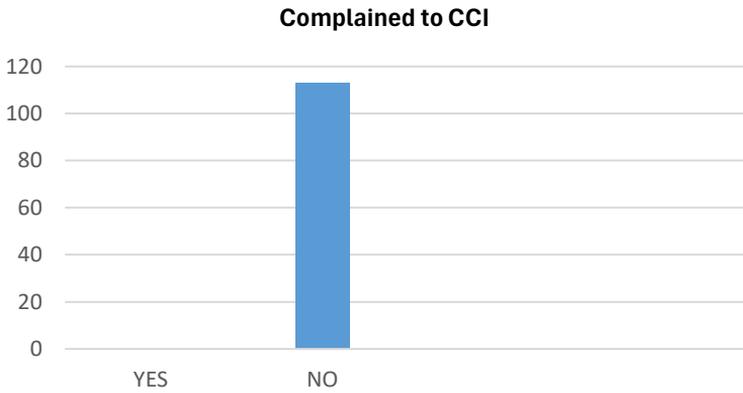
Do you know such an act could be complained to CCI?

113 responses



This reflects the limited understanding of the general people that such illegal market strategies could be reported to the authorities. The most

astounding fact is that no one ever complained to CCI about such an illegal act.



As can be seen, the understanding of competition laws is very limited, as inferences are drawn from the limited sample, and still, the competition laws are more theoretical in nature than their execution or implementation process.

9.3 Statistical Analysis

A combination of descriptive and inferential statistical techniques was used to analyse the data. Descriptive statistics, such as frequencies and percentages, were applied to understand general awareness levels across the sample as discussed above. To examine whether awareness levels differed significantly from an equal distribution, an inferential test, i.e. the Chi-Square Goodness-of-Fit Test, was employed.

The Chi-Square Goodness-of-Fit Test is appropriate when:

- The data are categorical (e.g., Aware vs. Unaware), and
- The researcher wants to compare observed frequencies with expected frequencies based on a hypothesised distribution.

In this study, awareness of the Competition Act was measured as a binary variable, where the primary aim was to see whether awareness levels deviate significantly from an equal 50–50 distribution.

The Chi-Square test evaluates:

The formula is:

$$\chi^2 = \sum [(Observed - Expected)^2 / Expected]$$

where:

Observed = actual counts from the survey

Expected = theoretically predicted counts (under equal distribution)

If the calculated χ^2 value is small, it means the observed and expected counts are close, suggesting no significant difference. If it is large, it indicates a significant difference.

Total respondents = **113**

The test assumes equal awareness and unawareness (50%–50%). Therefore:

Expected aware = $113/2 = 56.5$

Expected unaware = $113/2 = 56.5$

Observed Frequencies (from survey)

Aware = 59

Unaware = 54

Using the formula:

$$\chi^2 = \sum [(O - E)^2 / E]$$

Aware: $(O - E) = 59 - 56.5 = 2.5$ $(O - E)^2 = 6.25$ $(O - E)^2 / E = 6.25 / 56.5 = \mathbf{0.1106}$

Unaware: $(O - E) = 54 - 56.5 = -2.5$ $(O - E)^2 = 6.25$ $(O - E)^2 / E = 6.25 / 56.5 = \mathbf{0.1106}$

$\chi^2 = 0.1106 + 0.1106 = \mathbf{0.221}$

Using 1 degree of freedom (since categories - 1 = 1), the p-value associated with $\chi^2 = 0.221$ is: **0.638**

The statistical result confirms that:

- Awareness of competition law in Varanasi is **consistently low**, not skewed by an unusually aware or unaware subgroup.
- Both categories show similar proportions, indicating a **general lack of strong awareness trends**.

This supports the broader conclusion that low awareness is widespread and not concentrated within specific segments of the sample. Descriptive statistics and chi-square tests were used.

Observed: Aware = 59; Unaware = 54

Expected: 56.5; 56.5

Chi-Square = 0.221

p-value = 0.638

Interpretation: There is no significant deviation from equal distribution, indicating uniformly low awareness.

10. The dilemma regarding the Competition Law

As it is evident from the above quantitative results and statistical analysis from the selected sample, the effectiveness of the competition laws is very low. Here, the era of the global e-market, where different countries are coming up with various digital market Acts. As the European Union (EU) recently enforced the Digital Market Act to maintain the sanctity of the online competitive market, and India is also working on the Digital Competition Bill⁵⁶ to govern the acts, including online collusive practices, restricting third-party applications⁵⁷ and anti-steering⁵⁸ and many more. The objective behind enacting these digital Acts is to regulate the online competitive market, and the government plans to implement ex-ante regulations. These are the big goals to achieve, with proper implementation of the antitrust laws under Indian jurisdiction.

However, the general or basic effectiveness of the enactment (Indian Competition Law 2002) under Indian jurisdiction, as per the sample, paints a different picture. The simple understanding of the Act is unclear among people, including those with legal backgrounds. This loophole arises because, in many law schools, competition law is considered an optional subject or even in many universities (that too central universities), it is not included in the curriculum.

