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Practices: A Study with Special Reference to the Competition Act,  
2002, Authored By: Dr. Reetika Rana, Assistant Professor, Himachal  
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### **ABSTRACT:**

*“The Competition Act, 2002 is the main legislation to regulate competition in the market in India. The Act primarily covers three aspects of competition, i.e., Anti-Competitive Agreements, Abuse of dominant position and Combinations. Abuse of a dominant position by an enterprise or group of enterprises is the area of my study in this research paper. The paper focuses on the legislative provisions which govern the abuse of dominant position under the Act. Further, the study details the essential elements which must be there to consider an enterprise to be in a dominant position and the conditions or circumstances in which such a dominant enterprise is supposed to be abusing its dominant position. Also, the paper covers the power of the Competition Commission of India, the authority empowered under the Act to regulate such enterprises which are abusing their dominant position”.*

### **I. ABUSE OF DOMINANT POSITION:**

One of the ways of interfering with competition in the marketplace is by abusing the dominant position which is enjoyed by an enterprise or a group in the relevant market in India. Abuse of dominant position refers to the conduct of an enterprise that enjoys a dominant position, enabling it to restrict or eliminate effective competition from the marketplace.<sup>1</sup> Section 4 of the Act puts a prohibition on abuse of a dominant position by an enterprise or group. Thus, an enterprise or group shall not be permitted to abuse the dominant position achieved by it in the relevant market in India. ***The ingredients to establish a Section 4 violation are:*** (a) defining the relevant market; (b) determining whether the entity under investigation commands a dominant position in the relevant market; and (c) determining whether such dominant entity has indulged in any activity which amounts to an abuse of the dominance.

<sup>1</sup> T. Ramappa, *Competition Law in India Policy, Issues and Developments* 157 (Oxford University Press, New Delhi, 3rd edn., 2013).



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### ***(a) Defining the Relevant Market:***

The first ingredient to establish the violation of Section 4 of the Act is defining the relevant market. In ascertaining the dominant position of an enterprise or a group, the Commission shall first inquire into the periphery of the market within which such an enterprise or a group operate its business. It is important to determine the specific market in which an enterprise or a group is supposed to be holding such a dominant position. Therefore, whether the enterprise or group under investigation enjoys a dominant position or not, such a dominant position shall always be inquired concerning a relevant market. Thus, it is important to delineate what is the relevant market. The Competition Act, 2002 defines a relevant market as “*a market which may be determined by the Commission with reference to the relevant product market or the relevant geographical market or with reference to both the markets.*”<sup>2</sup> Thus, the relevant market comprises both the relevant product market and the relevant geographic market.

#### ***(i) Relevant Geographic Market:***

The Act defines a relevant geographic market as “*a market comprising the area in which the conditions of competition for supply of goods or provisions of services or demand of goods or services are distinctly homogenous and can be distinguished from the conditions prevailing in the neighbouring areas.*”<sup>3</sup> Thus, the entire geographic territory where the competing enterprises are operating shall not be the relevant geographic market but only that part of the geographic territory where the conditions of competition are homogenous shall be the actual geographic market. Therefore, uniformity of composition is a must in that part of the geographic territory in which competing entities participate or carry on their business for considering it as a relevant geographic market. Relevant geographic markets could be local, national, international or occasionally even global, depending upon the facts in each case.

<sup>2</sup> The Competition Act, 2002 (Act 12 of 2003), s. 2(r).

<sup>3</sup> *Id.*, s. 2(s).

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The Act lays down several factors all or any of which shall be considered by the Commission while determining the relevant geographic markets.

**They are as follows:**

- a) *regulatory trade barriers.*
- b) *local specification requirements.*
- c) *national procurement policies.*
- d) *adequate distribution facilities.*
- e) *transport costs.*
- f) *language.*
- g) *consumer preferences.*
- (a) *need for secure or regular supplies or rapid after-sales services<sup>4</sup>*

It may be noted that all these factors except the last one will negate uniformity of composition and would help in narrowing down the geographic territory to the actual geographic market that is to be considered.

**(ii) Relevant Product Market:**

The Act defines 'Relevant Product Market' as "*a market comprising all those products or services which are regarded as interchangeable or substitutable by the consumer, because of characteristics of the products or services, their prices and intended use.*"<sup>5</sup> Thus, all those products or services which, because of their characteristics, price and intended use, may be interchanged or substituted for the specific product or service in question, constitute the relevant product market. Interchangeability or substitutability of products and services is required to determine the extent of the product market and therefore, all such interchangeable products and services shall fall in the relevant product market. The key to determining the extent of the product market is substitutability or interchangeability.

