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Interplay between Intellectual Property Rights and Competition Law in India

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Abstract

Intellectual property Right (IPR) provides an exclusionary right that intent to exclude others from doing acts that are offered as a bundle of rights over creation of human mind. The Right to exclude others has a tremendous economic significance which impacts both the innovation and the access. Whereas, Competition law is an instrument to intervene in market and correct market failures. It primarily seeks to encourage competitors to compete against each other and thereby create an economically efficient free market access. The interplay between IPR and Competition law derived some interesting aspects. IPR allows the holder to exercise his market power and competition law attacks unfair monopoly. However, there are common point between the two laws being that both of them effectual balance. Further, India being a member of the WTO, is under a commitment to structure the regime governing the connection between IPR and Competition law. Considering all these aspects, this research work intends to understand the common thread that exists between these two laws. This research work attempts to draw the relation between both the laws in the Indian Context and aims to provide an ample understanding of the Interplay between Intellectual Property law and Competition law in India.

Keywords: Intellectual property, Competition, Unfair, Market.

1.Introduction

Intellectual Property is the innovativeness of work by the human being and the main reason of its protection is for the growth of the advancement of science and technology, arts, literature and other imagination works to enforce and compensate the invention and the originality of works. That branch of law which guard the importance of the same is known as Intellectual Property Law. Nations give statutory expression to economic

rights of the creators in their creations.¹ The premise of intellectual property rights is that recognizing and honours the talented and researcher of intellectual works, augurs well for industrial and technical advancement as it spurs ideation and original. It also infuses effectiveness and encourages competition in new products, new markets and new technologies which is the life-breath of market driven economies; the meaningful positive concussion of which is felt by consumer as well.

Competition Law is a law that fosters economic growth in a country especially in a country like India which has a Mixed Economy. It ushers a free environment where there is a fair play and the market forces decide the production of goods and services in every sector. It helps in the upbringing of a competitive and a non-monopolistic market, which fosters economic efficiency and consumer welfare .At the very first instance if we observe the two but over a period of time and with the shift that India has had in emerging as an Economic power slowly and steadily, the importance of their convergence is being established in the World at large.

Competition Law refers to that law that secure competition in the market; it also actively inspects practices that are dangerous to the competitive process. This law has been growing at an extortionate rate in just few years. The goal is for the makeover in the economic actions across the world. Competition law is all about economics and economic conduct Therefore competition law has been rendering as *magna carta* of enfranchise enterprises. They are important to the conserve of economic liberty and the enfranchise enterprises arrangement.² The demand for competition law emerge because market can agonize from default and torture, and various players can opportunity to anti-competitive activities such as cartels, abuse of dominance etc. which adversely strike economic efficiency and consumer welfare. Competition is the engine of free enterprises. Market economy achieve betters when there is competition in the market. Perfect competition refers to an economic model that portray a hypothetical market from where demand and supply rule the most. It is designed as a market equilibrium in which all resources are allocated and use adequately. From an economist standpoint competition involves a approach of business rivalry between the firms that strive to win consumer's by obtaining the lowest level of cost and prices , developing new products or services or achievement particular strengths, skills or other advantages to (CCI) to avert those malpractices that announcement influence competition .Additionally, it was statute to heighten and endure competition in the market as well as to cover the attractive of the consumers. Thus, it was statute to assure liberates and identical trade amongst player in India markets and such other market combine therewith.

