Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2023 – ISSN 2582-7820

Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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Extra-Territorial Jurisdiction of CCI – Harmonising International Enforcement with Domestic Law

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Received 15 February 2023; *Accepted* 04 March 2023; *Published* 08 March 2023

This paper deals with the overseas entities that influence market competition in India. This jurisdiction that is exercised by the Competition Commission of India ('CCI') which is referred to as extra-territorial jurisdiction deals with the arrangements that are made outside the Indian jurisdiction but have an appreciable adverse effect ('AAEC') within the Indian market, the relevant aspects of the concept of extra-territoriality in the realm of anti-trust law has been discussed in principle, followed by an overview and subject matter with a constitutional impetus. The extra-territorial operation in the cases of the Monopolistic and Restrictive Trade Practices ('MRTP') Act, 1969 as well as under the Competition Act, 2002 is covered with an approach to the effects doctrine and its scope in the domestic and international law. The powers and procedures of the CCI are analyzed with a reference to enforcement and resistance to these findings by a body like CCI. The extra-territoriality principle in the United States ('US') and the European Union ('EU') have been compared and critically analyzed to uncover whether the broad spirit of harmonizing with international law is done or domestic law is given primacy in such situations. This paper also tries to provide a way forward by appraising international law and studying it in reconciliation with domestic law. Also, in this regard by suggesting recommendations to that effect, in conclusion, the same position has been covered.

Keywords: *extra-territorial, jurisdiction, cci, mrtp.*

INTRODUCTION

With the 1991 wave of economic reforms of liberalization, privatization, and globalization, the main threat that the Indian economy faced was competition from foreign entities in India. The legislation to control it at that time, the MRTP Act, of 1969[1] was considered inadequate, thereby it was repealed by the Competition Act, of 2002[2]. The regulatory body of CCI dealt with violations under the Act based upon complaints by individuals or references by central or state government or any other statutory authorities. The territorial application of the Act applies to the jurisdiction of India as such and, also, section 32[3] authorizes CCI to intervene and decide on the arrangements which are not located in India but are having an appreciable adverse effect in India by the way of an anti-competitive agreement, the abuse of their respective dominant positions or combinations thereof that cause an effect on the competition in India, that is referred to as AAEC, in the relevant Indian market. It has been inserted in the Act to make up for the lacuna that did not allow the MRTP Commission to have the same kind of jurisdiction. This paper has various segments, the very first dealing with the problem and its background and the need to analyze the same, followed by a conceptualization of the extra-territorial jurisdiction along with a critical appraisal of effects doctrine and approaches of the CCI; also the enforcement and resistance to the extra-territorial proceedings with an international comparative framework of EU and US approach to the extra-territorial jurisdiction. The emerging dimensions and the way forward deal with the international practice and try to uncover whether the international norms align with the domestic set-up of extra-territoriality of CCI as such or not, thus providing suggestions and recommendations in conclusion.

THE CONCEPT OF EXTRA-TERRITORIAL JURISDICTION

The concept that deals with extraterritorial jurisdiction is the exercising of a state's sovereignty with some contravention. This flows from the Preamble of the Constitution which states that India is a sovereign and Article 245(2)[4] of the Constitution of India which states that any law

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[1] Monopolistic and Restrictive Trade Practices Act 1969
[2] Competition Act 2002
[3] Competition Act 2002, s 32
[4] Constitution of India, 1950, art 245(2)

made by Parliament, that has extraterritorial operation would not be deemed invalid on that ground. It has to be viewed that a balance between sovereignty and extraterritoriality should be achieved for this to function. In the landmark ruling of ***GVK Industries v Income Tax Officer,***[5] it was observed that only those laws that have a valid nexus as such with the Indian laws, despite being extra-territorial are considered valid for an extraterritorial operation as such.

Overview of Extra-Territorial Jurisdiction: With time various countries are adopting regulations to safeguard their economy and markets from adverse impacts, OPEC (Organization of the Petroleum Exporting Countries), these agreements help the countries to resolve conflicts. The public international laws signify the organs of government that deal with the general laws. This is the matter of jurisdiction which is generally referred to as having relation to the subject matter as such, and to enforce these general rules sometimes through coercion by authorities, is called enforcement jurisdiction.

