

Total number of printed pages-7

19 (III) CPLW 3-7 (H)

2019

COMPETITION LAW

Paper : 3-7

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

1. Fill in the blanks with appropriate answer :

1×10=10

- (a) The objective of the Competition Act, 2002 is to provide, keeping in view of the economic development of the country, for the establishment of a _____ to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto. [Commission/Tribunal]

Contd.

(b) The Competition Commission shall consist of a Chairperson and not less than _____ and not more than ten other Members to be appointed by the Central Government. [two/three/four]

(c) Securities and Exchange Board of India Act, 1992 is an Act to provide for the establishment of a Board to protect the interests of _____ in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto. [investor/banker/ Reserve Bank of India]

(d) The Foreign Exchange Management Act, 1999 (FEMA) is an Act to consolidate and amend the law relating to foreign exchange with the objective of facilitating _____ and payments and for promoting the orderly development and maintenance of foreign exchange market in India. [external trade/internal trade]

(e) Activities such as payments made to any person _____ India or receipts from them, along with the deals in foreign exchange and foreign security is restricted. [outside/inside]

(f) Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the _____ Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order. [Supreme/High]

(g) 'Tie-in arrangement' includes any _____ requiring a purchaser of goods, as a condition of such purchase, to purchase some other goods. [agreement/promise/undertaking]

(h) The Chairperson and every other Member shall be a person of ability, integrity and standing and who, has been, or is qualified to be, a judge of a High Court ; or, has special knowledge of, and professional experience of not less than _____ years in international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs, administration or in any other matter which, in the opinion of the Central Government, may be useful to the Commission. [fifteen/five/three]

(i) The Competition Commission under section 8 of the Competition Act, 2002 shall consist of a Chairperson and not less than _____ and not more than _____ other Members to be appointed by the Central Government.
[two, ten/two, eleven/three, six]

(j) If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than _____ lakh rupees but which may extend to _____ crore rupees or _____ times the amount of profits made out of such practices, whichever is higher.
[five, twenty five, three/two, five, two]

2. Write short answers : 2×5=10

(a) 'Cartel'

(b) Objectives of SEBI Act, 1992

(c) Foreign Investment

(d) FEMA or Anti Competitive Agreements

(e) Foreign Investment.

3. What do you mean by the Abuse of Dominant Position ? Discuss the provisions relating to Prohibition of abuse of dominant position under the Competition Act, 2002.

4+8=12

Or

Discuss the establishment, composition and the procedure for selection of Chairperson and other members of the Competition Commission of India. 12

4. What are the duties, powers and functions of Competition Commission of India ? What orders the Competition Commission can pass in case of anti-competitive agreements and abuse of dominant position ? How the order/s is made effective ? 6+3+3=12

Or

Discuss the composition, power and procedure for selection of members of the Securities and Exchange Board of India.

12

5. Write short notes on : $4 \times 3 = 12$

- (a) Primary and secondary market
- (b) Objectives of SARFAESI Act, 2002
- (c) Collective Investment Scheme under SEBI Act, 1992.

Or

What do you mean by 'depositories'? Briefly discuss the beneficiary provisions of depositories under the Depositories Act, 1996. $4+8=12$

6. Discuss the salient features of The Foreign Exchange Management Act, 1999 (FEMA). Does the Act is justified in replacing the Foreign Exchange Regulation Act (FERA)? Elucidate your answer with examples.

12

Or

Discuss the legal provisions for control and regulation of foreign companies in India under the Foreign Trade (Development & Regulation) Act, 1992. 12

7. "The Foreign Exchange Management Act, 1999 (FEMA) is a regulatory mechanism that enables the Reserve Bank of India and the Central Government to pass regulations and rules relating to foreign exchange in tune with the Foreign Trade policy of India." Elucidate the statement with case law.