IPR are a category of intangible rights which protect several aspects of innovation and forms of human creativity. However, it is distinctive from the concept of property rights and owes a fundamentally different economic character. IPR provides an exclusionary right i.e. the tight to excludes others from doing act that re offered as a part of a granted right. The right to exclude others has a tremendous economic significance which impacts both the innovation and the access. On the other hand, Competition law and is an instrument to intervene in market and correct market failures. It primarily seeks to encourage competitors to compete against

¹ Law relating to Intellectual Property Rights Second Edition by V K Ahuja

² United States v Topco Associates Inc.[1972]405 US 596 (610)

each other and thereby create an economically efficient free market access. The interplay between IPR and Competition law derived some interesting aspects. IPR allows the holder to exercise his market power and competition law attacks unfair monopoly. Further, India being a member of the WTO, is under a commitment to structure the regime governing the connection between IPR and Competition law. This research work intends to understand the common thread that exists between these two laws. IPR being the law which grants the exclusive monopoly rights to an individual over his/her products, however, on the contrary, Competition Law restricts monopolistic trade practices in the market. Still the common point between the two laws being that both of them effectual balance between the conflicting of the parties and reconcile the evident anomalies in the socio-economic system. Considering all these aspects, the research work attempts to draw the relation between both the laws in the Indian Context. To highlights the various aspects, leading case laws have been referred and discussed.

2. The TRIPs Agreement, Intellectual Property Rights and Competition Law: Understanding the International Perspective.

Intellectual Property is a term referring to a number of distinct types of reality of mind for which property rights are appreciate and the corresponding fields of law .Under the IRP law , owners are granted certain elegant rights to a variety of intangible assets, such as musical, literary and artistic work, revelation and inventions ,and words ,phrases, symbols and designs. Intellectual Property is a nonphysical property which stems from, or is identified as, and whose value is based upon some concept. Intellectual property encompasses the protection offered by the legal regimes of various patent, copyright, trademarks, designs and trade secrets. Grant of intellectual property is a mode of furnish incentive to the inducer of his imagination. Further, incentive in the form of temporary monopoly rights enforce inventor to disclose his aim to the public. The advantages of Intellectual property led the nations come up with international treaties for the safeguard of different classes of intellectual property, like the Paris Convention for the Protection of Industrial property 1883, Berne Convention for the safeguard of Literary and Artistic Works 1886. Madrid Agreement 1891. The World Intellectual Property Organization (WIPO) is the global forum for intellectual property services, policy, information, and co-operation in contemporary time as part of the United Nations. The Agreement on Trade Related (TRIPs Agreement) of the WTO Treaty evolved minimum standards for the safeguard of intellectual property for the member states to combine in their municipal laws

One of the fundamental rules of the Agreement on Trade-Related Aspects of Intellectual property Rights (TRIPS) negotiated during the Uruguay Round is the recollection of the role of intellectual property safeguard in encourage economic growth. The agreement has introduced some minimum standards of preservation and implementation of IPRs in the international dealing process which is unalterable for all member countries. The competitive balances sought to be attained by TRIPs are contained in the intention and notion.

Firstly, members may, in express or redrafting their laws, embrace appropriate measures to avert the abuse of IPRs, constraint of deal or international transfer of technology

Secondly, it is an interpretative formula in favor of adopting measures essential for prevent monopoly misuse by IPR holders and anticompetitive licensing arrangements, which is put into dormant by Article 40 (a lex specialist provision to the general provision in Article 8.2), which establishes a regime for managing such exercise.

It is explicitly stated that the preservation and enforcement of IPRs should present to the preferment of technological innovation and to the transfer and dissemination of technology (Article 7 and 8 of the TRIPs Agreement). IPRs should confer to the mutual advantage of producers and users of technological knowledge and in a manner admiring to social and economic benefit and to a balance of rights and commitment.

These TRIPs objectives and proposition which seek to attain competitive counterpoise are provided in Articles 8(2), 31 (K) and 41. These Articles set the armature for the TRIPs Agreement and have been lauded as being consistent with developing countries fascinate.

Article 8 (2) provides that: Appropriate measures, provided that they are consistent with the provisions of this Agreement, may be needed to prevent the misuse of intellectual property rights by right holder or the resort to custom which unreasonably restrain deal or adversely harm the international transfer of technology. This provisions specially prohibits: (1) misuses of IPRs by right holders ;(2) custom that unreasonably restrain deal; (3) process that adversely impact the international technology transfer.