<sup>4</sup> *Id.*, s. 19(6).

<sup>5</sup> *Id.*, s. 2(t).

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### **Demand Side Substitutability:**

On the demand side, the relevant product market includes all such substitutes that the consumer would switch to, if the price of the product relevant to the investigation were to increase. This phenomenon is often referred to as the demand side substitutability and one has to keep in account all products that have reasonable interchangeability for the purposes for which they are produced i.e., prices, use and qualities considered. The key indicator to find out the demand side substitutability is the analysis of cross elasticity of demand which refers to the aspect of the responsiveness of the sale of one product to the price changes of the other.

### **Supply Side Substitutability:**

From the supply side, this would include all producers who could, with their existing facilities, switch to the production of such substitute goods. Supply side analysis would see as to whether at what price level, the other suppliers can and will switch productive capacity to the product in question in response to the price increase. This part of the market definition analyses whether a company can readily and profitably switch from producing one product to another. If it can, the two producers are likely to be in the same market.<sup>6</sup> Therefore, the relevant product market comprises all the products and services that are considered interchangeable or substitutable by the consumers for the purposes for which these products and services are produced i.e., prices, use and qualities. **The Commission shall, while determining the “relevant product market”, have due regard to all or any of the following factors, namely:**

- (a) *physical characteristics or end-use of goods.*
- (b) *price of goods or services.*
- (c) *consumer preferences.*

<sup>6</sup> Abir Roy and Jayant Kumar, *Competition Law in India* 104-106 (Eastern Law House, Kolkata, 2nd edn., 2014).



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- (d) exclusion of in-house production.*
- (e) existence of specialised producers.*
- (f) classification of industrial products<sup>7</sup>*

The first three factors would aid in assessing the interchange ability of products or services. In-house production does not enter the market and is therefore to be excluded. Specialised products are a group by themselves. The classification of industrial products may be only of limited use as classification is done for various purposes and may not be directly relevant for determining a product market as a commercial unit.

### ***(b) Ascertaining the Dominant Position:***

After identifying the relevant market both in terms of relevant geographic and relevant product market, the next step would be to ascertain whether an enterprise or a group under inquiry enjoys a dominant position in such relevant market. Dominant position has been defined by the Act as “a position of strength, enjoyed by an enterprise or group, in the relevant market, in India, which enables it to

- (i) Operate independently of competitive forces prevailing in the relevant market; or*
- (ii) Affect its competitors or consumers or the relevant market in its favour.”<sup>8</sup>*

Thus, the dominant enterprise has the power to disregard market forces, i.e., competitors, consumers and others prevailing in the relevant market and to unilaterally impose its decisions thereby impairing the ability of competitors to compete and injuring the interest of consumers by burdening them and competitors with higher prices, reduced quality, limited supplies, etc. and ultimately harming the process of competition.<sup>9</sup> The dominant position by an enterprise or group may be acquired over some time by efficiently running the enterprise, gaining technological superiority over competitors, access to certain intellectual property rights in the supply of the products, weak competitors, entry barriers, government regulations,

<sup>7</sup>Supra note 2, s. 19(7).

<sup>8</sup> Id., explanation (a) to s. 4.

<sup>9</sup> Supra note 1 at 160.

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structure and size of a particular market, and many more factors which may help an enterprise to acquire a dominant position.<sup>10</sup> Acquiring a dominant position in a marketplace by an enterprise or group is not prohibited but abusing such a dominant position by an enterprise or group is prohibited. To determine whether an enterprise enjoys a dominant position within the meaning of section 4 or not, the Act set out several relevant factors that shall be taken into consideration. ***Thus, when determining dominance by an enterprise in the relevant market, CCI is required to consider all or any of the following factors:***

- (a) Market share.
- (b) Size and resources of the enterprise.
- (c) Market share of competitors.
- (d) Economic power of the enterprise, including commercial advantages over competitors.
- (e) Vertical integration of the enterprises or sale or service network of such enterprises.
- (f) Dependence of consumers on the enterprise.
- (g) Legal monopoly or dominant position.
- (h) Entry barriers, including barriers such as regulatory barriers, financial risk, high capital cost of entry, marketing entry barriers, technical entry barriers, economies of scale, and high switching costs.
- (i) Countervailing buyer power.
- (j) Market structure and size of the market.
- (k) Social obligations and social costs.
- (l) Relative advantage, by way of the contribution to the economic development, by the dominant; and
- (m) Any other factor that the CCI may consider relevant for the inquiry.<sup>11</sup>

<sup>10</sup> *Id.*, at 161.

