



Anti-Competition

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Anti-Competitive Practices

The term anti-competitive practice refers to business or government practices that restrict or reduce trade or competition in a given market. Examples of anti-competitive practices include price fixing, bid rigging, boycotts, and tying agreements.

India's antitrust law, The Competition Act, 2002, was fully constituted on March 1, 2009 – replacing the Monopolistic and Restrictive Trade Practices Act of 1969. The Competition Act monitors any economic activity that monopolizes competition within the market; it aims to protect consumers and small enterprises, and ensures the freedom of trade.



Various Anti-competitive practices:

Bid Rigging: Includes agreements between competitors or suppliers that specify how much to bid or when to bid.

Boycotts: Typically includes joint agreements between competitors to not do business with certain competitors, trade partners, or customers.

Disparagement: making false claims or statements about a competitor.

Tying: Agreements between a trade partner and customer that "tie" the purchase of one product or service to an unrelated product or service.



Dividing Territories: Agreements between customers, suppliers, or companies to allocate geographies, customers, or products and services.

Dumping: Includes the sale of a product or service at a loss in a competitive market, with the intent to force competitors out of the market.

Exclusive Dealing: Includes arrangements whereby a retailer or wholesaler purchases from a supplier with the understanding that no other distributor will receive supplies in a given geography.

Price Fixing: Includes agreements between competitors to establish prices, the rate or level of production.

Unethical Collection of Business Intelligence: Includes the use of unlawful or unethical means such as theft, spying, or bribery to collect information about a business.



Himalaya Drug Company case synopsis


The ruling came on a complaint filed by Madhya Pradesh Chemists and Distributors Federation (MPCDF) which was aggrieved by the fact that one of its member, Pharma Agencies, despite having valid license was denied supply of products because of insistence on obtaining NOC from the associations before being appointed stockist by pharmaceutical companies.

The fair trade regulator held both the drug associations and pharma companies responsible for mandating the requirement of obtaining NOC (No Objection Certificate) prior to the appointment as stockists which resulted in limiting and controlling the supply of drugs and medicines in Madhya Pradesh.



Allegations on the company regarding anti-competitive practices :

- The Himalaya drug company have forced the applicant stockist to procure clearance from jabalpur chemist and druggist association. Thus it was found acting in concert with MADHYA PRADESH CHEMISTS AND DRUGGIST ASSOCIATION (MPCDA) and its district association, in creating entry barriers in appointment of new stockist which was anti-competitive.
- It was noted that the understanding between the association and the pharmaceutical company has restricted appointment of stockist and has consequently led to limiting and controlling the supply of drugs in the state.



Reply and objections to the investigation by the company

- The company contended that they follow standard operating procedure (SOP) in place for appointment of new stockist .
- The SOP of company included a first level clearance from field staff, and if necessary, was supplemented by a 'hygiene check' conducted by the Head Office through the relevant association.
- Such letters have been wrongly interpreted to mean approval to an NOC/LOC from MDCDA or its district associations.
- The sales manager and manager distribution said the e mail and letter send by them are part of standard check.



Objection to the reply

The contention that letters and emails was part of standard check was denied as the contents of email were clear wherein official of Himalya Drug company was found requesting the MPDCA to grant LOC.

"This is to request you to please grant LOC for the appointment of stockists at Jabalpur. Sir, We have been always following & respect the norms of trade & requested president Jabalpur Chemist & Druggist Association to give LOC to appoint the following as our stockists vide our letter dated 7th and 13th October. Please find the attachment of letter of Offer to the proposed stockists & president chemist and Druggist Association, Jabalpur.