Article 40 of TRIPs provide for control of anti-competitive practices in contractual licenses:

- Members agree that some licensing custom or conditions pertaining to intellectual property rights which restrain contest may have harmful consequences on deal and may impede the transfer and dissemination of technology.
- Nothing in this Agreement shall prevent Members from specifying in their legislation licensing process or conditions that may in particular cases constitute a misuse of intellectual property rights having a harmful consequence on contestant in the relevant market. As provided above, a Member may adopt, consistently with the other provisions of this Agreement, suitable measures to prevent or conduct such process, which may include for example grant back conditions, conduct preventing demanding to validity and coercive package licensing.in the light of the relevant laws and administration of that member.³

Article 3 (k) impart for remedy of compulsory licensing available to correct unilateral anti-competitive process. The WIPO Development Agenda⁴ adopted 45 recommendations in 2007 including interface between intellectual property rights and competition issues. They are:

- Recommendation No. 7: Forward measures that will help countries deal with intellectual property related anti – competitive process, by providing technical co –operation to developing countries,

³ TRIPs Agreement , Article 40(1) and Article 40 (2)

⁴ Available at: <http://www.wipo.developmental/recommendations/html> accessed 4th Feb 2020.

especially LDCs, at their request, in order to better understand the interface between IPRs and competition policies.

- WIPO's legislative assistance in norm-setting activities relating to competition and IPR- related competition flexibilities.
- Pro-competitive IPR licensing process.
- Favorable circumstances within the WIPO for exchanges of information and experience on IPR- related competitive aftermath.

3. Interplay between IPR and Competition Law

India has been an independent country and took initiatives towards the protection of intellectual property rights. It has implemented several laws for the whether it may be for compliances to various international treaties /conventions or of its own for the protection and growth of intellectual property rights. A small attempt has been made to understand some of the initiatives implemented by India towards the protection of intellectual property rights.

Intellectual property law and Competition law are regarded as the two important branches of law which works hand in hand to discipline the market with the same objective of consumer welfare. So therefore, it can be said that the Intellectual Property Rights and Competition Regulations are inter related to each other. In earlier days, intellectual property and competition law were often considered as like poles of magnet that repel each other. At this consequence of this relation between the two, the intellectual property rights regime was considered to be creating monopolies to spur innovation, while the main concern of competition law is to eliminate monopolies. In contrast to this, it has been realized that both works in tandem and have complementary roles in driving innovation in today's technologically roles in dynamic market. The former i.e., the intellectual property rights provide an exclusives rights within an exiting market to produce and sell its products, services or technology that result from some form of intellectual creation qualifying specifying requirements. These inventions and creation are by several IPRs such as patents, copyrights, trademarks, trade secrets or sui generis forms of protection. Thus, IPRs designate boundaries, within which competitors may exercise their right.⁵ The essential attribute of grant of intellectual property rights is the 'right of exclusion', which means the intellectual property right owner can exercise his rights to the exclusion of the whole universe. But the later one i.e. competition law, its main aim at attaining maximum possible production of resources and best possible allocation of the same.

Intellectual property protection plays a key role in the innovation technologies based on the incentive theory. At the same time, the competition law and policy should provide the classical economic theory of social welfare or in the words of famous 18th century thinker, Jeremy Bentham, who developed the utilitarian theory, propounds "the greatest good for the greatest number".⁶ Competition law considers monopoly as detrimental

⁵ Keith E. Maskus and Mohammad Lahouel, 'Competition Policy and Intellectual Property Rights in Developing Countries : Interested in Unilateral Initiatives and a WTO Agreement' (1999)

⁶ Available at: <http://www.utilitarianism.philosophy.com/jeremybentham.eng.html>, accessed 24th April 2020.

