



FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B. IX th Semester

SUBJECT: COMPETITION LAW

SUBJECT CODE: BAL 901

Name of Faculty: Dr. Aijaj Ahmed Raj

LECTURE 16

TOPIC: HORIZONTAL AND VERTICAL AGREEMENT

What are Horizontal Agreements?

HORIZONTAL AGREEMENTS- Horizontal agreements are arrangements between enterprises at the same stage of production. Section 3(3) of the Act provides that such agreements include cartels, engaged in identical or similar trade of goods or provision of services, which-

1. Directly or indirectly determines purchase or sale prices
2. Limits or controls production, supply
3. Shares the market or source of production
4. Directly or indirectly results in bid rigging or collusive bidding

Under the Act horizontal agreements are placed in a special category and are subject to the adverse presumption of being anti-competitive. This is also known as '*per se*' rule. This implies that if there exists a horizontal agreement under Section 3(3) of the Act, then it will be presumed that such an agreement is anti-competitive and has an appreciable adverse effect on competition.

What are Vertical Agreements?

VERTICAL AGREEMENTS- Vertical agreements are those agreements which are entered into between two or more enterprises operating at different levels of production. For instance, between suppliers and dealers. Other examples of anti-competitive vertical agreements include:

- Exclusive supply agreement & refusal to deal
- Resale price maintenance
- Tie-in-arrangements
- Exclusive distribution agreement

The '*per se*' rule as applicable for horizontal agreements does not apply for vertical agreements. Hence, a vertical agreement is not *per se* anti-competitive or does not have an appreciable adverse effect on competition.

Exercise:

1. Section 3(1) of Competition Act, 2002 prohibits agreement which causes or likely to cause considerable adverse effect on _____ with India
 - a) Competition
 - b) Trade
 - c) Business
 - d) Profession
2. Subsection _____ of Section 3 further declares that if any agreement entered into, which is contrary to Section 3(1) of Competition Act, shall be declared void
 - a) 2
 - b) 3
 - c) 4
 - d) 5

3. Section 3 (4) of the Competition Act, 2002 deals with

- a) anti-trust agreement
- b) anti-competitive agreement
- c) anti-trust agreement at different levels in different market
- d) None

4. Which of the following is Anti-Competitive Agreement?

- a) Tie in arrangement
- b) Exclusive supply agreement
- c) Refusal to deal
- d) All of these

5. An agreement to restrict trade, business by any method to which goods are sold or from whom goods are purchased

- a) Tie in arrangement
- b) Exclusive supply agreement
- c) Exclusive distribution agreement
- d) Refusal to deal