Subject-Matter Jurisdiction: This deals with the authority of the state to deal with the regulation of its citizens within its territory by the virtue of being nationals **(nationality principle)**. In the company laws or taxation laws, the companies which have adopted to be governed by the laws of a country based on getting a force of law in the mode of registration in a state will be considered as its citizens. Due to transactions and dealings of states across borders, the acts which start outside the territory of a state but end within it are also included in the same **(territoriality principle)**[6]**.**

Principle of Extraterritoriality: The extra-territorial jurisdiction and implication of competition of one state in another is a recognized aspect of public international law and the state can apply its jurisdiction over another state's extraterritoriality given the condition that there is a sufficient nexus between the state and the object for which the regulation needs to be done. The genuineness of the extra-territorial jurisdiction in case of an offense committed in the territory of one state is considered a valid action in the case that was decided by the International Court

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[5] *GVK Industries v Income Tax Officer* (2011) 4SCC 36

[6] Dr. Md. Zafar Mahfooz Nomani and Dr. Faizanur Rahman, *Competition Law* (1st edn, University Book House Pvt. Ltd. 2019)

of Justice ('ICJ') ruling of the ***Lotus*** case. Though it was considered with dealing a criminal offense opened a door for deciding the legality and limitations of extraterritoriality in the international law regime. The state's jurisdictional aspects were divided into two: a) law-making jurisdiction and b) law-enforcing jurisdiction.

EXTRA-TERRITORIAL OPERATION

Under this head, the extra-territorial operation in the context of the MRTP Act and the Competition Act as such, along with the appraisal of relevant case laws:

a. Under the MRTP Act, 1969

The legislation prohibiting monopolies and the other prohibitive practices in India, priorly, referred to as MRTP, had no express provisions for the functioning of an extra-territorial jurisdiction as such but it could be inferred from section 14[7] of the Act and this important rule was addressed in the famous landmark ruling of the subject matter referred to as, ***Haridas Exports v All India Float Glass Manufacturers Association***[8] whereby the restrictive and unfair trade practices of an Indonesian company was brought in the notice of MRTP Commission by the way of a complaint under section 33(1)(j), (ja) and section 36A which when read in conjunction with the section 2(o), whereby the Supreme Court recognized that this matter could not be adjudicated upon as it would fall outside the purview of jurisdiction of MRTP as there was no extra-territorial operation of the Act back then.

b. Competition Act, 2002

Under the main legislation regulating market competition in India, Competition Act, it is recognized that an entity or a player in the market can have an AAEC on any enterprise within India. Section 32 of the Act enables the regulatory body of CCI to make an inquiry as well as pass certain orders as such against the enterprises that are established beyond Indian territory but cause an appreciable adverse effect in India. The applicability of the provision and law

[7] Monopolies and Restrictive Trade Practices Act 1969, s 14.
[8] *Haridas Exports v All India Float Glass Manufacturers Association* (2002) 6SCC 600

contained within the ambit of section 32[9] is wide enough as it covers the territory where a foreign entity is incorporated. If that entity indulges in an anti-competitive agreement, it would come within the purview of CCI which is empowered to take necessary action if there are at least two entities that are from India or one entity that is from outside India and one Indian company as such enter into an anti-competitive agreement, abuse their dominant position and thereby violate the cardinal principles of the anti-trust laws, also violating the essence of regulation of combinations in the Indian competition regime to create an appreciable adverse effect in India.[10]

EFFECTS DOCTRINE

This position is covered under section 32[11] of India's Competition Act, 2002 whereby the power to extend the 'principle of territory' is laid down. Effects doctrine enables the regulating authority to exercise their jurisdiction on the guilty enterprise if it has an anti-competitive effect on the country. The US ruling of ***US v Aluminium Company of America***[12] stated the foundation of effects doctrine which laid down that the State can impose liability on the acts of persons that are not under the direct control or the conduct that is done basically outside the borders of the state as such and thereof consequential effects that take place within the borders. The test of intended and actual effects on the commerce of the US was laid down to ascertain whether the jurisdiction would apply to a foreign company. A Canadian corporation was held liable for the agreement of European aluminum producers to allocate markets leaving the US out of supply.[13] The effects doctrine was given a statutory basis by the International Antitrust Enforcement Assistance Act of 1994.[14] In the UK, the position is covered under the Protection of Trading Interests Act of 1980 with some differences.