<sup>11</sup> *Supra* note 2, s. 19(4).

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Thus, the Competition Act, 2002 does not consider the market share of an enterprise as the sole criteria for determining whether an enterprise enjoys a dominant position or not. In determining the dominant position of an enterprise along with a market share of an enterprise which is one of the factors to be considered, other factors are required to be considered when determining dominance by an enterprise.

***(c) Determining the Abuse of Dominant Position:***

After an enterprise is shown to be enjoying a dominant position within the meaning of the Act and on a consideration of the factors set out in section 19(4), the next step would be to prove that it has abused its dominant position. ***There are two kinds of prohibitions against abuse of a dominant position:***

- i. The first relates to actions taken by an incumbent firm to exploit its position of dominance by charging higher prices, restricting quantities, or, more generally, using its position to extract rents.*
- ii. The second relates to actions by an incumbent in a dominant position to protect its position of dominance by making it difficult for potential entrants and competitors to enter the market.<sup>12</sup>*

Generally, firms that are in a legally acquired position of dominance are allowed to exploit this position by charging higher prices and making extra-normal profits. So long as there are no barriers to entry, the market will generally be contestable. Thus, although dominance is a necessary condition for establishing a violation of this provision, it is by no means a sufficient condition. For an act to be in contravention of this provision, abuse of a dominant position must be established.<sup>13</sup> The circumstances or the situation when an enterprise or group is said to abuse its dominant position in the market are set out in section 4(2). The Act

<sup>12</sup>Government of India, "Report of the High-Level Committee on Competition Policy and Law", para 1.2.0 (Department of Company Affairs, 2000). available at [http://www.ccr.org.in/uploads/2/1/9/6/21961628/report\\_of\\_high\\_level\\_committee\\_on\\_competition\\_policy\\_and\\_law.pdf](http://www.ccr.org.in/uploads/2/1/9/6/21961628/report_of_high_level_committee_on_competition_policy_and_law.pdf) (last visited on 12 August, 2023).

<sup>13</sup> *Id.*, para 4.4.4.

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regulates only acts of abuse of a dominant position. If an enterprise somehow acquired a dominant position and remains so without engaging in any of the acts set out in section 4(2) no action is required against that enterprise. ***The list of abuses, including exclusionary as well as exploitative abuses set out in section 4(2) is provided below:***

- (a) directly or indirectly, imposes unfair or discriminatory—***
  - (i) condition in purchase or sale of goods or services; or*
  - (ii) price in purchase or sale (including predatory price) of goods or service; or*
- (b) limits or restricts—***
  - (i) production of goods or provision of services or market there for or*
  - (ii) technical or scientific development relating to goods or services to the prejudice of consumers; or*
- (c) indulges in practice or practices resulting in denial of market access in any manner; or***
- (d) concludes contracts subject to acceptance by other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts; or***
- (e) uses its dominant position in one relevant market to enter, or protect, other relevant market.***

Unfair prices are excessively high prices, above the competitive level. Discriminatory prices may be levied by charging different prices for different customers for the same product. Prices would be discriminatory when the same price is charged to different customers, though the cost of supplying the product to them varies. Discriminatory prices create an unequal position among suppliers of the same product buying at different prices, as these prices are unrelated to the quantity or characteristics of the product and can prejudice the competitive process. However, there is an exception to this. The price or condition imposed to meet the competition would not be illegal and such imposition rather than fixation price may be

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remitted given the competition.<sup>14</sup> Predatory pricing refers to the sale of goods or services, at a price, which is below cost (*as defined in the Competition Commission of India (Determination of Cost of Production) Regulations, 2009*) to reduce competition or eliminate competitors.<sup>15</sup> Predatory pricing will only be prohibited where there is an intention to reduce competition or eliminate competitors. Reducing the quantity of supply is also considered to be an abuse, as it would lead to an increase in prices to the prejudice of consumers. Denial of market access would also have the same effect, as it would eliminate one source of supply. Imposing supplementary obligations unrelated to the main agreement for the supply of a particular product or a service, like tie-ins, and exclusive supply arrangements, when imposed as a condition for entering the basic contract for the supply of a product or a service is an abuse, as it restricts the freedom of the other party to negotiate and to that extent, limits his ability to compete.