This is not limited to law school, as per the data collected from people of varied backgrounds, who have no or little understanding of the enactment. It is also noticed that there is a lot more confusion between consumer laws and competition laws. Under consumer laws, individual consumers could complain about any personal loss caused to the appropriate authority. However, under Competition law, complaints could be made for illegal market strategies, not the particular loss to consumer interest. The insubstantial understanding

⁵⁶ Ministry of Corporate Affairs, Government of India, 53rd Report: Anti-competitive Practices by Big Tech Companies (Dec. 2022), *available at*: https://sansad.in/getFile/lssccommittee/Finance/17_Finance_60.pdf?source=loksabhadocs (last visited on May 11, 2025).

⁵⁷ Preventing the installation or operation of third-party applications, limiting user choice and competition.

⁵⁸ Using provisions to prevent business users from using alternatives, stifling choice, and leading to anti-competitive practices. For example, application stores mandate the use of their payment systems for application purchases.

of the enactment and its regulating agencies created or paved the way for the dominant enterprises to rule the market as per their conditions. It would be imprecise to make a general statement on such a limited sample compared to the whole context at the National level. Nevertheless, a reference study could be made out that Indian competition law is still at its nascent stage, where people are unaware of the enactment and its corresponding agencies. It is tilting the way for the enterprises to engage in anti-competitive agreements such as tie-in arrangements or collusive practices, or bid rigging. This is not limited to consumers but also hampers the interest of local vendors or small business owners. Here, dominant entities are involved in predatory pricing to wipe out these partners from the market and hamper the sanctity of the competition market. These dominant entities are winding up competition, which is against the objective of antitrust law. As competition in the market explores the possibility of overall development and supports the economics of the country, it keeps the interests of consumers and the business holders in balance.

11. Conclusion

The study demonstrates that awareness and understanding of competition law among consumers, students, and small business owners in Varanasi are insufficient to support effective enforcement. It would be inappropriate to conclude from such a small sample when comparing it to the population. However, as discussed in Chapter IV, an inference can be made that competition laws are still in their early stages due to their limited scope. The analysis indicates that competition laws were not designed to address personal losses of consumers, but rather to regulate illegal market strategies that cause confusion at the grassroots level.

The findings support the hypothesis that individuals from legal or commerce backgrounds have greater awareness of the Competition Act, 2002, even though competition law aims to serve the entire market. Furthermore, with respect to the second hypothesis, which offers a contrasting perspective, there exists a general lack of awareness regarding the regulating authority. Even when individuals are aware of its existence, they often fail to understand its role and responsibilities. Therefore, it is reasonable to conclude that low levels of awareness significantly reduce the likelihood of reporting anti-

competitive conduct, a finding that is clearly reflected in the data analysis.

In this era of online marketing, from ordering food to booking movie tickets, everything is done through AI-based applications and software. Many automation companies have entered the market, introducing strategies that not only make life easier but also open avenues for online market fraud. Here, consumers and retailers often fail to recognise competition law and its regulating agencies, which are basic legal frameworks. This raises a critical question: are existing legal frameworks adequately equipped to address challenges in this AI-driven digital era? There are many online scams, yet consumers and market partners are often unaware, creating opportunities for online giants and large enterprises to dominate the market and engage in anti-competitive agreements. Consequently, current competition laws, along with analytical and regulatory tools, are unable to effectively address antitrust issues, which supports the hypothesis presented in this study.

12. Suggestions

In light of the findings, the following measures are suggested to enhance the effectiveness of competition law enforcement in India:

- a) **Strengthening Grassroots Accessibility:** The Competition Act, 2002, should be made more consumer-centric by addressing competition issues at the local and informal market levels. Simplified explanatory materials and regional outreach initiatives should be developed to improve accessibility and understanding.
- b) **Enhanced Competition Advocacy by the CCI:** While Section 49 of the Act mandates competition advocacy, these efforts should be significantly expanded beyond law schools. Targeted awareness programmes should be conducted for commerce students, small vendors, market associations, and local entrepreneurs.
- c) **Clear Distinction Between Consumer and Competition Law:** Public awareness campaigns, similar to initiatives such as “*Jago Grahak Jago*”, should be introduced to clarify the distinction between consumer protection and competition law, highlighting their respective objectives and remedies.

- d) **Simplification of Complaint Mechanisms:** The procedure for filing complaints before the CCI should be simplified, particularly for small businesses and consumers. Introducing digital assistance tools, helplines, and local facilitation centres would encourage reporting of anti-competitive practices.
- e) **Publication of Market Awareness Reports:** Periodic public reports explaining prohibited conduct, penalties, and recent enforcement actions should be disseminated widely. This would serve both as an educational tool and as a deterrent against anti-competitive behaviour.