[9] Competition Act 2002, s 32
[10] 'India: Extra-Territorial Jurisdiction Of CCI' (*Mondaq*, 08 November 2013) <https://www.mondaq.com/india/trade-regulation-practices/273732/extra-territorial-jurisdiction-of-cci> accessed 05 February 2023
[11] Competition Act 2002, s 32
[12] *US v Aluminium Company of America* [1945] 148 F.2d 416
[13] Edward M. Graham and J. David Richardson, *Global Competition Policy* (Columbia University Press 1997)
[14] ANTITRUST ENFORCEMENT GUIDELINES FOR INTERNATIONAL OPERATIONS (*The United States Department of Justice*) <https://www.justice.gov/atr/antitrust-enforcement-guidelines-international-operations> accessed 05 February 2023

INDIAN POSITION

The genesis of the concept of effects doctrine about the competition law was first laid down in another landmark case that is, ***American Natural Soda Ash Corporation (ANSAC) v Alkali Manufacturers Association (AMAI) and others***[15] whereby the ANSAC had agreed to enter into an agreement in which it was developing an export cartel which was supposed to harm the prices and affect production and availability of soda ash specifically. An application for the temporary injunction had been allowed by the MRTP Commission, granting ad interim relief by disallowing the cartelization of soda ash by ANSAC. The ***Haridas*** case had also provided a similar injunction against such imports; both cases were reversed against the order of the MRTP Commission thus underlining that it did not have an extraterritorial jurisdiction in both cases, as the doctrine was to be made applicable in such case after the goods that were brought in the Indian land in the manner of import as such (Haridas case) and the same did not apply to a foreign cartel unless one of its members carries out business in India.

Thus to overcome this lacuna in the Indian regime of competition law, section 32[16] was inserted in the Competition Act, to ensure the applicability of extraterritorial jurisdiction and to make sure that it operates well within the legislative intent; making the effects doctrine which is considered as the test and the basis for same thus doing away with the restriction that created a hurdle in deciding the previous cases of exterritorial jurisdiction by MRTP Commission. Now, CCI has the authority to adjudicate upon a foreign entity under like circumstances.[17]

POWERS OF THE CCI

Section 32 of the Competition Act gives this power to the CCI to inquire into any anti-competitive agreement, entities enjoying a sense of dominance in the market as such thereby

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[15] , *American Natural Soda Ash Corporation (ANSAC) v Alkali Manufacturers Association (AMAI) & Ors* [1998] 94 Comp Cas 192 (MRTPC)
[16] Competition Act 2002, s 32
[17] Kartik Maheshwari & Simone Reis, 'Extraterritorial Application of the Competition Act and Its Impact' (2012) Competition Law Reports <https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Articles/Extraterritorial%20Application%20of%20the%20Competition%20Act%20and%20Its%20Impact.pdf> accessed 05 February 2023

concentrating competition or any combination in any form that has AAEC in the relevant Indian market; along with to pass necessary orders in that regard. This power of the CCI extends to institute inquiry as well as investigation wherein the procedure under sections 19, 20, 26, 29, and 30 is to be followed for initiation of inquiry by the CCI into any agreement that comprises an anticompetitive tactic, the factors that constitute a dominant undertaking in the legal aspect or any combination as such that would have an AAEC on the market competition in India in the sense of the relevant market. Section 18 authorizes the CCI to enter into any arrangement or memorandum with the sanction of the Central Government, with any foreign agency for the judicious and careful discharge of duties and functions under the Act and also for the want of complying with the principles of private international law that are accepted by the member states at large.

