

**GOVERNMENT OF INDIA  
LAW , JUSTICE AND COMPANY AFFAIRS  
LOK SABHA**

STARRED QUESTION NO:63  
ANSWERED ON:26.07.2001  
REPEAL OF MRTP ACT, 1969  
A. VENKATESH NAIK;DILEEP SANGHANI

**Will the Minister of LAW , JUSTICE AND COMPANY AFFAIRS be pleased to state:**

- (a) whether the Government propose to introduce Competition Bill to replace the MRTP Commission by a new body;
- (b) if so, the details thereof;
- (c) the manner in which the new body is likely to be different from the MRTP Commission; and
- (d) the time by which the said bill is likely to be introduced?

**Answer**

MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS AND SHIPPING (SHRI ARUN JAITLEY)

- (a) Yes, Sir.
- (b) & (c) A statement is laid on the Table of the House.
- (d) The Government intends to introduce the proposed bill in Monsoon Session, 2001.

STATEMENT REFERRED TO IN PARTS (b) & (c) OF LOK SABHA STARRED QUESTION NO. 63 FOR ANSWER ON 26.07.2001.

The salient features of the proposed Competition Bill are as under:-

1. The Bill mainly covers the following aspects:

- (i) Prohibition of anti-competitive agreements;
- (ii) Prohibition of abuse of dominance;
- (iii) Regulation of Combinations (acquisitions, mergers and amalgamations of certain size);
- (iv) Establishment of Competition Commission of India (CCI);
- (v) Functions and powers of CCI

2. The objectives of the Bill is to provide for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets in India, to protect the interests of consumers, and to ensure freedom of trade carried on by the participants in market in India and for matters connected therewith or incidental thereto.

3. The Proposed Law will not have application to:

- (i) Government Departments and enterprises performing sovereign functions.
- (ii) Policy making aspects of Governmental activities (decision making by Ministries/Departments/Offices of Central Government or State Governments)/Local Bodies like reservation for SSI, preference in

procurement from SSI units/PSUs and such similar policies.

(iii) The proposed Law will also provide for exemption of certain classes of enterprises and international agreements from the applicability of the Act by way of specific notifications.

4. The Law would curb those practices, which would have an appreciable adverse effect on Competition. The proposed Law identifies three such ways in which such practices could occur, as under:

(a) Anti-competitive Agreements: (Horizontal Agreements, Vertical Agreements) can be inquired into by CCI which could impose a penalty of an amount upto 10% of its average turnover in the last 3 years for the offence.

(b) Abuse of Dominant Position (The criteria for deciding the dominant position is broad than one included in MRTP Act). Enjoying a dominant position will not be a crime but its abuse will be a crime.

(c) Elimination/reduction of competitors in market achieved through acquisitions, amalgamations or mergers. The proposed Law is not against every acquisition, merger or amalgamation. but it refers only to those acquisitions, mergers and amalgamations which are of a certain prescribed size- size in terms of (a) assets or (b) turnover. Acquisition, merger or amalgamation would become `Combination` when:

Nature of Combination Group Status Criterion Value

(a) acquisition by enterprises

(b) Acquisition by individuals

(c) Mergers/amalgamations

No Group Assets In India > Rs. 1,000 Cr.

World over > US\$ 500 Million  
Turn over In India > Rs. 3,000 Cr.  
World over > US\$ 1500 Million  
Group Assets In India > Rs. 4,000 Cr.  
World over > US\$ 2 Billion  
Turn over In India > Rs. 12,000 Cr.  
World over > US\$ 6 Billion

5. The proposed Law provides for an adjudicating relief machinery by way of establishing the Competition Commission of India (CCI) which would be a Quasi-Judicial Body. CCI will have a Chairperson and not less than two and not more than ten other Members, as may be specified by the Central Government.

6. The CCI will have the following powers:

- to issue `Cease and Desist` Orders
- to grant such interim relief as would be necessary in each case
- to award compensation
- to impose fines on the guilty
- to order division of dominant undertaking
- power to order de-merger.
- Power to order costs for frivolous complaints

In addition to the adjudication function, the CCI will have the roles of advocacy, investigation, prosecution and merger control.

7. The Statutory Regulatory Authorities can make reference to CCI for advice.

8. The proposed Law provides for the post of Director General (and a host of his deputies in various places) to assist the Competition Commission in its inquiries. Unlike in MRTP Act, the Director General will not have powers to initiate investigations suo motu.

9. Reasons for repeal of MRTP Act: In view of the policy shift from curbing monopolies to promoting competition, there is a need to repeal the Monopolies and Restrictive Trade Practices Act. Hence, the proposed Competition Law to be brought in, aims at doing away with the rigidly structured MRTP Act. The Competition Law proposed is flexible and behaviour-oriented. Other reasons are as follows :

- (a) MRTP Act is based on the pre-reforms scenario whereas the new Law will be based on the post-reforms scenario.
- (b) MRTP Act is based on the size as a factor whereas the new Law will be based on the structure as a factor.
- (c) MRTP Act had 14 per se offences negating the principles of natural justice whereas the new Law has 4 per se offences, all the rest subjected to rule of reason.
- (d) MRTP Act provides for Registration of agreements as compulsory whereas in the new Law there is no requirement of registration of agreements.
- (e) Under the new Law, dominance per se is not bad but only the abuse of dominance is considered bad whereas under the MRTP Law, dominance itself is bad.
- (f) Combination Regulations mentioned in the Bill, ensures that Competition is not reduced. Combinations are not regulated by MRTP Act.
- (g) MRTP Act has powers only to pass `Cease and Desist` orders and did not have any other powers to prevent or punish, whereas the Competition Law contains punitive provisions.
- (h) MRTP Act does not vest MRTP Commission to inquire into cartels of foreign origin in a direct manner. The proposed Competition Law seeks to regulate them.
- (i) The Concept of `Group` under the MRTP Act had wider import and was unworkable whereas the concept has been simplified in the proposed Law.

10. The proposed Law provides for a Competition fund which shall be utilised inter-alia for promotion of competition advocacy, creating awareness about competition issues and training in accordance with the rules that may be prescribed.

11. Pending cases pertaining to Unfair Trade Practices other than those relating to tie in sales, purchases or cases falling under clause (x) of sub-section (1) of section 36A, the Monopolies and Restrictive Trade Practices Act 1969 under the repealed Act shall stand transferred to the National Commission constituted under the Consumer Protection Act, 1986.