## **II. POWER OF COMPETITION COMMISSION OF INDIA ABOUT ABUSE OF DOMINANT POSITION:**

### **(a) Power of Inquiry into Abuse of Dominant Position:**

If any of the enterprises that is in a dominant position and is abusing its dominant position fall squarely in violation of section 4(1), then, the Commission is empowered to inquire into any alleged abuse of a dominant position by such enterprise or group. Such an inquiry may be initiated by the Commission either (a) suo-moto, i.e., on its motion;<sup>16</sup> or (b) on receipt of any information, in such manner and accompanied by such fee as may be determined by regulations, from any person, consumer or their association or trade association;<sup>17</sup> or (c) a reference made to it by the Central Government or a State Government or a statutory

<sup>14</sup>Supra note 2, explanation to s. 4(2)(a).

<sup>15</sup> Id., explanation (b) to s. 4.

<sup>16</sup> Id., s. 19(1).

<sup>17</sup> Id., s. 19(1)(a).



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authority.<sup>18</sup> The information to be filed before the Competition Commission should contain the following details - legal name of the person/enterprise giving information or reference; complete postal address with PIN code, telephone number, fax number and e-mail address; mode of service through which summon or notice from the CCI is preferred; legal name and address of the enterprise alleged to have contravened the provisions of the Act; legal name and address (es) of the authorised counsel/representative, if any. Further, such information/reference should include the following details -statement of facts; details of the alleged contraventions of the Act together with a list enlisting all documents, affidavits, and evidence in support of each of the alleged contraventions; a concise narrative in support of the alleged contraventions; and (4) the relief sought, if any;<sup>19</sup>

**(b) Formation of Prima Facie Opinion by Commission:**

The Secretary of the Competition Commission of India shall place information before the Commission for the formation of a prima facie opinion on the existence of a case. The Commission shall endeavour to record its opinion on the existence of a prima facie case within 60 days.<sup>20</sup>

**(c) Scheme for Inquiry of Matter Referred to Director**

**General:**

After receiving a reference from the central government or a state government or statutory authority or information received from any person, consumer or their association or trade association or on its motion, if the CCI is prima facie of the opinion that there exists a case of abuse of dominant position then it shall order the DG-CCI to cause an investigation into the matter.<sup>21</sup> The DG-CCI shall collect relevant data, record statements, afford an opportunity for cross-examination of witnesses and carry out other necessary analyses in the circumstances of

<sup>18</sup> *Id.*, s. 19(1)(b).

<sup>19</sup> The Competition Commission of India (General) Regulations, 2009 (No.2 of 2009), reg.10.

<sup>20</sup> *Id.*, reg. 16.

<sup>21</sup> *Supra* note 2, s. 26(1).

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the particular case.<sup>22</sup> The report of the DG shall contain his findings on each of the allegations made in the information or reference, as the case may be, together with all evidence documents statements or analyses collected during the investigation. After the investigation, the DG shall submit his investigation report to the Commission for adjudication within such time as may be specified by the CCI concerning the circumstances of a particular case.<sup>23</sup> Eight copies of the report shall be submitted by the DG to the Secretary, CCI. However, after receipt of a reference from the central government/state government/statutory authority, or information received under section 19, if the CC is of the view that no prima facie case exists, the Commission shall immediately pass the order closing the matter and a copy of such order shall be sent to the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be.<sup>24</sup> Thus the Commission, wherever, is of the opinion that no prima facie case exists justifying issuance of a direction under section 26(1) of the Act, can close the case and send a copy of that order to the central government, state government, statutory authority or the parties concerned in terms of section 26(2) of the Act. It may be noticed that this course of action can be adopted by the Commission in cases of receipt of reference from sources other than of its knowledge and without calling for the report from DG.

#### **(d) Procedure after the Director General submits the**

##### **Inquiry Report:**

After receipt of the report by DG, the Secretary is required to place the report before the CCI. The Commission in turn may give a copy of the report to the parties concerned.<sup>25</sup> However, the Commission shall forward a copy of the report in case the investigation is caused to be made based on reference received from the Central Government the State Government or

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<sup>22</sup> *Supra* note 19, reg. 20.