Sections 27 and 31 lay down the remedial measures in the case of completion of the procedure of inquiry. Section 27 lists the various steps that can be taken by CCI in case of completion of an inquiry into any of the conduct that violates fair competition in the Indian market or leads to a kind of abuse that usually starts when an entity thereof enjoys a dominant position disturbing market competition in the jurisdiction and breaching thresholds in the combinations under the Indian antitrust regime along with section 31[18] that concerns with orders that relate to the combinations by the way of commission as such under the Act.

When the commission while it focuses on its practice of jurisdiction of section 32 as such, provides for any punishment in the form of penalty under sections 27, 31 or any other provisions under Chapter VI in the Act that deals with the like prospects and in case the party does not comply with the penalty imposed upon it, then the section 39 applies to empower the CCI to obtain the penalties in a specified manner under the regulations. When section 32 is enforced, the commission is faced with two distinct possibilities: either the parties are ready to comply with its orders or it is not obeying the orders and thus non-compliance thereof takes place.[19]

[18] Competition Act 2002, s 31
[19] T. Ramappa, *Competition Law in India, Policy, Issues and Development* (3rd edn, Oxford University Press 2013)

The CCI issues monetary penalties on the parties for not having regard to the provisions that are mentioned in the Act and for complying with an order that is brought about by the CCI there would be a payment of penalty as such in that effect. The party that is liable to furnish the payment and thus take care of its liability shall appropriate notice to the CCI directly or independently of this, basically to the party in whose favor the orders of the payment of penalty have been passed.[20]

PROCEDURE TO BE FOLLOWED BY CCI

Following the 2007 Amendment of the Competition Act[21], CCI could now enquire into the matter and pass other necessary orders as required for putting an end to the practices that disrupt the concept of fair competition in the market. The words of section 36 before the onset of the amendment implied that the legislatures did not have the knowledge that they could use the same procedure as was given under the Code of Civil Procedure (CPC), 1908[22]; as the sub-section (1) in section 36[23] does not allow CCI to comply with the procedure in CPC. General regulation 2[24], in paragraph 12 states how the information or reference to it may be filed. The commission shall record its submissions within sixty days wherever in the eyes of the Director General, that is also a functionary under the Act, there exists a prima facie violation of the Act.

The CCI can ask for the call of the conference for the reasons of formation of an opinion on the said matter wherein a prima facie case is there, whereby the Director General is given a direction for investigation which marks the start of a process that concerns with inquiry provided under the section 26 of the legislative scheme. The DG thereby would be responsible for preparing a report on the reasons for allegations that have been given in the requisite information or the

[20] *Ibid*
[21] Competition (Amendment) Act 2007, s 27
[22] Code of Civil Procedure 1908
[23] Competition Act, 2002, s 36(1)
[24] Competition Commission of India (General) Regulations 2009

form of reference if it may be as such, whichever the case is, as it stands where all the required evidence is aligned during the process of investigation.[25]

The power to inquire into the anti-competitive agreements and the abuse of a position of dominance within the parameters provided under the legislative mandate by the concerned enterprise flows from section 19 of the Act. Section 26 along with paragraph 21 is contained in a form of general regulations that come into play to lay down the procedure for the inquiry in like matters. In the case of ***Competition Commission of India v SAIL and another,***[26] it was decided that the body of CCI should have found sufficient prima facie contravention of the provisions contained in the Act, to initiate the inquiry and give instructions to the Director General to start an investigation under section 26(1) of the Act. The CCI should also determine the concept of 'relevant market'[27] within the meaning of provisions of the Act to exercise the extra-territorial jurisdiction to investigate a global cartel framed outside India, this was stated and strengthened by ***CCI v Coordination Committee of Artists and Technicians of WB Film Television and others.***[28]

The defendant in the inquiry proceedings does not have to be furnished notice of the same under general regulations or CPC unless it is made against the government or public officers. In the rest of the cases, it rests upon the commission that takes place or the party that is there to furnish a notice upon the defendant or not. Nonetheless, Order V of the CPC[29] and paragraph 22[30] of general regulations provide for the service of summons, notices, and other related documents along with their modes. The examination of parties and the witnesses does not find its relevance under the general regulations, but section 36(2)[31] of the Act is well equipped with the same and gives the authority and power of a civil court to the commission as that of the CPC. The