Devi Medical Agencies

Batheja Agencies

Drug House

Sir as we have not received the reply so far request you to give us permission and oblige"



Judgement of competition commission of India

- By mandating NOC/LOC requirement for appointment of stockists, the potential stockists have been discouraged in entering the distribution channel so as to ensure wider options both to the consumers and pharmaceutical companies.
- By mandating the condition of NOC/LOC, their entry may be restricted even if they are otherwise satisfying the requisite criteria as may be laid down by respective pharmaceutical companies.
- Requirement to seek NOC is a hindrance that dissuades new/existing stockists to enter/expand in the market. This also acts as a hindrance for pharmaceutical companies which are required to procure NOC before appointment of a new stockist.



Order and Compliance

- In view of the findings elucidated, the Commission directed the drug co, including such of their office bearers/officials, who have been found to be liable, to cease and desist from indulging in the practice of mandating clearance/NOC/LOC, which has been held to be anticompetitive in terms of the provisions of of the Act.
- The Commission directs the pharmaceutical companies, to foster a culture of competition compliance within their respective organisations and sensitize their employees, by bringing into place a Competition Compliance Programme so as to ensure compliance with the provisions of the Act. The co. to file the compliance report within 180 days from the date of receipt of this order.



Stakeholder Mapping

Circle of Control: Employees of the company, Manager, Distributors

Circle of Influence: Associations , Competitors

Circle of Concern: Customers, Regulatory Authorities



Financial Impact on the company:

The Commission imposed penalty at the rate of 1% of the average of the revenue/turnover of the three years as per the financial statements as filed by them and which are mentioned herein below:

Year	Revenue (in Lakhs)
2014-15	1,52,281.64
2015-16	1,85,264.60
2016-17	2,20,327.63
Total	5,57,873.86
Average	1,85,957.95
1% of average income	1,859.58



Penalty on officials

Name of Office Bearers	2014-15	2015-16	2016-17	Total	Average in rupees (c)	1% of (c)
Mr. Philippe Haydon, CEO	2,97,91,995	3,29,26,715	4,57,96,025	10,85,14,735	3,61,71,578	3,61,716
Mr. R.K. Vachher, Sales Manager	25,84,347	43,31,817	24,80,311	93,96,485	31,32,162	31,322
Ms. Sagaya Mary, Manager Distribution	5,88,583	67,54,91	7,15,921	19,79,995	6,59,998	6,600



Introduction to Amul

- Amul was set up in 1946 and its full form is Anand Milk- producers Union Ltd.
- Managed by Gujarat Co- operative Milk Marketing Federation Ltd (GCMMF)
- Amul is the biggest brand in the pouched milk sector in the world and in India it is the biggest food brand.



Amul Structure

- **Members:** 13 district cooperative milk producers' Union
- **No. of Producer Members:** 2.79 million
- **No. of Village Societies:** 13,328
- **Total Milk handling capacity:** 11.22 million litres per day
- **Milk collection (per year):** 3.05 billion litres
- **Milk collection (Daily Average):** 8.4 million litres
- **Cattle feed manufacturing Capacity :** 3500 Mts per day



AWARDS

- GCMMF bags APEDA AWARD for 11th year in a row
- Amul Probiotic Ice-cream Gets No. 1 Award At World Dairy Summit
- Ramkrishna Bajaj National Quality Award-2003
- International CIO 100 Award For Resourcefulness
- Rajiv Gandhi National Quality Award – 1999




The Achievements of the Dairy Co-operatives

Reach

- The dairy cooperative network is owned by nearly 12 million farmer members.
- These producers are grouped in nearly 1,08,574 village level dairy cooperative societies
- The societies are grouped in 170 district-level unions spanning 338 districts.
- The unions make up 22 state-level marketing federations.

Milk production

- India's milk production increased from 21.2 million metric tons in 1968–69 to 88.1 million metric tons in 2003–04.

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- Per capita availability of milk increased from 112 grams per day in 1968–69 to 231grams per day in 2003–04.
 - India's 3.8 percent annual growth of milk production surpasses the 2 per cent growth in population; the net increase in availability is around 2 per cent per year.

