



**DHARMASHASTRA NATIONAL LAW UNIVERSITY,
JABALPUR (M.P.)**

END-TERM EXAMINATION MAY, 2023

BA.LL.B. (Hons) –VIII Semester Enrolment No.

Name of the Subject: **Competition Law**

Time: **Two and Half Hours**

Maximum Marks: **50**

- Note:**
1. *The question paper contains Five Sections.*
 2. *All Sections A, B, C, D and E are compulsory.*
 3. *Make sure that you mention your Name, Enrolment Number, Semester and Subject ONLY on the Cover Page of your Answer Sheet. This information and no other information must NOT be written on any other pages or supplementary pages.*

SECTION-A

Answer any one Question based on the facts stated herein:

10 x 1 = 10

Clickart and Damazon are two prominent e-commerce portals in India operating as a platform facilitating third-party sellers to sell their goods to consumers on their online marketplace. The market shares of both enterprises over the years are as follows:

| | 2019 | 2020 | 2021 | 2022 |
|----------|-------------|-------------|-------------|-------------|
| Clickart | 46% | 49% | 51% | 52% |
| Damazon | 35% | 39% | 40% | 42% |

For organising the online market, they enter into several vertical agreements with their preferred sellers. These preferred sellers are either directly or indirectly affiliated with or controlled by Clickart and Damazon. These platforms influence prices by providing several discounts and inventory to the preferred sellers. Both online platforms gather data on consumer preferences and use them to their advantage by giving deep discounts on sales made by affiliated retailers. They also adopt a strategy of preferential listing with the use of the words “Assured Seller” and “Fulfilled”, thereby discriminating against the non-preferred sellers and pushing their product listings to later pages.

Clickart and Damazon can cross-subsidise because of the huge amount of funding received from their investors, resulting in incentives that allow pricing below cost on their platforms through their sellers. This creates high entry barriers and high capital costs for any new entrant in the market.

Q.1 Explain the definition of the relevant market to be adopted for analysing the position of strength of the enterprise.

OR

Q.2 Assuming there is a concept of collective dominance in India, what are the various cases of abuse which can be attributed to these two entities in the given fact situation?

SECTION-B

Answer any one Question-

10 x 1 = 10

Q.3. Explain the various stages involved in dealing with a matter under ex-post enforcement.

Q.4. What are various market correction tools CCI can employ if, after inquiry, CCI finds that there is a violation of Section 3 or Section 4?

SECTION-C

Answer any one Question-

10 x 1 = 10

Q.5. Explain the form v. effect-based approach in the analysis of the Abuse of the Dominant Power.

Q.6. What transactions can be called a Combination? Explain in what circumstances and when the filing of the combination notice becomes necessary and where it need not be filed.

SECTION-D

Answer any one Question-

10 x 1 = 10

Q.7. “*per se* conducts are more prone to concentrate market power and produce an anti-competitive effect as compared to conduct which requires the *rule of reason* analysis.” Examine with the help of legal provisions.

Q.8. Whether the Competition Act, 2002 create any distinction between a “Horizontal Agreement” and a “Cartel”? Explain with supporting provisions.

SECTION-E

Answer any one Question -

10 x 1 = 10

International Air Transport Association (IATA) was founded in Havana in, Cuba, in 1945 as a non-profit organisation. It has its headquarters in Quebec, Canada and an executive office in Geneva, Switzerland. Almost all airlines in the 125 countries are a member of IATA. It is a trade association representing airlines and regulates air tariff rules, coding, cargo rules and accounting practices. IATA passes regulations for business conduct for airlines, and these regulations are forwarded to the national government for approval. IATA came out with resolution 815, which will regulate the business relationship of a freight forwarder with that airline. Under this resolution, several clauses specified accountancy standards that have to be followed by flight forwarders for eligibility for the IATA Accreditation. It was contended that the accreditation clause in this resolution creates an entry barrier in the freight forwarders market. As a non-IATA accredited freight forwarder cannot deal with member airlines.

Q.9 Whether IATA is abusing its dominant position?

OR

Q.10 Whether the resolutions passed by IATA will subject it to cartelisation.
