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Title of Ph.D. Thesis : **Role of Competition Law in Regulating Cartels:
Issues and Challenges**

Brief Abstract

In today's markets cartelization is a very common phenomenon. This study examines the role of competition law in regulating them. As the Organisation for Economic Co-operation and Development (OECD) declares cartels are the worst of competition law abuses. It is indeed true that cartels cause a very great harm not only to the consumers but also to the economy. They destroy the competitiveness in any market. This is the reason they are considered as *per-se* violations of the competition law. Their mere existence is sufficient to prove appreciable adverse effect on competition in any market. The regulation of these kind of competition law abuses is very necessary to protect the consumers and the economy. The Competition law plays the most important role to curb cartelization. This study focuses on what are the present laws on cartelization in India. How these laws evolved and came into force. What are the laws against cartelization in developed jurisdictions like United States of America and European Union. How India can achieve the same pace of penalization of cartels as in these jurisdictions.

The study concentrates on research questions like which activities are covered in the sphere of cartels; are there sufficient laws to prohibit cartelization; while having laws still the penalization of cartels is low; what are the laws prohibiting cartels in other jurisdictions in comparison to India. Hypothesis of the study is that absence of proper tools for cartel investigation and lenient approach in imposing fines by Authorities are responsible for lower rate of penalization of cartels.

The study is broadly divided into five Chapters. First chapter introduces the topic. It provides for research questions, hypothesis, research design, scope of study and objectives of research. Second Chapter deals with the evolution of Competition Law in India. What is the constitutional goal of the economic justice, what was India's economic development strategy

after independence, the constitution of the Monopolies Inquiry Commission and coming into force of the Monopolies and Restrictive Trade Practices Act 1969. It discusses that how was the experience with the MRTP act, the constitution of the Raghvan Committee and the coming into force of the Competition Act 2002. The Third chapter provides the definition of cartel, types of cartel, cartel conducts, how cartel establish how they are investigated and tools for the investigation of cartels such as leniency and whistleblower protection. It discusses how leniency is applied under Competition Act 2002. The fourth chapter provides that how cartels are regulated by United States Anti-trust Laws, leniency provisions under the United States Anti-trust Laws and some major case laws. It provides the prohibition of cartels by European Union Competition Law, leniency under European Union Competition Law, some statistics and important case laws. Finally it discusses the situation in India, the penalization of cartels under MRTP Act 1969, major case laws under MRTP Act, regulation of cartels by Competition Act 2002, leniency policy and landmark cartel cases decided by Competition Commission of India.

The fifth chapter concludes the study and provides some suggestions. The conclusion of the study is provides that penalization of the cartels is only possible when the regulating agencies would have a very good investigation skills. In India the Competition Act do not have any provision for a cartel's whistleblower's protection. The Competition Commission of India need to have an open eye on the concentrated industries in which there are greater chances of having cartelization. Circumstantial evidences play a very important role in prosecution of the cartels. Getting direct evidence is very difficult to prove cartelization. Therefore there is need on the part of the Competition Commission to give due importance to circumstantial evidences, because most of the cartels are investigated through circumstantial evidences. Penalties also play an important role to create a deterrent effect on enterprises to not to indulge in cartelization. Generally the Competition Commission have not imposed the full penalty provided in the Competition Act. The Competition Commission must impose higher penalties to create a deterrent effect. In India lack of awareness in the general public is also responsible for the lower rate of penalization of the cartels. The Competition Commission must make general people aware of the practice of cartelization. Separate advertisement program is needed for that. There is a need that to be more effective in penalization of cartels, branches may be set up of the Competition Commission in State and District level. The fee for filling of the cases must also be reduced to be in reach of the general public.