to the market tries to bring down allocate and produces efficiency, because it is not constrained by competitive forces market to bring down price and cost to the lowest well. Thus, the monopolies will become inefficient and as consequence the economic resources will be accumulated with the monopolist. By this it means that a monopolistic behavior in the market is considered as fundamentally objectionable. The economic resources available in the society should be distributed equally to everybody so that everyone is benefitted without causing loss to anybody. Intellectual property protection provides incentives to the inventor for disclosing the invention to the society, so that it can be used by the society after the expiry of the term of protection. But this monopoly, for even a small period, cannot be tolerated if the monopolist abuses the market for his advantage. In this matter comes the interaction between competition law and intellectual property. The main and prior object of both the laws is to benefit of the society. The application of intellectual property rights to competition matters are one of the most complicated issues in the competition field.⁷ Intellectual Property Rights (IPRs) protection has got serious attention in the field of technologically advanced contemporary world due to many reasons. Various nations in the world are giving more attention to IP protection due to compulsion of the international agreement, the Trade Related Aspects of the Intellectual Property Rights (TRIPs) within the framework of WTO. Competition law and policy focused on avoidance of market domination by different means like abuse of dominant position, price fixing cartels and undue concentrations.⁸

IPRs are seen as an incentive to innovate, An IPR confers exclusive rights on their owner. They are granted as a reward for the efforts the person or company has put into the invention or innovation. Competition Law seeks to promote innovation and efficiency in the economy. Competition Law is as seen as intellectual Property law to promote research and development and to encourage innovation.⁹ Apparently both competition law and IPRs are tend to serve the same purpose, but they differ in method and approach. IPRs grant monopoly to the innovator or creator of the work, which excludes others from using the IP – protected product or service, whereas competition law strives to keep markets open for more and more players to innovate and grow. The difference in methods and approach adopted by competition law and IP laws at time leads to a conflict between the two.

Since grant of IPRs is essential for promoting sciences and useful arts and competition law for efficiency and innovation, it is important to reach a balance through a trade –off between the incentive to invest and freedom of other to exploit the protected work. The tradeoff may be justified on the ground that competition in innovation is widely thought to be more important (known as dynamic efficiency) than competition from someone providing the same product (known as static efficiency).¹⁰

⁷ Josef Drexl, Research Handbook on Intellectual Property and Competition, (Edward Elgar Publishing Cheltenham UK, 2010), p . XV.

⁸ UNCTAD, Objectives of Competition Law and Policy. Towards a Coherent Strategy for Promoting Competition and Development, Note by UNCTAD Secretariat.

⁹ W.K Tom and J.A. Newberg . “Antitrust and Intellectual Property : From Separate Sphere to Unified Field” 66 Antitrust L.J 1767 (1997-98)

¹⁰ V. Korah , “Competition Law and IPRs “ in V. Dhall (ed) , Competition Law Today: Concepts, Issues and Law in practice 129

IPRs and Competition can be seen as two sides of the same coin. It shares common objectives, achieved through different names. The relation between the IPRs and Competition Law can be traced in the following areas.

The interplay between competition and intellectual property law has an essential aftermath on market. The two laws operate in totally two guidance. Intellectual Property Laws provide negative right provides a stimulus to the inventor and reward him as an incentive for his imagination. The basic aim of intellectual property rights is to stimulate invention and produce new products and processes. This Intellectual Property can enhance competition in the market. On the hand, competition regulates and safeguards the interests of the inventor and of the technologies as a follow-up action to the invented technology by facilitating through licensing procedures.¹¹

Competition law maximizes social benefit by condemning monopolies while intellectual property does the same by granting temporary monopolies .The condition is that intellectual property law should provide economically meaningful monopolies .Otherwise, competition law which by itself does not condemn the mere possession of monopoly power, but rather certain exercises of or efforts to obtain it, might be allowed to interfere with the monopoly.¹²

Under the competition laws, monopoly rights per se are not prohibited but misuse, of monopoly right is forbid. During this age of globalization ,both intellectual property and competition law are trying to work in tandem together acknowledging their roles and responsibilities in the process of transformation. The duty of competition law is to see that licensing activities of intellectual property law of a company is not abusive and has a precompetitive and a favorable effect on the market

IN FICCI- Multiplex Association v United Producers Distributors Forum¹³, there was a collective decision of the opposite parties' producers and distributors of films not to release films to the multiples with a view to pressurize the multiplexes into accepting the terms of revenue sharing ratio.