Innovation

- Bulk vending saves money and conserves the environment.
- Milk travels as far as 2,200 kilometers to areas of shortage, carried by rail and road milk tankers.
- India produces 95 per cent of its own dairy equipment, saving valuable foreign exchange.
- The annual value of India's milk production amounts to about Rs.880 billion.
- Dairy cooperatives generate employment opportunities for about 12million farm families.



Empowerment Elements

Sustainable Development:

The Amul modeled Dudhsagar Dairy provides sustainable livelihood to its farmer members. Dudhsagar Dairy is the largest dairy in India and provide inclusive growth, economic freedom and sustainability to over 5.2 lac dairy farmers.

Sustainable Livelihood means to alleviate poverty and bring positive changes in terms of social, economical, political empowerment. We aim to provide such types of freedom with inclusive growth in terms of women education, health and hygiene and turn around development. Our aim to bring smiles to our farmer members.

Social Empowerment :

Our movement is well-knit in the Mehsana Milk Shed area involving 1303 Member Societies and 4.8 LACS Members as on 31st March 2008. A visionary movement initiated 50 years ago the movement have never been a cake walk. Much work has been done; but we cannot be complacent; many more activities



Political Empowerment:

Cooperative society also empowers the members to become more politically aware and active in Local Self Government. Some members have become MLAs / MPs / Ministers. The present Chairman of Dudhsagar Dairy is a former cabinet Minister of Gujarat. The Panchmahal Dairy's Chairman is a sitting Lok Sabha M.P. and two other Dairy Chairmen who are also members of GCMMF Board are sitting MLAs.

Economic Empowerment:

Dudhsagar Dairy has taken a historic decision for the economic empowerment of their members. Especially the women. Dudhsagar Dairy, which is Amul modeled dairy cooperative will give the money to women members. Dairy will take care to open an account in the name of women members with the bank and with member societies. The amount will be directly credited to the bank so that women can have direct access to the funds.

It has been observed that every morning women get up early and manage to get milk from the animals. They nourish the animals just like their own children. They are the backbone in dairy cooperative model. So in order to provide Economic Empowerment to the women member, dudhsagar dairy has decided to credit the amount in the bank accounts of the women



AMUL : AN ETHICAL COMPANY

Factors that makes it ethical over its competitors:

1. Non Segmentation

Typically, marketers segment the market and then decide on the product positioning but Amul don't believe in segmentation. For example, Amul butter is consumed by millionaires living in big cities as well as by low wagers living in small towns, the perception of the brand is like that.

2. Amul serving local and hyper local markets

Amul focuses on local and hyper-local markets. It is perceived as a local brand in various regions of India: it is perceived as a brand of 'my region' or 'my city' and that's how they advertise their creative.



3. Role in India's white revolution & Operation flood

Under Dr Verghese Kurien the White Revolution helped increase milk productivity and milk was now sold at competitive market prices. This program increased the demand for development and production of healthy animals, use of modern technology in milk production sector and networking between various small and large scale dairy industries.

4. Benefitting Indian farmers and families.

More than 10 million farmer families are the shareholders and also the suppliers of Amul. Their cooperative business strategy of buying at the maximum price and selling at reasonable rates is what helping Indian farmers and the company to sustain.

5. Amul's Umbrella branding & Content advertising

Just like Apple , Amul follows umbrella branding concept. With advertisement cost less than 1% , the witty socio political content advertisement and catchy lines have defined Indian marketing and amul as a brand distinctly.



Condemning the racial attacks in Australia



Tata Motors Nano plant shut down operations in Singur.



6. All cooperatives and competitor as their brother and sister concern.

While Amul is the No 1 brand in the country, in the regional markets the cooperatives are doing well. So clearly the competition for Amul is from these other cooperatives which are also expanding. For example : Nandini in Karnataka, Saras in Rajasthan and Sudha in Bihar. The company treats the cooperatives as their brothers and sisters. If the company have surplus milk , it shares with them. Say if Orissa or Bihar has surplus milk and they don't know what to do with it; amul help them by taking it to its Calcutta market.

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THANK YOU