THE COMPETITION ACT-2002
UNIT-II

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Definitions

- **Acquisition:** Acquisition means, directly or indirectly, acquiring or agreeing to acquire shares, voting rights or assets of any enterprise or control over management or assets of any enterprise.[
- **Cartel:** Cartel includes an association of producers, sellers, distributors, traders or service providers who, by agreement among themselves, limit control or attempt to control the production, distribution, sale or price of goods or provision of services.[
- **Dominant position:** It means a position of strength, enjoyed by an enterprise, in the relevant market which enables it to operate independently of competitive forces prevailing in the market or affect its competitors or consumers in its favour.
- **Predatory pricing:** Predatory pricing means the sale of goods or provision of services, at a price which is below the cost of production of the goods or provision of services, with a view to reduce competition or eliminate the competitors.
- **Rule of reason:** It is the analysis of any activity under the challenge on the basis of business justification, competitive intent, market impact, impact on competition and on consumer. It is the logic behind the conclusion for any order.

INTRODUCTION

- **The Competition Act, 2002** was enacted by the Parliament of India and governs Indian competition law. It replaced the archaic The Monopolies and Restrictive Trade Practices Act, 1969. Under this legislation, the Competition Commission of India was established to prevent the activities that have an adverse effect on competition in India. This act extends to whole of India.

IMPLEMENTATION

- It is a tool to implement and enforce competition policy and to prevent and punish anti-competitive business practices by firms and unnecessary Government interference in the market. Competition laws is equally applicable on written as well as oral agreement, arrangements between the enterprises or persons.

legal framework for corporate governance in India

The Companies Act, 2013-

The Government of India has recently notified Companies Act, 2013 ("New Companies Act"), which replaces the erstwhile Companies Act, 1956. The New Act has greater emphasis on corporate governance through the board and board processes.

PROVISIONS

- The New Act covers corporate governance through its following provisions:
- New Companies Act introduces significant changes to the composition of the boards of directors.
- Every company is required to appoint 1 (one) resident director on its board.
- Nominee directors shall no longer be treated as independent directors.
- Listed companies and specified classes of public companies are required to appoint independent directors and women directors on their boards.
- New Companies Act for the first time codifies the duties of directors.
- Listed companies and certain other public companies shall be required to appoint at least 1 (one) woman director on its board.

MANDATORY COMMITTEES

New Companies Act mandates following committees to be constituted by the board for prescribed class of companies:

Audit committee

- Nomination and remuneration committee
- Stakeholders relationship committee
- Corporate social responsibility committee