The purpose of forming United Producers and Distributors Forum (UPDF) was extracting better revenue sharing ratios from multiplexes. UPDF issued notices instructing all producers and distributors, including those who were the members of UPDF, not to release any new films for the purpose of exhibition at the multiplexes. In this case, Competition Commission of India held that UPDF entered into a cartel like activity since it had the ability to control the release of films since it had a 100 per cent market share, The CCI went further to analyze Sec 3(5) (i) to determine the unreasonableness.

Since a feature film is considered to be a bundle of copyrights to make copies, sell or give on hire or communicate a film in public, the question arises whether the right to sell or give on hire or communicate the film in public includes also the right not to sell or give on hire . It has to be noted that copyright does not

¹¹ K.D . Raju , The Intellectual Property Rights and Competition Law – A Comparative analysis (1st edn, Eastern Law House 2014)

¹² Kumar Jayant and Abhir Roy , “Competition Law in India” (1 st edn, Eastern Law House 2008)

¹³ Case no 01 of 2009,decided on 25th May 2011

grant a market power to the holder since there is a difference between the bargaining powers between individual copyright owners vis-à-vis collective licensing through copyright societies.

The CCI had correctly decided that UPDF had restricted the supply of films to multiplexes was an anti-competitive act under Section 3 (3) of the Competition Act 2002. Analysis of the case reveals that the members of the UPDF were engaged at different levels of the business such as production and distribution, since producers and distributors are not at the same level of business, they are not competitors and hence it shall fall under vertical agreement.¹⁴

In Amir Khan Production Private Limited v. Union of Indi,¹⁵ Federation of India Chamber of Commerce and Industry filed information against United Producers /Distributors Forum (UPDF) and others for market cartel in films against the multiplexes. Despite knowing the multiplex business is 100% dependent on films, UPDF refused to deal with multiplex owners. The UPDF and others hold almost 100% share in the Bollywood film industry. UPDF was indulged in limiting /controlling supply of films by refusing to deal with the multiplexes which are clearly violation of Section 3 (3) of the Competition Act 2002.

The Competition Commission of India (i.e. the CCI) found that there is an anti-competitive agreement and that there is a dominant position also. So the CCI directed the Director General (hereinafter called as DG) to inquire into the matter and submitted a report that there is cartel . UPDF instead of answering to show-cause notice approached the Bombay High Court contending that films are subject to copyright protection¹⁶ and the Copyright Board has the jurisdiction to deal with the matter. Moreover, it was contended that for exclusive license, only remedy is compulsory license available under Copyright Act.

The Bombay High Court dismissed the petition stating Section 3(5) of Competition Act, 2002 provides that Section 3(1) shall not take away the right to sue for infringement of patent, copyright, trademark etc. The defenses can also be raised before the Competition Commission of India which can be raised before the Copyright.

In another case ***Singhania and Partners LLP v Microsoft Corporation (1) Pvt, Ltd***¹⁷, the petitioner ordered with Microsoft for Windows Operating systems and Office 2007 from a Microsoft distributor. According to the direction of the Microsoft, the petitioner arranged software for their LLP business and reimburse the advance that was needed by the consumer direction. After reimburse the advances amount, Microsoft enlightened the petitioner that they can purchaser only volume licenses and not Original Equipment Manufacturer (OEM) licenses which are only obtainable to a person who acquire a brand-new machine. The volume licenses were dual the consignment of OEM licenses. Claims of the petitioners were that dissimilar dealers of Microsoft charges unlike fare for the similar product and thus the opposite party artificially overruled the market. Microsoft having market shares of 90% hold a dominant position in the market. The