<sup>23</sup> *Supra* note 2, s. 26(3).

<sup>24</sup> *Id.*, s. 26(2).

<sup>25</sup> *Id.*, s. 26 (4).

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***Email Id: [ranareetika87@gmail.com](mailto:ranareetika87@gmail.com).***

the statutory authority, as the case may be.<sup>26</sup> If the report by the DG to the Commission finds no contravention of the Act, the Commission shall invite objections and suggestions from the Central Government or the State Government the statutory authority or the parties concerned, as the case may be, on such report of the Director General.<sup>27</sup> Thus, after the report is submitted there is a requirement and specific duty on the Commission to issue notice to the affected parties to reply with the details of the information and the report submitted by the DG and thereafter permit the parties to submit objections and suggestions to such documents. If the Commission is not satisfied with the objections or suggestions and agrees with the recommendation of the Director General, it shall close the matter forthwith pass the orders for closure of the matter and communicate its closure order to the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be.<sup>28</sup> If the Commission is satisfied with the objections or suggestions and feels that further investigation is required in the matter then, the Commission may order for the further investigation by the DG or cause further inquiry to be made in the matter by any other authorised officer or itself proceed with further inquiry in the matter by the provisions of this Act.<sup>29</sup> Thus, if the Commission is not satisfied with the First Investigation Report submitted by the DG, he has having power to direct the DG for further investigation or even conduct further inquiry itself, if it so chooses. Upon submission of such further enquiry report, the Secretary shall fix a meeting of the CCI for consideration of such report. If the DG report finds contravention of the Act and the Commission is of the opinion that there is a contravention of the provisions of the said Act and further inquiry is called for, then, the Commission in such a situation shall conduct further inquiry itself inviting the objections or suggestions from the concerned parties.<sup>30</sup>

<sup>26</sup> *Id.*, proviso to s. 26(4).

<sup>27</sup> *Id.*, s. 26 (5).

<sup>28</sup> *Id.*, s. 26 (6).

<sup>29</sup> *Id.*, s. 26 (7).

<sup>30</sup> *Id.*, s. 26 (8).

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### **III. ORDERS BY COMMISSION AFTER INQUIRY INTO ABUSE OF DOMINANT POSITION:**

After inquiring if the Commission finds a contravention of provisions of section 4 of the Act, the CCI has the power to pass various orders against the party found to be abusing its dominant position.<sup>31</sup> ***The orders that the Commission may pass after finding that the action of an enterprise in a dominant position is in contravention of section 4 are all or any of the following, namely:-***

- (i) direct any enterprise or association of enterprises or person or association of persons involved in such abuse of dominant position to discontinue such abuse of dominant position,<sup>32</sup>*
- (ii) impose such penalty, as it may deem fit which shall be not more than ten per cent of the average of the turnover for the last three preceding financial years, upon each of such person or enterprises which are parties to such abuse,<sup>33</sup>*
- (iii) direct the enterprises concerned to abide by such other orders as the Commission may pass and comply with the directions, including payment of costs, if any;<sup>34</sup>*
- (iv) pass such other order or issue such directions as it may deem fit;<sup>35</sup> and*
- (v) If the Commission finds that an enterprise in contravention of section 4 is a member of a group, and other members of such a group are also responsible for or have contributed to such a contravention, then it may pass orders, under this section, against such members of the group.<sup>36</sup>*

Thus, the Act empowers the Commission to pass restraining orders and impose monetary penalties to stop the abuse of the dominant position in the market. Also, the Act provides for

<sup>31</sup> *Id.*, s. 27.

<sup>32</sup> *Id.*, s. 27(a).

<sup>33</sup> *Id.*, s. 27(b).

<sup>34</sup> *Id.*, s. 27(e).

<sup>35</sup> *Id.*, s. 27(g).

<sup>36</sup> *Id.*, proviso to s. 27(g).

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group liability for all group companies which facilitated the abuse of dominance as well as personal liability for all persons, directors and other officers who oversaw and responsible for the business conduct of the company. In addition to these specific orders, the CCI may pass any other orders or give such directions as it may deem fit, such as the imposition of costs (of legal proceedings) upon parties to the abusive conduct, etc.