[25] Sumit Kumar, 'Exercise of Extraterritorial Jurisdiction by CCI Under Section 32 of Competition Act and Process for its Enforcement' (*SSRN*, 08 November 2009) <https://ssrn.com/abstract=1501944> accessed 04 February 2023
[26] *Competition Commission of India v SAIL & Anr* (2010) 10 SCC 744
[27] 'Extra-Territorial Application' <https://www.lakshmisri.com/Media/Uploads/Documents/Global%20Auto%20Parts> accessed 04 February 2023
[28] *CCI v Coordination Committee of Artists and Technicians of WB Film Television & Ors* Civil Appeal No 6691/2014
[29] Code of Civil Procedure, 1908
[30] Competition Commission of India (General) Regulations 2009
[31] Competition Act 2002, s 36(2)

observations of examination that are existing would be recorded in writing mode of the commission by the members that are there and taken on record by the same. If the party in such proceeding or their pleader or authorized person is not able to do that or he does not address the such question that is material in nature that in the opinion of the commission is necessary to answer, the commission is authorized to draw up an order against the party thus being referred to, mentioned above if it thinks fit and proper.

ENFORCEMENT OF JURISDICTION AND RESISTANCE TO EXTRATERRITORIALITY

Due to the advent of extensive globalization, it is very difficult to execute orders of the CCI at the cost of diplomatic relations. The action of combinations can create different responses in different judicial systems of the world and can have conflicting views. It can also bring genuine problems in implementation, for instance, the EU blocking the merger between the companies General Electric Company (GEC) and Honeywell –American in origin. Also, the merger of Boeing and McDonnell Douglas was disapproved by EC even after getting permission from the US constituting resistance to extraterritoriality. This requires the enterprises to cooperate in the terms of ensuring a market that ensures free and fair functions from a global perspective. The US and EU are seeing a rise in entering into various instruments for cooperation like the Application of Positive Comity Principles in the Enforcement of their Competition Laws in 1991, the Agreement between the European Communities and the Government of the United States of America on the Application of Positive Comity Principles in the Enforcement of their Competition Laws in 1998, the Agreement on Mutual Legal Assistance between the European Union and the United States of America in 2003. One such example of cooperation can also be the Hague Convention on Taking of Evidence Abroad in Civil or Commercial Matters which allows the states and enable them for the collection of evidence; it is also given effect under the regime of UK Law by the Evidence (Proceedings in Other Jurisdictions) Act, 1975.

APPROACHES TO EXTRA-TERRITORIAL JURISDICTION BY THE UNITED STATES AND EUROPEAN UNION

Under this head, the various approaches to the extra-territorial jurisdictions by US and EU are analyzed and their approaches to the extra-territorial operations and how they are exercised in the legal sphere are also analyzed:

1. United States Approach

The jurisprudence in the US dealing with commercial law transactions and interpretation of anti-trust law has contributed to the development of the Effects Doctrine. The intention behind this was to ensure that no anti-competitive practices are occurring outside the jurisdiction of the US, but it is in clear violation of the upkeep of the market and economy as such. The ***Banana***[32] case in 1909 initiated the need for extra-territorial jurisdiction in matters relating to the domestic market and economy and foreign entities affecting it. This was followed by the case of ***American Tobacco***[33] where the need for effects doctrine was intensified as it was observed by the court that stated the Act that governed Anti-Trust is not clear that the extra-territorial jurisdiction could not apply. Later, with a more relaxed approach, the US Supreme Court decided the ***Sisal***[34] case and applied the provisions of US laws of anti-competition to a defendant that was not a resident of the US. It was further stated that the agreement that was entered into was outside the US by non-residents but the court could exercise its jurisdiction over the performance and intention of parties.[35]

The ***Alcoa*** case marked the beginning of the application of effects doctrine in a US case that involved the contravention of section 4 of the Sherman Act and 15 U.S.C.A. Different approaches and conditions started to apply effects doctrine according to facts and circumstances, one such