¹⁴ Ravikant Bharadwaj , KD .Raju and M. Padmavati , ‘Determining unreasonable use intellectual property rights in anti-competitive Agreements in India ‘ (2013) I.C.C.L.R. 2013

¹⁵ 2010(112) Bom LR3778

¹⁶ The Copyright Act, 1957 ,s 13(1) (b) and Sec 14 (1) (d) (ii)

¹⁷ Case no 36/2010, decided by the Commission on 22.06.2011

petitioner being obligatory to acquire volume licenses at dual the fares of OEM licenses consignment to prejudiced value of the rate under Section 4(2)(a)(ii) of the Competition Act 2002.

Microsoft's contention was that it licenses its product through three main channels of dealing out like OEM, Volume licenses and Retail Chain. Further, it has to safeguard its Intellectual Property Rights and prevent illegal reproduction of its products. Moreover, its connection with the supplier and trader is self-sufficient and does not generate any principal agent connection. It exchanges its product/licenses to its trader or supplier on a principal to principal basis. Further, it contended that OEM licenses are different in nature than those purchased through other channels. Finally, Microsoft's agreement with the OEMs does not require that OEMs can fix Windows directly on the PC. OEMs are at liberty to distribute PCs with non-Microsoft software or without software at all.

On the other instances, the petitioner contend that separate royalty impose for separate licenses is an approach that is embrace by Microsoft to continue its monopoly in the market under the snatch of licensing policy and intellectual property rights safeguard. They further assert that the licensing policy of Microsoft is nothing but an exaggerated device for continuation in the market and harsh rule over its distribution system responsible for unfair prices in the market and thus infringe section 3(4) (e) of the Act.

The Competition Commission has not found any apparent evidence showing the charging separate prices for the similar product under separate kind of licenses are justified and familiar to the market. The Commission did not find any material to show that due to Microsoft's dominant position rivalries were driven out of market. However, Mr. R. Prasad's diverge opinion is significant. He says that the Commission should look into all factors which are anti-competitive in nature, even though they are not part of the knowledge provided by the petitioner. There is a probability of Microsoft engage in a dominant role since it grip 80% of the market share of the operating systems.

Moreover, the OEM license is accessible only through manufactures, FPP for individual propose or buy for 5 or less PCs for Volume license and glorification. It generates a puzzle circumstances for a purchaser who plan to purchase more than 5 PCs. The only choice left is to go for OEM which generates acquiring of OEM and continuing monopoly of the Microsoft in Operating system. Finally, Microsoft imposes a much marginal cost in China and over price in other countries which hamper competition in the market. Such cases were filed in the United States in the State of Iowa and California and Microsoft was instructed to repay the separate to volume licenses for misuse monopoly power.

In Shams her Kat aria and Honda Siel cars and others¹⁸, Shamher Kataria (Informant) file the documentation under Section 19 (1) (a) of the Act in January, 2011 antagonist towards Honda Siel Cars India Ltd, Volkswagen India Pvt. Ltd and Fiat India Automobiles Pvt. Ltd, proclaim anti-competitive practices in regard of sale of spare parts of these companies. Depending on implementation in European Union (EU) and

¹⁸ Case no 03/2011 of Competition Commission of India

the United States of America (United States), Informant profess that car manufactures in India were accounting over prices for spare parts and maintenance services than their associate overseas.

Moreover, there was absolute limitation on attainable of technological instruction, diagnostic tools and software programs demand for maintenance and renovate the automobiles to sovereign renovate shops. The Informant has further reported that the limitation on the accessible of real spare parts and the technical knowledge that are in necessitate to constructively renovate, maintenance the automobiles manufactured by the particular Opposite Parties (OP) is not a confine phenomenon.