***(a) Division of the Enterprise Enjoying Dominant Position:***

Besides the imposition of penalties, the CCI is also authorised to order the division of enterprises, enjoying a dominant position so as to ensure that the enterprise is no longer in a position to abuse its dominant position.<sup>37</sup> Such an order by the Commission directing division of enterprise which is abusing its dominant position has to be made in writing.<sup>38</sup> ***In particular, the order referred to in sub-section (1) may provide for all or any of the following matters, namely:-***

- (a) the transfer or vesting of property, rights, liabilities, or obligations.*
- (b) the adjustment of contracts either by discharge or reduction of any liability or obligation or otherwise.*
- (c) the creation, allotment, surrender or cancellation of any shares, stocks, or securities.*
- (d) the formation or winding up of an enterprise or the amendment of the memorandum of association or articles of association or any other instruments regulating the business of any enterprise.*
- (e) the extent to which, and the circumstances in which, provisions of the order affecting an enterprise may be altered by the enterprise and the registration thereof;*
- (f) Any other matter which may be necessary to give effect to the division of the enterprise.<sup>39</sup>*

<sup>37</sup> *Id.*, s. 28.

<sup>38</sup> *Id.*, s. 28(1).

<sup>39</sup> *Id.*, s. 28(2).



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Further, an officer of a company who ceases to hold office as such on account of the division of enterprise by the order of the Commission, such officer is not entitled to claim any compensation in this regard.<sup>40</sup>

***(b) Interim Orders:***

Restraint of acts constituting an abuse of a dominant position is one method of eliminating interference with the normal competitive process. The commission is empowered under the Act to grant interim relief in the form of interim orders. Where during an inquiry, the Commission is satisfied that an act in contravention of sub-section (1) of section 4 has been committed and continues to be committed or that such act is about to be committed, the Commission may, by order, temporarily restrain any party from carrying on such act until the conclusion of such inquiry or until further orders, without giving notice to such party, where it deems it necessary.<sup>41</sup> Such an order temporarily restraining any party from carrying on any act in contravention of sub-section (1) of section 4 of the Act, shall be passed by Commission only after directing an inquiry under section 26(1) of the Act. Thus, an application for a hearing on the interim relief under section 33 of the Act needs to be moved to the Commission after the passing of the order under section 26(1). Where the commission during an inquiry, has, by order, temporarily restrained any party from carrying on any act in contravention of sub-section (1) of section 4 of the Act, until the conclusion of such inquiry or until further orders, under section 33 of the Act, such order, if any, shall be signed and dated by the members, including a dissenting note by the dissenting member, if that be the case, and shall be made at the earliest.<sup>42</sup> Where during an inquiry, the Commission has passed an interim order, referred to in sub-regulation (1), it shall hear the party against whom such an order has been made thereafter, as soon as possible.<sup>43</sup>

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<sup>40</sup> *Id.*, s. 28(3).

<sup>41</sup> *Id.*, s. 33.

<sup>42</sup> *Supra* note 19, reg. 31.

<sup>43</sup> *Ibid*

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#### **IV. CONCLUSION:**

The concept of abuse of dominant position relates to the behaviour of an enterprise in a dominant position which is likely to influence its power to influence the structure of a market, to weaken competition. Dominance per se is not considered bad under competition law, however, abuse of such dominance constitutes an anti-competitive practice. The Act does not prohibit or restrict enterprises from coming into dominance. There is no control whatsoever to prevent enterprises from coming into or acquiring the position of dominance. The Act prohibits the abuse of that dominant position. The Act, therefore, targets the abuse of dominance and not dominance per se. The provision of the Act relating to abuse of dominance shall take effect only if dominance is clearly established. The Act provides various factors which need to be considered in determining dominance. The law should ensure that only when dominance is clearly established, can abuse of dominance be alleged. The Act also provides certain illustrative conducts which shall be treated as an abuse of dominant position by an enterprise, and in case of any violation, the Commission has the power to investigate the matters even on its own motion. It may conduct an inquiry and grant appropriate relief by issuing restraining orders, imposing penalties and directing division of enterprise. Thus, it is concluded that to ensure that no enterprise using the shield of its dominant position engages in anti-competitive practices or unfair practices harming the healthy competition in the market, provisions are provided in the Act to prohibit abuse of dominant position by such enterprise.