12

Or

"Under the provisions of Foreign Exchange Management Act, 1999 (FEMA) the exporters are required to furnish their export details to RBI. To ensure that the transactions are carried out properly, RBI may ask the exporters to comply to its necessary requirements." Elucidate the statement and explain the requirements. Is there any penalty against defaulters? $9+3=12$

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2018

COMPETITION LAW

Paper : 3.7_{H4}

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

1. Fill in the blanks with appropriate answer :
1×10=10
 - (a) The objectives of the Competition Act, 2002 sought to be achieved through the _____ [Competition Commission of India / Supreme Court of India]
 - (b) The Competition Commission of India consist of a Chairperson and _____ Members appointed by the Central Government. [Six / three].

Contd.

- (c) The Competition Commission under section 8 of the Competition Act, 2002 shall consist of a Chairperson and not less than two and not more than _____ other Members to be appointed by the Central Government. [ten/six]
- (d) 'Tie-in arrangement' includes any _____ requiring a purchaser of goods, as a condition of such purchase, to purchase some other goods. [agreement / promise / undertaking]
- (e) Securities and Exchange Board of India Act, 1992 is an Act to provide for the establishment of a Board to protect the interests of _____ in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto. [investor/ shareholders]
- (f) If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to _____ crore rupees or three times the amount of profits made out of such practices, whichever is higher. [twenty five/five]

- (g) The objective of the Foreign Exchange Management Act, 1999 (FEMA) is to facilitate external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in _____ India. [any foreign country/India]
- (h) The basic objective of FTDR 1992 is to provide a frame work for development and regulation of foreign trade by facilitating _____ the country, as well as, taking measures to increase exports from India and any other related matters. [import into / export and import into]
- (i) Legal basis to the 'Foreign Trade Policy' is provided in Section _____ of the FTDR Act, 1992. [2(i)/5]
- (j) Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the _____ Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order. [Supreme / High]

2. Write short answer : $2 \times 5 = 10$

- (a) Collective investment scheme under SEBI Act, 1992
- (b) Two salient features of Security Contract (Regulation) Act 1956
- (c) Objectives of SARFAESI Act, 2002
- (d) Dominant position
- (e) Anti Competitive Agreements

3. (a) Briefly explain the concept of 'Competition Advocacy' under the Competition Act, 2002.
- (b) Discuss the relation between Competition Law, Competition Policy and economic development. $6+6$

Or

Discuss the Power, functions and duties of the Competition Commission of India. 12

4. Discuss the provisions relating to Prohibition of abuse of dominant position under the Competition Act, 2002. 12

Or

- (a) What is the procedure for selection of Chairperson and other members of the Competition Commission of India ? Discuss.

- (b) What orders the Competition Commission can pass in case of anti-competitive agreements and abuse of dominant position ? Is the order of the commission effective ? $6+6=12$

5. Briefly discuss the need for Establishment of the Securities and Exchange Board of India, its composition, and procedure for selection of members. Discuss its guidelines to the primary and secondary market. 12

Or

What are the beneficiary provisions of depositories under the Depositories Act, 1996 ? Briefly discuss the provisions in the Act depositor's rights under the Act are infringed. 12

6. 'The Foreign Exchange Management Act, 1999 (FEMA) is a regulatory mechanism that enables the Reserve Bank of India and the Central Government to pass regulations and rules relating to foreign exchange in tune with the Foreign Trade policy of India.' Elucidate the statement with case law.

12

Or

Discuss the legal provisions for control and regulation of foreign companies in India under the Foreign Trade (Development & Regulation) Act 1992.

12

7. 'Under the provisions of Foreign Exchange Management Act, 1999 (FEMA) the exporters are required to furnish their export details to RBI. To ensure that the transactions are carried out properly, RBI may ask the exporters to comply to its necessary requirements.' What are the requirements? Is there any penalty against defaulters?

12

Or

- (a) Discuss the provisions of Foreign Exchange Management Act, 1999 relating to the export of goods and services without declaration.
- (b) 'The provisions of Foreign Exchange Management Act, 1999 (FEMA) is to facilitate external trade and payments and promotion or orderly development and maintenance of foreign exchange market in India' Elucidate the above statement.

6+6=12