The Commission precede complete commandment in the following degree under section 27 of the Act which are as follows: -

- The parties are thereby administering to directly terminate and refrain from humor in performance which has been found to be in infringement of the provisions of the Act.
- Ops are administering to set in a position a functional system to prepare the spare parts and diagnostic tools comfortably accessible through a well-organized system.
- Ops are administered to permit to promote or sell spare parts in the open market without any limitations, including on fare. OESs will be authorize to sell the spare parts directly on their own label name if they so desire. Where the OPs confine intellectual property rights on some parts, they may impose royalty/fees through contracts safely drafted to make certain that they are not infringement of the competition Act, 2002.
- The Ops will place no limitations on the performance of individualistic service man.
- The OPs may progress and performance suitable systems for instruction of individualistic service man, and also accelerate effortless accessible of diagnostic tools. Assigning settlement may also be contemplate for contingent upon technical support and training certificates on amount basis.
- The OPs may also work for systematize of greater in number of parts in such an approach that they can be used across separate brands, as in types, batteries etc. at present, which would consequence of payment and also give more alternative to consumers as well as service man.
- OPs are administering not to force a blanket state of condition that assurance would be neutralize if the consumer assist of service of any self –reliant individual maintenance man. But the required preserve may be in place guard and reliable point of view, OPs can nullify the assurance for that extent that harm may occur due to faulty renovate work beyond their own working system and situation can advocate such circumstances.
- OPs are administer to make accessible in public domain, and also host on their websites, knowledge regarding the spare parts, their MRPs, presentation for accessible over the counter, and details of matching standard option continuation costs, statutes related to warranty, other knowledge that may relate to entire promotion of consumer premier and urge for fair competition in the market.

The Competition has further said that the OPs have infringed the statutes of the section 3 & 4 of the Act. Anti-competitive prevails by the opposite parties influence a great number of consumers in the country approximate to be around 2 crores. Moreover, the anti-competitive behavior of the opposite parties has imitated the extension of spare parts and self-relevant individualistic service man segment of the economy to its entire prospective, the payment of consumers, service man, and traders. There may be take in consideration that the prepossessing market for the automobile producers and other OPs rather made consumer-friendly dedication in **other dominion such as Europe, that they are unsuccessful to embrace alike** implementation in India rather it could have run in higher way in remarkably diminish their present anti-competitive behavior. The Commission urges penance of 2% of total turnover in India of the opposite parties.

With the help of above discussion, the study has drawn the link between IPR and competition law. The study of competition law and intellectual property helps in understanding the vital effect on the market from the legal point of view. Markets in general are governed by different regulatory mechanisms and the sole purpose is to strike a reasonable balance between the conflicting interests among the various stakeholders. It envisages ensuring that a balance is maintained with reference to the basic needs of the consumers as well as that of the entrepreneurs.

4. Conclusion

In this age of globalization, both intellectual property and competition law are trying to work in tandem together acknowledging their roles and responsibilities in the process of innovation. Intellectual Property Right and Competition Law have been drawn to the fact that IPR is a right whereas Competition Law is a legislation which acts as an artificial hand over the market operation. IPR is something which the state grants the inventor or it is reward which the State provides to the creator of any product to exploit commercially his creation for a limited period of time. It seems that these two laws are of conflicting in nature but they are not as we find from the above study that these two laws complement each other by backing up when one is abused. Competition Law attempts to provide a wider choice to the consumers and it seeks to balance the right of manufactures and the consumers by providing profits and quality product and at a reasonable price, respectively. IPR also seeks to provide the manufacture his reward and at a reasonable price, respectively. IPR also seeks to provide the manufacture his reward in being the sole creator of the product, which should also be for the public benefit. The dominant position offered by IPR is per se not violating the Competition policies but abuse of that position is. In a nutshell, it can be concluded that both these laws have the common objective but their ways to achieve it are different. And their regulatory mechanisms strive to maintain an equilibrium between the free play of monopoly rights and interests of the society.

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