

## Footnotes

1. State Trading Corporation of India v. Commercial Tax Officer (1964) 4 SCR 89. Tata Engg. & Locomotive Co. v. State of Bihar, (1964) 6 SCR 885.
2. See Report of the Company Law Committee, 1952, pp. 11-15.
3. Section 89
4. Section 275, 332, 316 and 377. Sections 316 and 377 have been amended by the Companies (Amendment) Act, 1960.
5. Sections 269, 326 and 379, 293, 294, 295, 297, 299 and 301, 310, 311, 329 and 379, 314, 352 and 379, 356-359, 360, 369, 370, 372. Sections 356, 360, 370 and 372 have been amended by the Companies (Amendment) Act, 1960. There has been further amendments of S.293 by the Companies (Amendment) Act, 1962 and 1969; of Ss310 and 314 by the Companies (Amendment) Act, 1965; of S.370 by the Companies (Amendment) Act, 1965.
6. The Corporate Private Sector, 1966.
7. Report of the Monopolies Inquiry Commission, 1965, p.140.
8. Id. pp.357-358.
9. The Commission was convinced that the system of controls in the shape of industrial licenses and control of capital issues however necessary from other points of view had restricted the freedom of entry into industry and was largely responsible for the concentration of economic power. Report of the Commission, pp.8-9.
10. Report of the Monopolies Inquiry Commission, 1965, p.1
11. Id. p. 183.
12. Id. p. 2.
13. Ibid.
14. Id. pp. 185-186.

15. Id. pp. 202-203.
16. See also for the arguments of Industries Minister in support of public sector, Rajya Sabha Debates, Vol. LXIX, No.3, CC. 654-655.
17. Report, pp. 134-138.
18. "dominant undertaking" means an undertaking which either by itself or along with inter-connected undertakings,-

- (i) produces, supplies, distributes, or otherwise controls not less than one-third of the total goods of any description that are produced, supplied or distributed in India or any substantial part thereof, or

- (ii) provides or otherwise controls not less than one-third of any services that are rendered in India or any substantial part thereof:

Provided that for the purposes of this clause, the goods produced by an undertaking which does not employ-

- (a) more than fifty workers on any day of the relevant year, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on, or

- (b) more than one hundred workers on any day of the relevant year, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on,

shall not be taken into account.

19. "monopolistic undertaking" means-

- (i) a dominant undertaking which, or

- (ii) an undertaking which, together with not more than two other independent undertakings,-

- (a) produces, supplies, distributes or otherwise controls not less than one-half of the total goods of any description that are produced, supplied or distributed in India or any substantial part thereof, or

(b) provides or otherwise controls not less than one-half of the services that are rendered in India or any substantial part thereof:

20. "monopolistic trade practice" means a trade practice which has, or is likely to have, the effect of,-
- (i) maintaining prices at an unreasonable level by limiting, reducing or otherwise controlling the production, supply or distribution of goods of any description or the supply of any services or in any other manner,
  - (ii) unreasonably preventing or lessening competition in the production, supply or distribution of any goods or in the supply of any services,
  - (iii) limiting technical development or capital investment to the common detriment or allowing the quality of any goods produced, supplied or distributed, or any service rendered, in India to deteriorate;
21. "We need not strike at concentration of economic power as such, but should do so only when it becomes a menace to the best production (in quality and quantity) or to fair distribution." Report of the Monopolies Inquiry Commission, 1965, P.159.
22. The Minister of Industrial Development while rejecting the limit of 5 crore rupees suggested by a member did not explain how rupees 20 crores limit was proper when it was to have the effect of excluding 42 business houses.
23. Rajya Sabha rejected Mr. Bhupesh Gupta's amendment to prescribe instead the criterion of 5 crores rupees assets. The Minister of Industries Development stated that the limit of 20 crores covers as many as 33 business houses and if 5 crores limit is accepted it will cover all the 75 houses of business which have been mentioned by the Monopolies Commission. Rajya Sabha Debates, Vol. LXIX No.4, CC.817-818
24. Rajya Sabha Debates Vol. LXIX, No.3, CC.662 664
25. Report p.167.

26. Report of the Joint Committee on the Monopolies and Restrictive Trade Practices Bill, 1967, Gazette of India, Extra. Part II, Sec. 2, 1969 p.111,
27. Rajya Sabha Debates, Vol. LXIX, No. 3, CC. 678-679
28. Report p.172, Clause 15(2).
29. Explanation to section 21.
30. Sections 21(3)(a) and 22(3)(a).
31.
  - (a) to achieve the production, supply and distribution, by most efficient and economical means of goods of such types and qualities, in such volume and at such prices as will best meet the requirements of the defence of India, and home and overseas markets;
  - (b) to have the trade organised in such a way that its efficiency is progressively increased;
  - (c) to ensure the best use and distribution of men, materials and industrial capacity in India;
  - (d) to effect technical and technological improvements in trade and expansion of existing markets and the opening up of new markets;
  - (e) to encourage new enterprises as a countervailing force to the concentration of economic power to the common detriment;
  - (f) to regulate the control of the material resources of the community to subserve the common good; and
  - (g) to reduce disparities in development between different regions and more especially in relation to areas which have remained markedly backward.
32.
  - (a) to increase unreasonably the cost relating to the production, supply or distribution of goods or the performance of any service;
  - (b) to increase unreasonably-

- (i) the prices at which goods are sold, or
  - (ii) the profits derived from the production, supply or distribution of goods or from the performance of any service;
  - (c) to reduce or limit unreasonably competition in the production, supply or distribution of any goods (including their sale or purchase) or the provision of any service;
  - (d) to limit or prevent unreasonably the supply of goods to consumers, or the provision of any service;
  - (e) to result in a deterioration in the quality of any goods or in the performance of any service.
33. Report of the Monopolies Inquiry Commission, 1965, pp.198 and 204.
  34. Minister of Industrial Development and Companies Affairs, Rajya Sabha Debates, Vol.LXII, No. 1,C.181.
  35. Report of the Monopolies Inquiry Commission, 1965, p.161.
  36. The time limit is relaxed if the Commission is of the opinion that the report cannot be made within the said 90 days. Sec.30(2)
  37. Section 10(7) of the Monopolies and Restrictive Trade Practices (Inquiry and Control) Act, 1948.
  38. Sections 63 and 66 of the Trade Practices Act, 1965.
  39. See Durga Chowdhryani v. Jawahir Singh, (1891)17 I.A. 122; S.Ramanuja v. R.Ramanuja, A.I.R. 1961 S.C. 1720
  40. Sukul v. Mst. Nandu, (1892) 19 I.A. 1(3)
  41. Chunilal Mehta v. Century spong & Mfg Co., A.I.R. 1962 S.C. 1314
  42. Midnapur Zamindari Co. v. Uma Charan, A.I.R. 1923 FC 187.

43. Ram Krishna v. Mohd. Yahya, A.I.R. 1960 All.482
44. Sathamma v. Subbi Reddy, A.I.R. 1963 A.F.72; Sri Meenakshi Mills v. Commr. of I.T., A.I.R. 1957 SC 49.
45. Sri Meenakshi Mills v. Commr of I.T. A.I.R. 1957 SC 49.
46. Ramachandra v. Ramalingam A.I.R. 1963 SC 302.