[32] *American Banana Co. v United Fruit Co.* [1945] 148 F 2d 416 (2nd Cir)
[33] *United States v American Tobacco Co.* [1969] US 106 221
[34] *United States v Sisal Sales Corporation* [1927] 274 US 268
[35] Raghuveer Singh Meena, 'Extraterritorial Jurisdiction and Effects Doctrine' (2016) 6 RMLNLU Law Review

case was ***Timberlane***[36] in which the court laid down the different tests under which effects doctrine was applicable, they are:

- Whether there is a direct or indirect effect on American trade and business.
- There must be an injury that can be felt by the US, and which can be categorized as that being a cognizable one. The infringement of anti-trust laws in the US must be there.
- There must be cogent reasons which are based on fair reasoning that need to be serving as sufficient reason for US Courts to exercise jurisdiction on a foreign entity.

2. European Union Approach

The extra-territorial jurisdiction under the EU is governed by the Treaty of Rome and the Competition laws of the European Commission (EC). Though they do not offer much in the said area, it is still exercised to meet the anti-competitive challenges. EC offers three legal concepts for the same: the Implementation Doctrine, the Economic Entity Doctrine, and the Effects Doctrine. It was evolved by the incorporation of Articles 81 and 82 in matters where extra-territorial jurisdiction is to be applied with the aid of judicial decisions.

The European Court of Justice (ECJ) still does not recognize the Effects doctrine as such, but it employs other doctrines to assure the application of the same. The court can still take into account matters that are extraterritorial by nature by the courts in case an anti-competitive practice is taking place and its effect is in EU territory. The effect that underlies this agreement must be that of the category that can be termed as reasonable, foreseeable, immediate, and substantial.[37] The Commission and courts presume jurisdiction over the matters that fall in the extraterritorial category; the ***Wood Pulp*** case marked the application of the same where the agents, branches, and subsidiaries of foreign enterprises affected the economy in the EU. The Effects Doctrine shaped up and was discussed extensively in the case of ***Genor***[38] which applied

[36] *Timberlane Lumber Co. v Bank of America*, NT & SA [1976] 549 F 2d 597 (9th Cir)
[37] Massimo Motta, *Competition Policy: Theory and Practice* 338 (12th edn, Cambridge University Press 2009)
[38] *Gencor v Commission* [1999] ECR II-753

the same in the context of extraterritoriality and international law which reiterated the same concept of substantial, foreseeable, and direct effect to decide a case.

EMERGING DIMENSIONS AND THE WAY AHEAD

The increasing interaction of the world with trade and commerce and global acceptance of the phenomena of effects doctrine is expanding the scope of national laws of competition laws to international business activities. Section 18 can be used to enter into various bilateral and multilateral agreements and instruments that relate to the regulation of competition in the international context. The intent on which the competition law rests is based upon the principles to prevent the Indian market from inequity and ensure a free and fair market and reasonable trade practices.

INTERNATIONAL AGREEMENTS ON COMPETITION

Several bodies like the UNCTAD[39], OECD[40], and INC[41] are the various agreements to increase competition and gather cooperation on an international level to regulate it. UNCTAD has the Set of Multilaterally Agreed Equitable Principles and the Rules for the Control of Restrictive Business Practices which has its approval from the UN Conference[42] and adopted by the United Nations General Assembly in 1980[43] also called the "UN Set of Principles and Rules on Competition". The UN Set recommends a case-by-case understanding of the application concerning the "purpose and effect" test. The Intergovernmental Group of Experts determines the application and implementation of the UN Set. Further, there is a UNCTAD Model Law on Competition that uses UN Set as the base law and enables developing countries by guidance on drafting and improving their antitrust laws.

The OECD Competition Law and Policy Committee is the forum at the international level for the issues relating to competition law policy. The Competition Committee organizes sector-

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[39] United Nations Conference on Trade and Development
[40] Organisation for Economic Cooperation and Development
[41] International Competition Network
[42] UN Conference on Restrictive Business Practices, Resolution of 22 April 1980
[43] UN General Assembly, resolution no. 35/63 of 5 December 1980

specific studies, policy recommendations, etc., and lends support to the governments of the countries to improve their existing antitrust laws. The committee has also contributed to the issuance of the documents of soft law and submitted recommendations on the various antitrust topics and the topics relating to its interface with the OECD. The 1995 OECD Council Recommendation was put forth to fight anti-competitive practices which were later replaced by the 2014 Recommendation that dealt with Cooperation at the international level on Competitive Investigations and Proceedings, it was also a landmark step towards promoting international cooperation among the competition authorities and reducing the harm that is done due to anti-competitive agreements and combinations. The various recommendations have also been given by OECD in the form of guidelines on the multifarious aspects of competition law. They are as follows:

- Recommendation on Competition Policy and Exempted or Regulated Sectors (1979).
- Recommendation concerning Effective Action against Hard Core Cartels (1998).
- Recommendation concerning Merger Review (2005).
- Best Practices on Information Exchange (2005).
- Guiding Principles for Regulatory Quality and Performance (2005).
- Recommendation on Competition Assessment (2009).
- Recommendation concerning Structural Separation in Regulated Industries (2011).
- Recommendation on Fighting Bid Rigging in Public Procurement (2012).

The Final Report of the International Competition Policy Advisory Committee to the US published in the year 2000 has been the result of the establishment of the ICN for having an international forum on policies relating to competition law. ICN, though not an intergovernmental organization, acts as a virtual and informal kind of connected network that works for simplification of cooperation between the various authorities of competition and promotion of the coming together of competition laws. The 2010 Statement of Achievements by the ICN also ascertains the degree that relates to converging of handling relating to mergers at the international level and tackling the cartels and various practical techniques of enforcement.

ICN has also led to a soft harmonization of various laws of antitrust under various jurisdictions. It does not have a binding character.

SUGGESTIONS AND RECOMMENDATIONS

- There can be several courts of special nature dealing with matters of competition law at the level of the district by the nomination of the CCI and the Supreme Court.
- There lies an ardent need of bringing in a more intricate issue of universal jurisdiction that applies to all the states of the world in line with the extra-territorial jurisdiction.
- The various countries along with the US, EU, and India should modify their laws and incorporate some important aspects of the competition law along with the emerging areas and ensure cooperation among each other and various other countries of the world.
- There should be set up fast track adjudications on the matters relating to the competition law, especially the ones that are urgent and need to be disposed of on time as soon as possible.
- The choice of alternative dispute redressal in the place of adjudication must have resorted to parties in business transactions or dealings that involve any kind of economic activity.
- The pro-active role of government in ensuring good diplomatic relations with the countries and ensuring effective policy has to be there, along with the ratification of various bilateral and multilateral instruments that govern the competition law in the country should be there.

CONCLUSION

The various aspects of the extra-territorial jurisdiction of the Competition Commission of India have been studied here and the powers, procedures, and enforcement of these orders have also been covered by the medium of this project. The Competition policy of India is at par with the leading economies like the US and UK but there still exists some ambiguity and lacunas in the Act. The extra-territorial jurisdiction of CCI in the Act lays out the power of inquiry and to pass any order which it deems fit, the Act also gives the liberty to CCI to regulate its procedure. As a result, the CCI goes a long way in the regulation of the competitive market in India. Section 32

of the Act makes the CCI a very strong and dynamic regulatory body, it is very similar to Articles 81 and 82 of the EC treaty and sections 1 and 2 of the U.S. Sherman Act. The problem of extra-territorial jurisdiction also lies whereby it can even deteriorate the foreign policy of the country but on the other hand, section 18[44] provides the power to the CCI to enter into any arrangement with any agency of the foreign country so concerned thus creating a robust system for cooperation. The position in the Indian context is at a nascent stage and the adoption of a comity principle would certainly help a long way. The government of India should also compile various bilateral treatments to ensure more and more acceptance of judgments out of the extra-territorial jurisdiction. India should also consider the principles of the Hague Convention of Recognition and Enforcement of Foreign Civil and Commercial Judgements to decide matters based on extraterritoriality. The provisions for recovery of the penalty so imposed by the Commission should be carried out by a more comprehensive and detailed regulation, as the present General Regulation of 2009 and Code of Civil Procedure appear somewhat improper and not accommodating enough to deal with the same.

[44] Competition Act 2002, s 18